

Board Meeting

Thursday, October 27, 2022

10:00 a.m.



**AGENDA
REGULAR SESSION**

Thursday, October 27, 2022 - 10:00 a.m.
Two DeKorte Park Plaza, Lyndhurst, NJ

I. PLEDGE OF ALLEGIANCE

II. OPENING STATEMENT

III. ROLL CALL

IV. EXECUTIVE SESSION NOT REQUIRED

Resolution 2022-49 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:

- Legal counsel regarding World Cup host committee entity funding agreements.

V. APPROVAL OF MINUTES AND CASH DISBURSEMENTS (Action)

- Approval of Regular Session Meeting Minutes of September 22, 2022.
- Approval of Executive Session Meeting Minutes of September 22, 2022.
- Approval and/or Ratification of Cash Disbursements over \$100,000 for the month of September 2022.

VI. PUBLIC PARTICIPATION ON RESOLUTIONS

VII. APPROVALS

Resolution 2022-38 Consideration of a Resolution Adopting the Hackensack Meadowlands District Floodplain Management Plan 2022 (File No. SP-778).

Resolution 2022-39 Consideration of a Resolution Issuing a Decision on the Variance application Submitted as Part of File No. 21-271 Delellis Realty/7 Eleven - New Building & Signage (Variances) - Block 127, Lot 17 in the Borough of Carlstadt.

Resolution 2022-40 Consideration of a Resolution Issuing a Decision on the Suitability Recommendation as Required by the NJSEA Interim Policies Governing Affordable Housing Development in the Meadowlands District File No. 22-351, SOF/Secaucus Harmon Meadow Blvd LLC/Chick-Fil-A New Building Block 227.01, Lot 1 in the Town of Secaucus.

Resolution 2022-41 Consideration of a Resolution Approving Borough of Carlstadt Ordinance to Assume Certain Zoning Approval Authority within the Hackensack Meadowlands District (File No. SP-780).

Resolution 2022-42 Consideration of a Resolution Supporting Collaboration of NJSEA Staff and NYU C2SMART Center in Preparing a USDOT SMART Grant Proposal and Authorizing the President and CEO to Submit same to the USDOT.

Resolution 2022-43 Consideration of a Resolution Authorizing the Second Amendment of a 2007 Settlement Agreement between the NJMC, FDP Enterprises and National Retail Transportation Regarding Property in Jersey City.

VIII. **CONTRACTS/AWARDS**

Resolution 2022-44 Consideration of a Resolution Relating to a Dedicated Host Committee Entity for the Hosting of the 2026 FIFA World Cup. **TABLED**

Resolution 2022-45 Consideration of a Resolution Authorizing the President and CEO to Execute a Memorandum of Understanding Between the New Jersey Sports and Exposition Authority, Ramapo College of New Jersey and the Ramapo Foundation for the Operation of the Meadowlands Environment Center.

Resolution 2022-46 Consideration of a Resolution Authorizing the Award of a Contract for Audit Services.

Resolution 2022-47 Consideration of a Resolution Authorizing the Purchase of an Aluminum Research Utility Boat.

Resolution 2022-48 Consideration of a Resolution Authorizing the Execution of a Cooperation Agreement By and Between New Jersey Sports and Exposition Authority and Berry's Creek Study Area Cooperative Potentially Responsible Party Group.

IX. **PUBLIC PARTICIPATION**

X. **MOTION TO ADJOURN**



**REGULAR SESSION
BOARD MEETING
MINUTES**

DATE: September 22, 2022

TIME: 10:00 a.m.

PLACE: Two DeKorte Park Plaza, Lyndhurst

Members in Attendance:

John Ballantyne, Chairman

Joseph Buckelew, Vice Chairman (via phone)

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)

Andrew Scala, Member

Anthony Scardino, Member (via phone)

Louis J. Stellato, Member

Robert Yudin, Member

Absent:

Robert Dowd, Member

Steven Plofker, Member

Michael Gonnelli, Member

Also Attending:

Christine Sanz, Senior Vice President/Chief Operating Officer

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

Dr. Francisco Artigas, Co-Director MRRI

Teresa Doss, Co-Director MRRI

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**
- IV. **EXECUTIVE SESSION**

Chairman Ballantyne stated a need for the Board to enter into Executive Session. He then read Resolution 2022-34 into record authorizing the NJSEA to conduct a meeting to which the general public shall not be admitted to discuss:

- Collective Bargaining Agreements

Upon motion made by Commissioner Fontoura and seconded by Commissioner Stellato. Resolution 2020-34 was carried by a vote of 11-0.

Executive Session commenced at 10:10 a.m.

Regular Session recommenced at 10:50 a.m.

V. **APPROVAL OF MINUTES AND CASH DISBURSEMENTS**

Chairman Ballantyne presented the minutes from the July 28, 2022 Regular Session Remote Board meeting.

Upon motion made by Commissioner Fontoura and seconded by Commissioner Stellato the minutes of the Regular Session Remote Board Meeting held on July 28, 2022 were unanimously approved.

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

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

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

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

VI. **PUBLIC PARTICIPATON ON RESOLUTIONS**

Mr. Kenneth Porro from Chasan Lamparello, representing the Hackensack Meadowlands Municipal Committee (HMMC) spoke regarding Resolution 2022-35, which proposes the readoption of the District Transportation Plan Rules without changes. He distributed reference materials to each of the Board members and referred to the section of the 2015 statute language which requires that at least 30% of any development fees collected in accordance with the transportation funding section shall be used for transportation related projects within the municipality where the particular fees were collected. He said that the problem is that the MASSTR system, which the Mayors agree is a good system, is too expensive and needs to be addressed. He stated that HMMC is requesting that the following footnote be placed under the proposed re-adoption language: "The NJSEA shall distribute the Meadowlands District Transportation Funds pursuant to N.J.S.A. 5:10A-74(k)'s 30% within the municipality statutory formula."

Prior to presenting Resolution 2022-35, Mr. Levy expressed appreciation to the HMMC Committee for their time during their recent meeting with Sara Sundell, the NJSEA Director of Finance and himself. He stated that any substantive change would require a much more substantial process and NJSEA would not be able to get the readoption through prior to the sunset of these regulations even if the process started today.

VII. **APPROVALS**

Resolution 2022-35

Consideration of a Resolution Readopting the Hackensack Meadowlands District Regulations Governing District Transportation Plan Rules at N.J.A.C. 19:7.

Ms. Sundell stated that NJSEA was proposing to readopt, without changes, the District Transportation Plan Rules at N.J.A.C. 19:7, which are due to expire on November 25, 2022. She explained that the readoption would continue the existing rules that are in place to administer the provisions of the Hackensack Meadowlands Transportation Planning District Act of 2015. She noted that the cover letter forwarding the Rules did explain to the HMMC Committee that once the transportation plan update is adopted, NJSEA may be proposing a rule update which might amend some of the rules. She said that the HMMC voted to reject the readoption of N.J.A.C. 19:7 at its meeting held on August 29, 2022. She explained that a letter dated September 6, 2022, from Adam Levy, NJSEA Vice President of Legal and Regulatory Affairs, to Mayor James Cassella, HMMC Executive Director, and Mayor Michael J. Gonnelli, HMMC Chairman, provided a response to comments made by HMMC members at their August meeting, including an explanation that certain statements by HMMC members concerned provisions in the Act that were statutory in nature, whereas the subject matter was a regulatory readoption. She noted that, by statute at N.J.S.A. 5:10A-9(c), the NJSEA Board may take action on any matter that has been formally rejected by the HMMC by an affirmative vote of the majority of members of the NJSEA Board of Commissioners. She concluded by saying that staff recommends the Board of Commissioners readopt without change the rules at N.J.A.C. 19:7, governing the District Transportation Plan Rules, as the principal basis of the HMMC rejection is beyond the scope of the regulatory readoption of N.J.A.C. 19:7, and authorize the NJSEA staff to file a Notice of Readoption for publication in the New Jersey Register.

Chairman Ballantyne presented Resolution 2022-35. Upon motion by Commissioner Scala and seconded by Commissioner Fontoura, Resolution 2022-35 was unanimously approved by a vote of 11-0.

VIII. **CONTRACTS/AWARDS**

Resolution 2022-36

Consideration of a Resolution Authorizing a Contract with Beach Electric Company of New Jersey for a New Motor Control Center for the Arena Cooling Tower in East Rutherford.

Mr. Duffy explained that staff issued a request for bids in July 2022 for the replacement of the original motor control center associated with the Arena cooling tower. He noted that the motor control center was over forty years old and required replacement. He stated that on August 11, 2022 three bids were received, of which Beach Electric Company of New Jersey was the low bidder, and that staff recommends the award of this contract to Beach Electric.

Chairman Ballantyne presented Resolution 2022-36. Upon motion by Commissioner Fontoura and second by Commissioner Stellato, Resolution 2022-36 was unanimously approved by a vote of 11-0.

Resolution 2022-37

Consideration of a Resolution Relating to the Hosting of the 2026 FIFA World Cup.

Mr. Adam Levy stated that the NJSEA was still engaged in a bid process to host World Cup 2026 premier games. He explained that this resolution would authorize the NJSEA to enter into agreements with both the Department of Treasury and MetLife Stadium Company that will allow

the NJSEA to utilize recently appropriated State funding to help the Authority fulfill its Host City obligations under their agreements with FIFA. He said that the agreements that the Authority will enter into, once approved, are for contracts procured by MetLife Stadium Company for design and pre-construction services for stadium modifications as well as for the construction of the modifications necessary to comply with FIFA 2026 World Cup field requirements. He stated that design work and other pre-construction services would begin immediately with construction starting in 2024. He concluded by saying that this resolution would also continue the broad obligations of the NJSEA to move forward with anything needed to fulfill its Host City obligations with regard to World Cup 2026.

Chairman Ballantyne presented Resolution 2022-37. Upon motion by Commissioner Stellato and seconded by Commissioner Yudin, Resolution 2022-37 was unanimously approved by a vote of 11-0.

IX. PUBLIC PARTICIPATION

Mr. Marvin Donadic, resident of Cliffside Park, New Jersey made the following comments:

- He asked who specifically had approached the Authority in bringing the World Cup to New Jersey.
- He inquired as to how much of the anticipated \$500 million in revenue would be beneficial to New Jersey.
- He questioned why the Authority was not pursuing an NBA franchise for the Arena, which he said is empty.
- He asked if the Authority was pursuing bringing the Battleship New Jersey to the Hudson River waterfront.

President Prieto responded to Mr. Donadic comments. He said that, as previously advised, the negotiations to bring the 2026 World Cup to New Jersey started with the prior Administration and prior to his tenure at the NJSEA. He reminded Mr. Donadic that the World Cup, which was here in 1994, had a great economic impact on the region. He said that the anticipated \$500 million revenue would be shared between New York and New Jersey. He stated that there are a limited number of NBA teams to bring to the area at this time. He explained that the Arena was not empty and was currently housed by AMC and previously used by NBC Universal and for artist rehearsals. He said that the NJSEA was not pursuing bringing the Battleship New Jersey to the Hudson River waterfront.

Chairman Ballantyne addressed Mr. Donadic reminding him that, on more than one occasion, Donadic had addressed the Board and specifically asked President Prieto and the Commissioners at that time to bring sports, and it did not matter which sports, back to the Meadowlands. The Chairman explained that this is exactly what the NJSEA is doing. He stated that the restaurants, hotels and construction in the area are going to benefit from the \$500 million anticipated revenue. He went on to say that the focus of this Board and the focus of the Governor's Office is to benefit the State of New Jersey, to benefit the fans and to make an economic engine in the Meadowlands.

Mr. Donald Smith, former employee and resident of Gloversville, New York, made the following comments:

- He stated that since the dissolution of the Mosquito Commissions in Bergen and Hudson Counties there has been no regular maintenance occurring on major tributaries and drainage ditches in the District. He specifically stated that he observed a portion of Moonachie Creek that was overgrown with weeds. He stated that this was a major stormwater drainage tributary that drains the industrial parts of South Hackensack and

Carlstadt, and residential areas of Moonachie. This blockage will slow down the water getting there. He suggested that Ms. Sundell open a conversation with the Bergen County Engineer in charge of the Bergen County Department of Public Works.

- He stated that some bird species have been lost in the District due to the introduction of mosquitoes with diseases.
- He requested a closed-door discussion to speak on an idea he has that could possibly bring several million dollars to the Authority for mitigation work.
- He referenced the two Andy Warhol prints donated to the Environment Center in the 1980's and that are on display in the NJSEA lobby. He said that his recollection was that the original intent was to auction the prints for funding that would be used for conservation projects in the District. He said he does not believe these prints should be on display in a government building and that there is the possibility of them being stolen.

In response to Mr. Smith's comments President Prieto stated that he would be more than happy to arrange meetings with the appropriate staff for him to discuss his concerns. He also recommended that he reach out to his assistant to arrange a meeting with him to discuss specifically his ideas to bring funds to the Authority.

Chairman Ballantyne said that he only recently became aware of the prints. He noted that staff had looked into whether there were any specific conditions in regards to the donation and selling the prints and they have not found anything. He said that staff would try reaching out to former employees that may have further information. He specifically noted that it is the NJSEA's policy to safeguard all the assets of the Authority.

Mr. Michael Ciallella, Business Manager for Local 1412 representing NJSEA Fire and EMT. He stated the following relative to ongoing contract negotiations:

- He stated that they have been in negotiations with NJSEA management for nineteen months and are not getting anywhere. He noted that he had put through five proposals in five months and had not received one counter proposal.
- He noted a grievance that they have prior to 2020 regarding new duties given to firefighters and EMS, specifically high angle rescue and confined space for firefighters and EMS now has Kevlar in the ambulances in case of active shooters in the building. He stated that their wages have been frozen and they are basically making the same money now as they did 20 years ago, yet they have been given these new duties.
- Members do not have the proper life insurance.
- EMS does an average of 10,000 runs a year; fire does 700-800. He said they are not being compensated for what they do and feels they are not being taken seriously for what they do.

President Prieto stated that he has been kept in the loop on this matter and certainly wants to get this accomplished. He said that he takes the jobs of the NJSEA EMS and firefighters very seriously. He specifically noted that Commissioner Yudin recently suggested having back-up cameras on the fire trucks and the Authority is having them installed. He said that he would be happy to talk with Mr. Ciallella if he had time after the Board meeting.

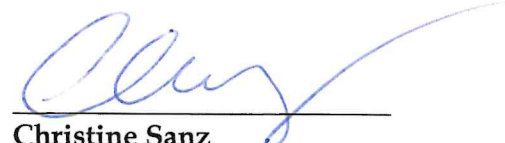
Chairman Ballantyne said that he certainly appreciates all the work the union members do at the NJSEA. He noted that there are members of the Board, including himself, that are of a labor background, and they are very passionate about labor issues.

XI. **ADJOURNMENT**

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

Meeting adjourned at 11:40 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 Board Meeting held on September 22, 2022.


Christine Sanz
Assistant Secretary

September 22, 2022

Commissioner	Roll Call	2022-34	2022-35	2022-36	2022-37
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	P	Y	Y	Y	Y
Gonnelli	--	--	--	--	--
Knopf	P	Y	Y	Y	Y
Plofker	--	--	--	--	--
Scala	P	Y	Y	Y	Y
Scardino	P	Y	Y	Y	Y
Stellato	P	Y	Y	Y	Y
Yudin	P	Y	Y	Y	Y
Treasury Rep Griffin	P	Y	Y	Y	Y

P = Present A = Abstain -- Absent

R = Recuse Y = Affirmative N = Negative

APPROVALS



CASH DISBURSEMENTS
\$100,000 OR MORE
SEPTEMBER 2022

EAST RUTHERFORD - SPORTS COMPLEX

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
HONEYWELL INTERNATIONAL, INC.	127,176.55	A/L	2022 3RD QTR AUTOMATION MAINTENANCE AND VARIOUS 2022 SPORTS COMPLEX & MONMOUTH PARK RACETRACK REPAIRS/INSTALLATIONS
NEW JERSEY STATE POLICE	1,101,787.68	A/L	EVENTS POLICE OVERTIME CHARGES: JUL-AUG 2022
NEW MEADOWLANDS STADIUM CO., LLC	3,038,719.25	A	GRANDSTAND DEMOLITION REIMBURSEMENT: SEP 2022
PUBLIC SERVICE ELECTRIC & GAS	918,400.58	J/L	ELECTRIC TRANSMISSION CHARGES: AUG 2022
EAST RUTHERFORD - SC TOTAL	<u>5,186,084.06</u>		

MONMOUTH PARK RACETRACK

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
BOROUGH OF OCEANPORT	201,020.17	A	CAFO SPECIAL ASSESSMENT AGREEMENT: 4TH QUARTER 2022
MP RACETRACK TOTAL	<u>201,020.17</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 2022-38

**RESOLUTION ADOPTING THE
HACKENSACK MEADOWLANDS DISTRICT
FLOODPLAIN MANAGEMENT PLAN 2022
(File No. SP-778)**

WHEREAS, the New Jersey Sports and Exposition Authority (NJSEA) participates in the Federal Emergency Management Agency's (FEMA) Community Rating System (CRS) on behalf of the 14 municipalities within the Hackensack Meadowlands District; and

WHEREAS, CRS is a voluntary incentive program that rewards communities engaging in flood mitigation activities that exceed the minimum National Flood Insurance Program (NFIP) requirements; and

WHEREAS, the NJSEA currently maintains a CRS Class 7 rating based on specific agency-implemented floodplain management activities, which results in annual flood insurance discounts for insured properties, thereby benefitting property owners and tenants within the District; and

WHEREAS, the floodplain management activities implemented by the NJSEA qualify flood insurance policy holders in the District for a 15 percent discount in the premium costs for NFIP policies issued or renewed in Special Flood Hazard Areas; and

WHEREAS, under the CRS guidelines, the NJSEA is responsible for the preparation, adoption, implementation, evaluation, and maintenance of a comprehensive floodplain management plan, and has therefore prepared the Hackensack Meadowlands District Floodplain Management Plan 2022 (the "Plan"); and

WHEREAS, the NJSEA's preparation of the Plan has been a regional effort that includes data collection and feedback from the 14 constituent municipalities and county and state agencies; and

WHEREAS, during the course of preparing the Plan, public meetings were held on June 1, 2022, August 10, 2022, and October 5, 2022, to encourage public participation and input in the drafting of the Plan; and

WHEREAS, public notices for all three meetings were published in the Record and Star Ledger newspapers, and the public meetings were open to the District's constituent municipalities, stakeholders, property owners, and the general public; and

WHEREAS, the objective of the Plan is to produce an overall strategy of programs, projects, and measures that will reduce the adverse impacts of flooding in the District; and

WHEREAS, the Draft Hackensack Meadowlands District Floodplain Management Plan 2022 was provided for public review and comment on September 23, 2022, with digital copies available to the public for download on the NJSEA website, and the draft Plan was presented at the third public meeting on October 5, 2022, to receive public comment; and

WHEREAS, the NJSEA did not receive any public comments at or prior to the public meeting held on October 5, 2022, and subsequently the Hackensack Meadowlands District Floodplain Management Plan 2022, dated October 11, 2022, was finalized.

NOW, THEREFORE BE IT RESOLVED, that the Board of Commissioners of the New Jersey Sports and Exposition Authority has reviewed the record of this matter and hereby adopts the Hackensack Meadowlands District Floodplain Management Plan 2022, dated October 11, 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 October 27, 2022.



Vincent Prieto
Secretary



MEMORANDUM

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

From: Sara J. Sundell *Date:* October 27, 2022

Subject: Adoption of the Hackensack Meadowlands District Floodplain Management Plan 2022 (File No. SP-778)

The New Jersey Sports and Exposition Authority (NJSEA) participates in the Federal Emergency Management Agency's (FEMA) Community Rating System (CRS) on behalf of the 14 municipalities within the Hackensack Meadowlands District.

CRS is a voluntary incentive program that rewards communities engaging in flood mitigation activities that exceed the minimum National Flood Insurance Program (NFIP) requirements.

The floodplain management activities currently implemented by the NJSEA qualify flood insurance policy holders in the District for a 15 percent discount in the premium costs for NFIP policies issued or renewed in Special Flood Hazard Areas.

Under the CRS guidelines, the NJSEA is responsible for the preparation, adoption, implementation, evaluation, and maintenance of a comprehensive floodplain management plan, and has therefore prepared the Hackensack Meadowlands District Floodplain Management Plan 2022 (the "Plan").

The NJSEA's preparation of the Plan has been a regional effort that includes data collection and feedback from the 14 constituent municipalities, county and state agencies, as well as public feedback. Three public meetings were held to encourage public participation in the drafting of the Plan, including a public meeting to present and receive comments on the draft Plan.

The objective of the Plan is to produce an overall strategy of programs, projects, and measures that will reduce the adverse impacts of flooding in the District.

The draft Plan was presented at a public meeting on October 5, 2022. No comments were provided to the NJSEA at the public meeting, and the Hackensack

Meadowlands District Floodplain Management Plan 2022, dated October 11, 2022, was finalized.

At this time, NJSEA Staff is requesting that the Board adopt the Hackensack Meadowlands District Floodplain Management Plan 2022, dated October 11, 2022, to establish this Plan as an overall strategy of programs, projects, and measures to reduce the adverse impacts of flooding in the Hackensack Meadowlands District.

RESOLUTION 2022-39

**RESOLUTION ISSUING A DECISION
ON THE VARIANCE APPLICATION
SUBMITTED AS PART OF FILE NO. 21-271
DELELLIS REALTY/7 ELEVEN - NEW BUILDING & SIGNAGE
(VARIANCES) BLOCK 127, LOT 17
IN THE BOROUGH OF CARLSTADT**

WHEREAS, an application for three bulk variances has been filed with the NJSEA by Carlstadt Partners, LLC, for the premises located at 284 Washington Avenue and identified as Block 127, Lot 17, in the Borough of Carlstadt, New Jersey; and

WHEREAS, the subject premises is located within the District's Light Industrial B zone; and

WHEREAS, the applicant requested variance relief pursuant to N.J.A.C. 19:4-8.3(b)1, which prohibits loading in any front yard, whereas a loading area is proposed within the front yard facing Moonachie Avenue; and

WHEREAS, the applicant has also requested variance relief pursuant to N.J.A.C. 19:4-8.3(c)3, which requires that all loading areas be screened and landscaped in accordance with N.J.A.C. 19:4-8.9(d)6iii, whereas the location of the westerly driveway along Moonachie Avenue does not allow for the construction of a solid and continuous fence in accordance with N.J.A.C. 19:4-8.10, and does not allow the planting of evergreens capable of maturing to a height and width sufficient to screen the loading area from the Moonachie Avenue right of way; and

WHEREAS, the applicant has also requested variance relief pursuant to N.J.A.C. 19:4-8.14(h)4, which requires that the maximum gross sign area permitted shall not exceed five percent of the main façade of the building, whereas the total proposed sign area is 248.3 square feet, which is 15.3 percent of the building's main façade. The total proposed sign area includes one 23-square-foot business identification wall sign, one 26.5-square-foot business identification wall sign and one 49.1-square-foot business identification wall sign (east elevation), in addition to one 76.6-square-foot business identification wall sign, one 30.8-square-foot business identification wall sign, and one 42.3-square-foot business identification wall sign (north elevation); and

WHEREAS, notice of the variance request 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, August 23, 2022, before Sara J. 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 A. Petrou, P.P., AICP, CFM, Supervising Planner; and Ronald Seelogy, P.E., P.P., Principal Engineer; and

WHEREAS, a comprehensive report dated October 13, 2022, has been prepared indicating the recommendations of the Director of Land Use Management and 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 October 13, 2022; and

WHEREAS, the report recommends the conditional approval of the variance requested pursuant to N.J.A.C. 19:4-8.3(b)1 to permit a loading area within the front yard facing Moonachie Avenue; and

WHEREAS, the report also recommends the conditional approval of the variance requested pursuant to N.J.A.C. 19:4-8.3(c)3 to permit a loading area within the front yard facing Moonachie Avenue without sufficient screening; and

WHEREAS, the report also recommends the approval of the variance requested pursuant to N.J.A.C. 19:4-8.14(h)4 to permit a total sign area of 248.3 square feet, which is 15.3 percent of the building's main façade; 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 variance application to permit a loading area within the front yard facing Moonachie Avenue conditionally 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 variance application to permit a loading area within the front yard facing Moonachie Avenue without sufficient screening conditionally 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 variance application to permit a total sign area of 248.3 square feet, which is 15.3 percent of the building's main façade, 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 Delellis Realty/7 Eleven - New Building & Signage (Variances) application for a variance requested pursuant to N.J.A.C. 19:4-8.3(b)1 to permit a loading area within the front yard facing Moonachie Avenue conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e), and is hereby **APPROVED WITH THE FOLLOWING CONDITIONS** for the reasons set forth in the recommendation dated October 13, 2022:

1. Additional landscaping shall be provided along the site's Moonachie Avenue frontage, the extent of which shall be subject to the approval of the NJSEA Chief Engineer, in order to screen headlight glare directed toward motorists and adjacent properties.
2. Signage shall be posted at the westerly ingress-only driveway of Moonachie Avenue to inform truck drivers that no reverse movements are permitted on Moonachie Avenue to access the site.

BE IT FURTHER RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Delellis Realty/7 Eleven - New Building & Signage (Variances) application for a bulk variance from N.J.A.C. 19:4-8.9(d)6iii to permit a loading area within the front yard facing Moonachie Avenue without sufficient screening conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e), and is hereby **APPROVED WITH THE FOLLOWING CONDITION** for the reasons set forth in the recommendation dated October 13, 2022:

1. Additional landscaping shall be provided along the site's Moonachie Avenue frontage, the extent of which shall be subject to the approval of the NJSEA Chief Engineer, in order to screen headlight glare directed toward motorists and adjacent properties.

BE IT FURTHER RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Delellis Realty/7 Eleven - New Building & Signage (Variances) application for a bulk variance from N.J.A.C. 19:4-8.14(h)4 to permit a total sign area of 248.3 square feet, which is 15.3 percent of the building's main façade, conforms with the standards for approving applications

for variances as set forth in N.J.A.C. 19:4-4.14(e), and is hereby **APPROVED** for the reasons set forth in the recommendation dated October 13, 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 October 27, 2022.

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

Vincent Prieto
Secretary



MEMORANDUM

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

From: Sara J. Sundell *Date:* September 26, 2022

Subject: Variance Recommendation – Delellis Realty/7 Eleven - New Building & Signage (Variances) (File No. 21-271)

An application for three bulk variances has been filed with the NJSEA by Carlstadt Partners, LLC, for the premises located at 284 Washington Avenue and identified as Block 127, Lot 17, in the Borough of Carlstadt, New Jersey. The subject premises is located within the District's Light Industrial B zone. The three bulk variances are sought in connection with the applicant's proposal to construct a 4,714-square-foot convenience store with associated site improvements at an existing fueling service station on the subject premises.

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

1. N.J.A.C. 19:4-8.3(b)1, which prohibits loading in any front yard; whereas a loading area is proposed within the front yard facing Moonachie Avenue.
2. N.J.A.C. 19:4-8.3(c)3, which requires that all loading areas be screened and landscaped in accordance with N.J.A.C. 19:4-8.9(d)6iii; whereas the location of the westerly driveway along Moonachie Avenue does not allow for the construction of a solid and continuous fence in accordance with N.J.A.C. 19:4-8.10, and does not allow the planting of evergreens capable of maturing to a height and width sufficient to screen the loading area from the Moonachie Avenue right of way.
3. N.J.A.C. 19:4-8.14(h)4, which requires that the maximum gross sign area permitted shall not exceed five percent of the main façade of the building; whereas the total proposed sign area is 248.3 square feet, which is 15.3 percent of the building's main façade. The total proposed sign area includes one 23-square-foot business identification wall sign, one 26.5-square-foot business identification wall sign and one 49.1-square-foot business identification wall sign (east elevation); in addition to one 76.6-square-foot business identification wall sign, one 30.8-square-foot business identification wall sign, and one 42.3-square-foot business identification wall sign (north elevation).

An electronic public hearing was held virtually using Zoom video conferencing on Tuesday, August 23, 2022.

In a comprehensive report dated October 13, 2022, the Director of Land Use Management and the Senior Vice President, Chief of Legal & Regulatory Affairs recommended the conditional approval of two of the requested variances and approval of one of the requested variances. A copy of the variance recommendation report was provided to the applicant on October 13, 2022.

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

**RECOMMENDATION ON THE VARIANCE APPLICATION OF
Delellis Realty/7 Eleven - New Building & Signage (Variances)
FILE # 21-271**

I. INTRODUCTION

An application for three bulk variances has been filed with the NJSEA by Carlstadt Partners, LLC, for the premises located at 284 Washington Avenue and identified as Block 127, Lot 17, in the Borough of Carlstadt, New Jersey. The subject premises is located within the District's Light Industrial B zone. The three bulk variances are sought in connection with the applicant's proposal to construct a 4,714-square-foot convenience store with associated site improvements at an existing fueling service station on the subject premises.

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

1. N.J.A.C. 19:4-8.3(b)1, which prohibits loading in any front yard; whereas a loading area is proposed within the front yard facing Moonachie Avenue.
2. N.J.A.C. 19:4-8.3(c)3, which requires that all loading areas be screened and landscaped in accordance with N.J.A.C. 19:4-8.9(d)6iii; whereas the location of the westerly driveway along Moonachie Avenue does not allow for the construction of a solid and continuous fence in accordance with N.J.A.C. 19:4-8.10, supplemented by evergreens capable of maturing to a height and width sufficient to screen the loading area from the Moonachie Avenue right of way.
3. N.J.A.C. 19:4-8.14(h)4, which requires that the maximum gross sign area permitted shall not exceed five percent of the main façade of the building; whereas the total proposed sign area is 248.3 square feet, which is 15.3 percent of the building's main façade. The total proposed sign area includes one 23-square-foot business identification wall sign,

one 26.5-square-foot business identification wall sign and one 49.1-square-foot business identification wall sign (east elevation); in addition to one 76.6-square-foot business identification wall sign, one 30.8-square-foot business identification wall sign, and one 42.3-square-foot business identification wall sign (north elevation).

A public hearing was held via Zoom videoconferencing on Tuesday, August 23, 2022. Notice was given to the public and all interested parties as required by law. The public notice for this hearing was published in The Record newspaper. 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 1.54 acres. The site is a corner property that contains frontage on two Bergen County rights-of way, Washington Avenue to the east and Moonachie Avenue to the north. The easterly and northerly portions of the subject premises are encumbered by a non-exclusive easement to the County of Bergen. The surrounding area is developed primarily with warehousing facilities, but also contains some office, retail, and restaurant uses.

The lot is currently improved with a Sunoco fuel service station, including a canopy covering six fuel dispensers and a 1,507-square-foot accessory retail building. Access is provided by one driveway on Moonachie Avenue and two driveways on Washington Avenue. The site contains numerous signs that identify the existing accessory retail building totaling 53 square feet in area. Existing pole and gas pump canopy sign areas are not included in this total.

The Applicant is proposing to retain the existing fuel service station at the premises, demolish the existing accessory retail store, and construct a new 4,714-square-foot accessory retail building with associated site improvements, including

the installation of a loading area containing two loading spaces in the site's Moonachie Avenue front yard. As part of these improvements, the applicant proposes to relocate the existing full-service driveway on Moonachie Avenue further west along this street frontage, and to construct a new ingress-only driveway in the westerly portion of the site along Moonachie Avenue to provide direct access to the parking and loading areas for the accessory convenience retail store. The maximum signage permitted by the regulations on site is five percent of the main façade area of the proposed building, or 81 square feet. Six wall signs will be installed on the proposed accessory retail building totaling 248.3 square feet in area, which represents 15.3 percent of the building's main façade area.

B. Response to the Public Notice

No written or verbal comments were submitted to this Office regarding this application prior to the public hearing.

III. PUBLIC HEARING (August 23, 2022)

A public hearing was held on Tuesday, August 23, 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	"Preliminary & Final Major Site Plan for Proposed Fuel Service Station with Ancillary Retail," 18 sheets, prepared by

Stonefield Engineering on August 5, 2021, last revised on August 5, 2022.

- A-2 "Aerial Exhibit," Drawing 1 of 1, prepared by Stonefield Engineering on July 22, 2022.
- A-3 "Rendered Site Plan Exhibit," Drawing 1 of 1, prepared by Stonefield Engineering on August 5, 2021, last revised on August 5, 2022.
- A-4 Sign site plan and details, 18 sheets, prepared by Cummings Signs on May 10, 2021.
- A-5 "Aerial Drone View of Subject Site Looking South," Sheet 1, prepared by John McDonough Associates, undated.
- A-6 "Street View of Subject Site from Washington Avenue," Sheet 2, prepared by John McDonough Associates on August 22, 2022.
- A-7 "Street View of Subject Site from Moonachie Avenue," Sheet 3, prepared by John McDonough Associates on August 22, 2022.
- A-8 "Street View of Subject Site from Moonachie Avenue," Sheet 4, prepared by John McDonough Associates on August 22, 2022.

B. Testimony

Jason Tuvel, Esq. of the firm Prime & Tuvel, represented Carlstadt Partners, LLC at the hearing. The following five witnesses testified in support of the application:

1. Matthew Seckler, P.E., PTOE, P.P., Stonefield Engineering; and
2. John McDonough, L.A., P.P., AICP, John McDonough Associates.

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. 19:4-8.3(b)1, which prohibits loading in any front yard. A loading area is proposed within the front yard facing Moonachie Avenue.

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.*

The requested variance to provide for loading areas along the site's Moonachie Avenue front yard arises from conditions that are unique to the property in question. The subject property is a corner lot containing frontage on two Bergen County rights-of-way, Moonachie Avenue to the north and Washington Avenue to the east. The site contains two existing structures, consisting of an existing fuel service station canopy containing six fuel pumps, and a 1,507-square-foot accessory retail structure. The site is proposed to be redeveloped with the same uses. The applicant proposes to retain the existing fuel pumps at their current location, demolish the existing

retail store, and construct a new accessory retail structure, measuring 4,714 square feet, which is proposed to be branded as a “7-Eleven” convenience retail store. The new convenience store is proposed to be located in the same general location of the site as the existing store and will expand into an open space area in the westerly portion of the site, as the fuel service station canopy in the easterly portion of the site is to remain. These site characteristics form a unique set of circumstances that affect the applicant’s ability to redevelop the site in a conforming manner, while providing for new construction with adequate areas for vehicle circulation, parking, loading, and open space, and sufficient signage to identify the various uses on the site.

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

The subject property is located at the intersection of two county roads. Surrounding properties are predominantly industrial in nature, with the exception of The Graycliff catering facility located to the north across Moonachie Avenue, and an office building located on the northeast corner of the intersection. No residential uses are located proximate to the site. The applicant proposes two loading spaces facing Moonachie Avenue in the westerly portion of the site to serve the accessory retail store. All truck maneuvering will occur on-site; trucks will not be backing into the site from the adjacent roadways. The loading area will generally be used by two box trucks daily, and by a tractor trailer, up to WB-50 in size, twice per week. In order to screen headlight glare directed toward motorists and adjacent properties, it is recommended, as a condition of this recommendation report, that additional landscaping shall be provided along the site’s Moonachie Avenue frontage in the vicinity

of the loading area driveway, the extent of which shall be subject to the approval of the NJSEA Chief Engineer. With the recommended condition, the granting of the requested variance to provide for front yard loading along Moonachie Avenue 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 regulations that prohibit loading in a front yard would result in exceptional practical difficulties and hardship upon the property owner. The unique characteristics of the property, including its frontage on two county roads, and the constraints related to siting of the new retail structure with adequate areas for vehicle circulation, parking, loading, and open space, cause these practical difficulties.

Specifically, the proposed retail building is located in the general vicinity of the existing retail building. The proposed site design provides for a new driveway in the northerly portion of the site to serve the retail store and its adjacent loading area to the west.

The southerly rear yard and westerly side yard, where loading would be permissible, are not suitable locations to accommodate the site's loading operations. There is not sufficient space available along these yards to provide loading spaces and associated truck maneuvering due to the location of the site's detention basin in the southwesterly portion of the site. The proposed building placement, set back beyond the required front yard setback, is required to accommodate the site's vehicular circulation and parking areas, as

well as to accommodate a Bergen County road widening and utility easement. Alternative building configurations on the site are constrained due to the retention of the existing fuel service station at its existing location, the detention basin to the west of the retail building, and proposed site grading that is required to elevate the proposed retail building above the FEMA floodplain. In balancing the requirements of the Light Industrial B zone with the particular characteristics of the property, the proposed variance from the regulations is necessary to ensure a functional site layout.

- 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.*

The site's retail redevelopment is not anticipated to cause a significant increase in area traffic. The applicant provided testimony that trucks utilizing the proposed loading area will generally be limited to WB-50 tractor trailers utilizing the site at a frequency of twice per week, with daily box truck deliveries generally not exceeding two per day. Sufficient area is provided on the site to allow trucks to maneuver into the loading area from within the site, and not by reversing into the loading area from Moonachie Avenue.

The westerly site driveway on Moonachie Avenue, to be utilized by trucks entering the loading area, is limited to ingress-only movements, thereby limiting potential conflicts with other vehicles utilizing the site. The applicant's traffic professional provided testimony that site deliveries are generally avoided during the morning rush hours, which are generally the peak hours of operation of the convenience retail store (T-65 to T-67). In addition, a full-

service driveway is available further east on Moonachie Avenue to accommodate vehicles entering the site.

In order to ensure that no off-site impacts occur by drivers unfamiliar with the site, it is recommended, as a condition of this report, that signage be posted at the westerly ingress driveway of Moonachie Avenue to inform truck drivers that no reverse movements are permitted on Moonachie Avenue.

Furthermore, excess noise, odor, vibration or glare will not be generated as a result of the proposed loading area.

With the recommended condition, there will be no substantial detriment to the public good and no adverse impacts to the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance.

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

The granting of the requested variance will not have any adverse environmental impacts. The amount of open space to be provided will exceed the minimum 15 percent requirement of the District Zoning Regulations, with approximately one-third of the site to remain as open space. No environmentally sensitive areas, will be disturbed, and all drainage requirements will be met. The requested variance to locate the proposed loading area within the front yard facing Moonachie Avenue will not cause the NJSEA's environmental performance standards for noise, vibrations, airborne emissions or hazardous materials to be exceeded. Potential glare caused by truck headlights will be minimized to the extent possible, pursuant to the recommended condition in Section *ii.* above to provide additional

landscaping along the site's Moonachie Avenue frontage in the vicinity of the loading area driveway.

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

The requested variance represents the minimum deviation from the regulations that will afford relief. Potential locations to provide alternative loading areas outside of the front yard facing Moonachie Avenue are limited due to the existing site layout and particular and unique conditions on the property. The proposed loading area has been situated to ensure safe and efficient operations of the proposed convenience store. The recommended condition to install additional landscaping to screen headlight glare and improve site aesthetics will ensure that the requested variance is the minimum deviation from the regulations.

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

The proposed loading area facing Moonachie Avenue will not substantially impair the intent and purpose of these regulations. The intent and purpose of front yard loading regulations are rooted in the promotion of public safety and aesthetics. In this particular variance request, public safety is not adversely impacted due to the proposed site design, which allows sufficient area on the site for trucks to maneuver into the loading area, without reversing into the site from adjacent roadways. A recommendation in Section *iv.* above will require signage to be posted on the site as a further measure to prevent reverse movements on Moonachie Avenue. In addition, the frequency of deliveries is minimal and will occur during off-peak

hours. Most deliveries will occur twice daily via box trucks, with WB-50 trailer deliveries occurring approximately twice per week. The site will, therefore, be utilized in a safe and orderly manner. Furthermore, per the recommendation in Section *ii.* above, additional landscaping will be provided to screen headlight glare from trucks utilizing the loading area and to address area aesthetics.

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.3(c)3, which requires that all loading areas be screened and landscaped in accordance with N.J.A.C. 19:4-8.9(d)6iii. The location of the westerly driveway along Moonachie Avenue does not allow for the construction of a solid and continuous fence in accordance with N.J.A.C. 19:4-8.10, supplemented by evergreens capable of maturing to a height and width sufficient to screen the loading area from the Moonachie Avenue right of way.

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.*

The requested variance regarding the lack of screening of the site's loading area within the Moonachie Avenue front yard arises from conditions that are unique to the property in question. The subject property is a corner lot containing frontage on two Bergen County rights-of-way, Moonachie Avenue to the north and Washington Avenue to the east. The site contains two existing structures, consisting of an existing fuel service station canopy containing six

fuel pumps, and a 1,507-square-foot accessory retail structure. The site is proposed to be redeveloped with the same uses. The applicant proposes to retain the existing fuel pumps and canopy at their current location, demolish the existing retail store, and construct a new accessory retail structure, measuring 4,714 square feet, which is proposed to be branded as a “7-Eleven” convenience retail store. The new convenience store is proposed to be located in the same general location of the site as the existing store and will expand into an open space area in the westerly portion of the site, as the fuel service station canopy in the easterly portion of the site is to remain. These site characteristics form a unique set of circumstances that affect the applicant’s ability to redevelop the site in a conforming manner, while providing for new construction with adequate areas for vehicle circulation, parking, loading, and open space, and sufficient signage to identify the various uses on the site.

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

The subject property is located at the intersection of two county roads. Surrounding properties are predominantly industrial in nature, with the exception of The Graycliff catering facility located to the north across Moonachie Avenue, and an office building located at the northeast corner of the intersection. No residential uses are located proximate to the site. The applicant proposes two loading spaces to serve the accessory retail store facing Moonachie Avenue in the westerly portion of the site. Use of the loading area will generally be by two box trucks daily, and by a tractor trailer, up to WB-50 in size, twice a week.

Off-site visibility of the loading area will be limited due to the setback of the loading area, approximately 80 feet from Moonachie Avenue, a slight offset in the position of the loading area with respect to the westerly ingress driveway, and existing and proposed landscaping. Per testimony by the applicant's engineer, the loading area will have an approximately two-second view time from passing motorists on Moonachie Avenue (T-18 and 19).

In order to more effectively screen headlight glare toward motorists and adjacent properties, it is recommended, as a condition of this recommendation report, that additional landscaping shall be provided along the site's Moonachie Avenue frontage in the vicinity of the loading area driveway, the extent of which shall be subject to the approval of the NJSEA Chief Engineer. With the recommended condition for the screening and landscaping of the proposed front yard loading area along Moonachie Avenue, 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 regulations that would require screening and landscaping of the loading area along the site's Moonachie Avenue frontage, would result in exceptional practical difficulties and hardship upon the property owner. The unique characteristics of the property, including its frontage on two county roads, and the constraints related to siting of the new retail structure with adequate areas for vehicle circulation, parking, loading, and open space, cause these practical difficulties.

The requirement to screen the loading area would result in the elimination of the site's westerly ingress-only driveway. This would alter the site's circulation pattern to the extent that it would make access to the loading area impracticable, requiring trucks to enter the easterly full-service driveway along Moonachie Avenue, and reverse into the loading area. This configuration would obstruct the full-service, two-way driveway entrance during times of use, and would result in conflicts with both vehicles and pedestrians utilizing the fuel service station and convenience retail store.

In balancing the requirements of the Light Industrial B zone with the particular characteristics of the property, the proposed variance is necessary to ensure a functional site layout.

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.

The requested variance will not adversely affect public health, safety, morals, order, convenience, prosperity or general welfare. The site's Moonachie Avenue ingress-only driveway is required to be unobstructed to allow for functional loading operations on the subject property. If landscaped screening were required to be installed in conformance with the regulations, this would result in the elimination of the ingress-only driveway on the site. However, per the recommended conditions in Sections I-ii. and II-ii, of this recommendation, additional landscaping will be installed to screen the front yard loading area to the extent possible.

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

The granting of the requested variance will not have a substantial adverse environmental impact. Visibility of the loading area will be limited due to the setback of the loading area, approximately 80 feet from Moonachie Avenue, a slight offset in the position of the loading area with respect to the westerly ingress driveway, and existing and proposed landscaping. With the recommended condition to provide additional landscaping, the lack of landscaped screening in the portion of the site in front of the loading area will not cause the NJSEA's environmental performance standards for noise, glare, vibrations, airborne emissions, or hazardous materials to be exceeded.

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

The requested variance represents the minimum deviation from the regulations that will afford relief. Testimony has established that potential locations to provide alternative loading areas outside of the front yard facing Moonachie Avenue are limited due to the existing site layout and particular and unique conditions on the property. The proposed loading area has been situated to ensure safe and efficient operations of the proposed convenience store, and minimizes the amount of impervious pavement required to provide access to the loading area. The 20-foot-wide curb opening of the ingress-only driveway in the vicinity of the loading area, which is the only area where landscaped screening for the loading area is not provided, represents approximately 7.7 percent of the site's Moonachie Avenue frontage. The recommended condition to install additional landscaping to screen headlight glare and improve site

aesthetics will ensure that the requested variance is the minimum deviation from the regulations.

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

The intent of the District Zoning Regulations includes the promotion of development in accordance with good planning principles that relates the type, design and layout of such development to the particular site and surrounding environs. The absence of landscaping across a portion of the site's loading frontage is necessary to allow for appropriate access to the loading area of the proposed convenience retail store, which permits the site to be developed in a safe and orderly manner. The recommended condition to install additional landscaping will maximize the available area that exists on the site to provide for screening. Therefore, granting of the requested variance will not substantially impair the intent and purpose of these regulations.

C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.14(h)4, which requires that the maximum gross sign area permitted shall not exceed five percent of the main façade of the building; whereas the total proposed sign area is 248.3 square feet, which is 15.3 percent of the building's main façade. The total proposed sign area includes one 23-square-foot business identification wall sign, one 26.5-square-foot business identification wall sign and one 49.1-square-foot business identification wall sign (east elevation); in addition to one 76.6-square-foot business identification wall sign, one 30.8-square-foot business identification

wall sign, and one 42.3-square-foot business identification wall sign (north elevation).

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.*

The requested variance to exceed the maximum permitted gross sign area arises from conditions that are unique to the property in question. The subject property is a corner lot containing frontage on two Bergen County rights-of-way, Moonachie Avenue to the north and Washington Avenue to the east. The site contains two existing structures, consisting of a fuel service station canopy containing six fuel pumps, and a 1,507-square-foot accessory retail structure. The site is proposed to be redeveloped with the same uses. The applicant proposes to retain the existing fuel pumps and canopy at their current location, demolish the existing retail store, and construct a new accessory retail structure, measuring 4,714 square feet, which is proposed to be branded as a “7-Eleven” convenience retail store. The new convenience store is proposed to be located in the same general location on the site as the existing store and will expand into an open space area in the westerly portion of the site, as the fuel service station canopy in the easterly portion of the site is to remain. These site characteristics form a unique set of circumstances that affect the applicant’s ability to redevelop the site in a conforming manner, while providing for new construction with adequate areas for vehicle circulation, parking, loading, and open space, and sufficient signage to identify the various uses on the site.

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

The subject property is located at the intersection of two county roads. Surrounding properties are predominantly industrial in nature, with the exception of The Graycliff catering facility located to the north across Moonachie Avenue, and an office building located on the northeast corner of the intersection. No residential uses are located proximate to the site.

The applicant proposes three wall signs on the two front façades along Moonachie Avenue and Washington Avenue, to identify the “7-Eleven” convenience store and two accessory prepared take-out food brands (“Raise the Roost” and “Laredo Taco”) that are available within the accessory retail store. The convenience store building is set back approximately 89 feet from Moonachie Avenue and 200 feet from Washington Avenue, whereas 35 feet is the minimum required front yard setback in the Light Industrial B zone in which the property is located. The signage is appropriately-sized to be visible given the distance of the building to the adjacent roadways. There will be no glare or other adverse impacts from the proposed signs to adjoining properties or roadways. 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 applicant proposes three wall signs on the two front façades located along Moonachie Avenue and Washington Avenue, to identify the “7-Eleven” convenience store and two prepared take-out food brands (“Raise the Roost” and “Laredo Taco”) that are available within the accessory retail store. The total proposed sign area for six proposed wall signs is 248.3 square feet, which is 15.3 percent of the building’s main façade, whereas five percent, or 81 square feet, is the maximum sign area permitted by the Hackensack Meadowlands District Zoning Regulations.

The District sign regulations calculate the permitted sign area based on the area of a single façade. The site contains frontage along two county roads, and the building requires identification from each roadway. Although a pole sign and readerboard associated with the fuel service station use exists along Washington Avenue, visibility of the signage for the accessory retail store is challenged due to the distance of the building to the adjacent roadways. The convenience store building is set back approximately 89 feet from Moonachie Avenue and 200 feet from Washington Avenue beyond the fuel service canopy, whereas 35 feet is the minimum required front yard setback in the Light Industrial B zone in which the property is located. The proposed signage is appropriately-sized to be visible given the distance of the building to the adjacent roadways, and the additional sign area will allow each component of the accessory retail store to be identified.

In addition, the site’s existing elevation in the vicinity of the existing accessory retail store is at approximately elevation 4 to 5 feet (NAVD88). However, the proposed accessory retail store building will have a minimum finished floor elevation of 9 feet, which is a

minimum of one foot above the 100-year base flood elevation of 8 feet (NAVD88) established by FEMA. This difference in elevation also affects the visibility of the signage on the retail store building. The additional sign area on the easterly façade will allow better identification of the accessory retail store building by patrons utilizing the fuel service station in the easterly portion of the site, which will remain at approximately elevation 5 feet.

The strict application of the regulations limiting the total sign area to 81 square feet would result in exceptional practical difficulties and hardship upon the property owner due to these particular and unique property characteristics, and would result in an ineffective sign plan that would not accomplish adequate identification of the building and the site from both adjacent roadways and from within the site itself.

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.

The granting of the requested variance to permit additional sign area at the subject premises will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The additional sign area will promote visibility of the signage on the building to passing motorists to enable them to safely identify and access the corner property from the two adjacent county roadways, and to direct motorists using the fuel service station on the site to the main building entrance. Public safety, order, and convenience will therefore be enhanced by the additional sign area.

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

There will be no adverse environmental impact resulting from the granting of the requested signage variance. The additional sign area will not disturb any environmentally sensitive areas. There will not be any noise, vibrations, glare, airborne emissions, or hazardous materials generated by the proposed signage. No visual clutter or other adverse impacts to area aesthetics will result from the excess sign area.

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

The signage variance arises from the need to identify the uses in the convenience retail store from two county road frontages, as well as from within the site itself. The applicant proposes three signs per façade, which all conform to the maximum area for any single sign, and each sign identifies one component of the accessory retail use. The distance of the building from the adjacent roadways also results in the need for a larger sign area than permitted. Therefore, the requested variance represents the minimum deviation from the regulations that will afford relief.

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

The granting of the requested signage variance will not substantially impair the intent and purpose of these regulations. The purpose of the Hackensack Meadowlands District sign regulations is to provide for adequate identification of a site while avoiding visual and aesthetic clutter. Adequate identification is important to promote public safety

by allowing motorists to effectively identify a building to allow safe entry into the site. The proposed signage on the corner property will be used to identify the facility from two county roadways, and from patrons utilizing the fuel pumps in the easterly portion of the property. Therefore, the additional signage will promote the intent and purpose of the sign regulations and will relate to the particular site and surrounding environs.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-8.3(b)1, which prohibits loading in any front yard; whereas a loading area is proposed within the front yard facing Moonachie Avenue.


Based on the record in this matter, the bulk variance application to permit a loading area within the front yard facing Moonachie Avenue is hereby recommended for APPROVAL WITH THE FOLLOWING CONDITIONS:

1. Additional landscaping shall be provided along the site's Moonachie Avenue frontage, the extent of which shall be subject to the approval of the NJSEA Chief Engineer, in order to screen headlight glare directed toward motorists and adjacent properties.
2. Signage shall be posted at the westerly ingress-only driveway of Moonachie Avenue to inform truck drivers that no reverse movements are permitted on Moonachie Avenue to access the site.

CONDITIONAL APPROVAL 10/12/2022

Recommendation on
Variance Request

Date



Sara J. Sundell, P.E., P.P.
Director of Land Use Management and
Chief Engineer

Conditional Approval

Recommendation on
Variance Request

Date

10/13/22


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. 19:4-8.3(c)3, which requires that all loading areas be screened and landscaped in accordance with N.J.A.C. 19:4-8.9(d)6iii; whereas the location of the westerly driveway along Moonachie Avenue does not allow for the construction of a solid and continuous fence in accordance with N.J.A.C. 19:4-8.10, supplemented by evergreens capable of maturing to a height and width sufficient to screen the loading area from the Moonachie Avenue right of way.

Based on the record in this matter, the bulk variance application to construct the proposed loading area along Moonachie Avenue without the required screening and landscaping to be provided on the subject premises is hereby recommended for APPROVAL WITH THE FOLLOWING CONDITION:

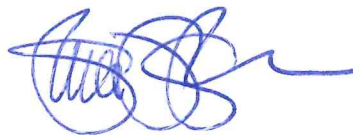
1. Additional landscaping shall be provided along the site's Moonachie Avenue frontage, the extent of which shall be subject to the approval of the NJSEA Chief Engineer, in order to screen headlight glare directed toward motorists and adjacent properties.

CONDITIONAL APPROVAL

Recommendation on
Variance Request

10/12/2022

Date



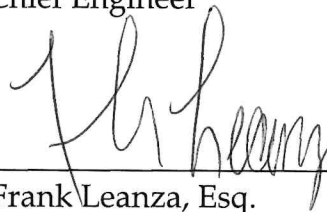
Sara J. Sundell, P.E., P.P.
Director of Land Use Management and
Chief Engineer

Conditional Approval

Recommendation on
Variance Request

10/13/22


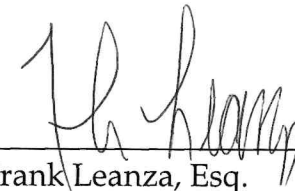
Date



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

C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.14(h)4, which requires that the maximum gross sign area permitted shall not exceed five percent of the main façade of the building; whereas the total proposed sign area is 248.3 square feet, which is 15.3 percent of the building's main façade. The total proposed sign area includes one 23-square-foot business identification wall sign, one 26.5-square-foot business identification wall sign and one 49.1-square-foot business identification wall sign (east elevation); in addition to one 76.6-square-foot business identification wall sign, one 30.8-square-foot business identification wall sign, and one 42.3-square-foot business identification wall sign (north elevation).

Based on the record in this matter, the bulk variance application to provide a total sign area of 248.3 square feet, which is 15.3 percent of the building's main façade, whereas five percent of the building's main façade area is permitted, is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>10/12/2022</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>10/13/22</u>	
Recommendation on Variance Request	Date	Frank Leanza, Esq. Senior Vice President Chief of Legal & Regulatory Affairs

RESOLUTION 2022-40

**RESOLUTION ISSUING A DECISION ON THE
SUITABILITY RECOMMENDATION AS REQUIRED BY THE
NJSEA INTERIM POLICIES GOVERNING AFFORDABLE HOUSING
DEVELOPMENT IN THE MEADOWLANDS DISTRICT
FILE No. 22-351, SOF/Secaucus Harmon Meadow Blvd LLC/
Chick-fil-A - New Building
BLOCK 227.01, LOT 1
IN THE TOWN OF SECAUCUS**

WHEREAS, in a decision dated May 21, 2007 (A-4174-03T3; A-3107-04T1), the Appellate Division of the New Jersey Superior Court determined, among other things, that the New Jersey Meadowlands Commission (NJMC) should consider whether new development in the Meadowlands District should be avoided until the Commission implements new rules concerning affordable housing; and

WHEREAS, on July 25, 2007, the Commission adopted Resolution No. 07-68, which approved the "Policy Statement Regarding the NJMC's Expanded Responsibilities to Plan and Zone for Affordable Housing"; and

WHEREAS, on May 6, 2008, COAH adopted new rules, which became effective upon publication in the New Jersey Register on June 2, 2008 and, in addition, adopted new rules on September 22, 2008, which became effective on October 20, 2008; and

WHEREAS, on July 17, 2008, P.L. 2008, Chapter 46 became law, revising various parts of the statutory law concerning affordable housing; and

WHEREAS, on July 23, 2008, the Commission adopted Resolution No. 08-80, which approved the "*Interim Policies Governing Affordable Housing Development in the Meadowlands District*," in order to govern the review of and restraints upon applications for further development in the Meadowlands District in a manner consistent with these regulatory and statutory changes, prior to the implementation of new regulations regarding same; and

WHEREAS, pursuant to Public Law 2015, Chapter 19, the New Jersey Meadowlands Commission (NJMC) has become part of the New Jersey Sports and Exposition Authority (NJSEA), effective February 5, 2015; and

WHEREAS, the *Interim Policies*, last revised by Resolution No. 11-29 on July 27, 2011, govern all zoning certificate applications, petitions to amend the Official Zoning Map, new redevelopment plans, and proposed amendments to a

redevelopment plan pertaining to new proposed uses or changes to existing uses, received on or after July 24, 2008, and remain in effect until the NJSEA promulgates new regulations concerning affordable housing, or the *Interim Policies* are withdrawn or rescinded by Commission action or court order, whichever occurs first; and

WHEREAS, the *Interim Policies* set forth the criteria for a Review Team, comprised of three NJSEA staff members including one New Jersey-licensed professional engineer and one New Jersey-licensed professional planner, and also a professional planner representing the municipality in which the proposed development is located, to review each applicable application to determine the suitability of the subject site for residential use; and

WHEREAS, a zoning certificate application was submitted to the NJSEA on August 22, 2022, by John Martinez, of Chick-fil-A, for the premises identified as 150 Harmon Meadow Blvd, Block 227.01, Lot 1, in the Town of Secaucus, New Jersey, which is located in the District's Regional Commercial zone; and

WHEREAS, the subject application proposes the construction of a 4,800 square foot restaurant building, and, as such, is not exempt from the *Interim Policies*; and

WHEREAS, the application was forwarded to the Review Team for review of the application in accordance with the *Interim Policies*; and

WHEREAS, the Review Team evaluated the suitability of the subject property taking into consideration the specific application submitted for construction of a 4,800 square foot restaurant building; and

WHEREAS, a suitability review, dated October 12, 2022, and attached hereto, has been prepared, indicating the recommendation of the Review Team in this matter; and

WHEREAS, the suitability review recommends that the subject property is unsuitable for residential use; and

WHEREAS, the Board of Commissioners of the NJSEA has reviewed the suitability review and recommendation prepared by the Review Team, regarding the subject property; and

WHEREAS, the Board of Commissioners of the NJSEA concurs with the recommendation of the Review Team; and

WHEREAS, the Board of Commissioners of the NJSEA hereby determines that the subject property is unsuitable for residential use.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority that the property located at 150 Harmon Meadow Blvd, Block 227.01, Lot 1, in the Town of Secaucus, New Jersey, is deemed to be unsuitable for residential use.

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 October 27, 2022.

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

Vincent Prieto
Secretary



MEMORANDUM

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

From: Sara J. Sundell, P.E., P.P. **Date:** October 12, 2022

Subject: Site Suitability Recommendation for 150 Harmon Meadow Blvd., Block 227.01, Lot 1, in the Town of Secaucus (File No. 22-351)

In a decision dated May 21, 2007 (A-4174-03T3; A-3107-04T1), the Appellate Division of the New Jersey Superior Court determined, among other things, that the New Jersey Meadowlands Commission (NJMC or Commission) should consider whether new development in the Meadowlands District should be avoided until the Commission implements new rules concerning affordable housing. The Commission followed up by adopting Resolution No. 07-68, on July 25, 2007, which approved the "Policy Statement Regarding the NJMC's Expanded Responsibilities to Plan and Zone for Affordable Housing." Thereafter, on July 23, 2008, the Commission adopted Resolution No. 08-80, which approved the "*Interim Policies Governing Affordable Housing Development in the Meadowlands District*," which was last revised by Resolution No. 11-29 on July 27, 2011, in order to govern the review of and restraints upon applications for further development in the Meadowlands District in a manner consistent with regulatory and statutory changes regarding affordable housing, prior to the implementation of new regulations regarding same.

Pursuant to Public Law 2015, Chapter 19, the New Jersey Meadowlands Commission (NJMC) has become part of the New Jersey Sports and Exposition Authority (NJSEA), effective February 5, 2015.

The *Interim Policies* apply to all zoning certificate applications, petitions to amend the Official Zoning Map, new redevelopment plans, and proposed amendments to a redevelopment plan pertaining to new proposed uses or changes to existing uses, received on or after July 24, 2008, and will remain in effect until the NJSEA promulgates new regulations concerning affordable housing, or the *Interim Policies* are withdrawn or rescinded by Authority action or court order, whichever occurs first. The *Interim Policies* set forth the criteria for a Review Team, comprised of three NJSEA staff members, including one New Jersey-licensed professional

engineer and one New Jersey-licensed professional planner, and also a professional planner representing the municipality in which the proposed development is located, to review each applicable application to determine the suitability of the subject site for residential use.

The NJSEA received an application for the construction of a 4,800 square foot restaurant building, on the premises identified as 150 Harmon Meadow Blvd, Block 227.01, Lot 1, in the Town of Secaucus, New Jersey. The subject property is located within the District's Regional Commercial zone and is currently the site of an existing furniture retail building.

The matter was forwarded to the Review Team for review of the proposed site in accordance with the *Interim Policies*. A suitability review, dated October 12, 2022, has been prepared, indicating that the Review Team recommends that the subject property is not suitable for residential use.

At this time, the NJSEA staff is recommending that the members of the NJSEA concur with the site suitability recommendation prepared by the Review Team, which determines that the subject property is not suitable for residential use.

Suitability Review – Summary

File No. 22-351

SOF/Secaucus Harmon Meadow Blvd LLC/Chick-fil-A - New Building

Block 227.01, Lot 1, in the Town of Secaucus

October 12, 2022

The NJSEA received a zoning certificate application for the proposed construction of a 4,800 square foot restaurant building, proposed to be located at 150 Harmon Meadow Boulevard, Block 227.01, Lot 1, in Secaucus, New Jersey. The subject property is located in the Commission's Regional Commercial zone and, as such, is not exempt from the site suitability review process. In keeping with the review process, the site characteristics of the property have been evaluated in accordance with the "Interim Policies Governing Affordable Housing Development in the Meadowlands District," adopted by the NJMC on July 24, 2008, and last revised on July 27, 2011.

In accordance with Section IV(c)1 of the Interim Policies, the criteria to deem a site suitable for housing are as follows:

i. The site is adjacent to compatible land uses and has access to appropriate streets.

- The subject property is adjacent to land uses that are not compatible with a residential development.
- The proposed development site is located adjacent to Harmon Meadow Plaza, which is part of the largest regional commercial area in the Hackensack Meadowlands District.
- The proposed development site is located within the parking lot of an existing retail furniture store. The access driveway that surrounds the retail building's parking lot is a major ingress/egress road for Harmon Meadow Plaza, connecting Harmon Meadow Boulevard with Route 3 West.
- The adjacent property to the west is the right-of-way for the New Jersey Turnpike's Eastern Spur, which is elevated above the subject site. The adjacent property to the south is the right-of-way for Route 3.
- The adjacent properties to the north and east are part of the Harmon Meadow complex, which contains large-scale retail and commercial facilities.
- The nearest residential developments are The Harper at Harmon Meadow Apartments, which is on the far side of the Harmon Meadow complex, and the residential neighborhood located to the west of the NJ Turnpike and south of Route 3, across numerous lanes of heavily

- trafficked highways.
 - This criterion is not met by the subject property.
- ii. **The site has access to water and sewer infrastructure with sufficient capacity.**
 - This criterion is met by the subject property.
- iii. **The site can be developed consistent with the rules of the NJSEA.**
 - This criterion can be met by the subject property.
- iv. **Former and existing land uses, either on the site or in the vicinity, may not expose residents to environmental hazard. Alternatively, the site shall be remediated to NJDEP residential standards as a condition of the Board's approval.**
 - The subject property is not listed on the NJDEP's Known Contaminated Site List for New Jersey.
 - As such, this criterion is met by the subject property.
- v. **The size, shape, or layout of any existing structure that shall remain, or other physical limitation(s) not listed previously, do not preclude residential use.**
 - The subject property is developed with a retail facility, including the building structure and necessary parking and loading facilities, along with the access driveway connecting Harmon Meadow Boulevard to Route 3 West.
 - The existing retail building is not proposed to be removed, but instead the property owner is proposing the addition of a new building on the subject property.
 - The portion of the subject property proposed for development is currently a portion of a parking lot for the existing furniture store. The parking lot to remain includes required parking for the retail establishment. The existing store includes loading doors that are oriented towards the parking lot. Truck circulation for access to the loading doors takes place within the parking lot and would be hindered by the construction of a larger residential structure in the lot.
 - The subject property does not have significant areas of excess contiguous open space or vacant area on which to construct a residential structure, as the existing retail building, parking lot and access driveway encompasses the majority of the lot. The majority of the property's open

space is located within the required front, side and rear yards of the subject property, which are intended, as per the definition of a “yard,” to remain unoccupied and unobstructed. As such, there is very limited area on the subject property for any new construction with the exception of the existing surface parking lot.

- In addition, waterways and wetlands located along the undeveloped edges of the property preclude expanding development beyond the existing paved edge of the parking lot and access driveway.
- With a limited quantity of open space, there is not sufficient space to construct residential uses on the subject property in a manner that would provide a reasonable separation distance and appropriate buffering between the different uses. There is also insufficient area available to develop a critical mass of housing.
- The existing layout of the retail building, parking fields, access driveway, loading area, open space, and setbacks precludes residential use.
- As such, this criterion is not met by the subject property.

vi. The site is suitable for residential use pursuant to sound planning principles.

- The location of the property in question is not conducive to residential uses, as the site is located within a large-scale, dynamic, and heavily-trafficked commercial/retail development and adjacent to two major highways.
- Many uses in the vicinity of the subject property, including retail and restaurants, are active all day and through the evening to the very early morning hours, resulting in traffic noise from patrons and deliveries. There are also restaurants in the Harmon Meadow development that may maintain late hours. Located within a large retail and commercial development and adjacent to both Route 3 and the NJ Turnpike, there is significant constant traffic noise that would be detrimental to a residential use located on the subject property.
- The site is located adjacent to Harmon Meadow Plaza, which is a busy retail and commercial development. The location of the proposed development is within the parking lot of an existing retail development, through which delivery trucks maneuver to access the retail building’s loading area. That parking lot is surrounded by an access driveway that provides a connection between Harmon Meadow Boulevard and Route 3 West.
- There are no adjacent residential or other supportive uses that could, from a planning perspective, create a cohesive neighborhood. Although

the property is within an active retail and commercial development, the site is remote from public schools, park and recreational facilities, other public amenities and residential neighborhoods, with the exception of the Harper residential complex in the Carpet Center Residential Redevelopment Area, located on the far side of the Harmon Meadow Plaza complex.

- Pedestrian access to the rest of the community, particularly the Secaucus downtown area, is difficult and requires crossing Route 3 by way of a highway overpass and traveling along Paterson Plank Road, both with limited sidewalks and pedestrian crosswalks.
- In addition, pedestrian access to the rest of the Harmon Meadow Plaza complex requires crossing both the access driveway between Route 3 and Harmon Meadow Boulevard, as well as Harmon Meadow Boulevard itself, which is another main point of entry for the complex and experiences a large volume of traffic throughout the day and night. Existing sidewalks in the area are limited and sufficient space to provide additional sidewalks at the intersection to access the Harmon Meadow complex may require encroachment into existing wetlands.
- With the exception of the parking lot, there is minimal open space on the subject property, which is mostly confined to the required front, side and rear yard setback areas and contains some waterways and wetlands. No vacant area remains on the site of sufficient size to construct residential units that could be effectively separated from the existing retail use.
- As such, this criterion is not met by the subject property.

In summary, only three (3) of the above criteria, as per Section IV(c)1 of the Interim Policies, apply to the subject property.

Conclusion

The subject property, located at 150 Harmon Meadow Boulevard, Block 227.01, Lot 1, in the Town of Secaucus, is recommended to be deemed unsuitable for housing.

Contingent upon the approval of this recommendation by the NJSEA Board of Commissioners, the review by the Town of Secaucus of the submitted zoning certificate application for the proposed construction of a 4,800 square foot restaurant building may proceed for this site. As a condition of zoning certificate approval, the applicant shall be required to satisfy the project's affordable housing requirements as per Section VII(a) of the Interim Policies or as required by law.

RESOLUTION 2022-41

**RESOLUTION APPROVING
BOROUGH OF CARLSTADT ORDINANCE
TO ASSUME CERTAIN ZONING APPROVAL AUTHORITY
WITHIN THE HACKENSACK MEADOWLANDS DISTRICT
(File No. SP-780)**

WHEREAS, the Hackensack Meadowlands Agency Consolidation Act, N.J.S.A. 5:10A-1 through 68 (the "Act"), was adopted on February 5, 2015, and subsequently amended on July 6, 2015; and

WHEREAS, Section 11(a) of the Act provides that "a constituent municipality that adopts and maintains the commission's master plan, zoning regulations, codes, and standards shall review and approve or reject applications for the development, improvement, redevelopment, construction, or reconstruction on land in the district ... upon the commission's determination that the master plan, zoning regulations, codes, and standards adopted by the constituent municipality conform in all material respects to those of the commission"; and

WHEREAS, as a means of implementing municipal assumption of certain zoning authority in the portion of the Borough of Carlstadt located within the Hackensack Meadowlands District in accordance with the Act, NJSEA staff collaborated with the Borough of Carlstadt on the development of a suitable municipal ordinance; and

WHEREAS, the municipal ordinance was adopted by the Borough Council of the Borough of Carlstadt on July 6, 2022, and was transmitted to the NJSEA on September 20, 2022, with a statement that the Borough intends to assume such authority beginning on January 1, 2023, and is attached hereto; and

WHEREAS, NJSEA staff has reviewed the adopted municipal ordinance and recommends that the Board makes a determination that it is in conformance with the intent of Section 11(a) of the Act.

NOW, THEREFORE BE IT RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Borough of Carlstadt ordinance adopted by the Borough Council on July 6, 2022, has been determined to be in conformance with Section 11(a) of the Act and is hereby approved.

BE IT FURTHER RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the implementation of the municipal ordinance, referenced herein, by the Borough of Carlstadt to begin on January 1, 2023, is also hereby approved.

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 October 27, 2022.



Vincent Prieto
Secretary

Sara Sundell

From: Joseph Crifasi <jcrifasi@carlstadtnj.us>
Sent: Tuesday, September 20, 2022 3:20 PM
To: Vincent Prieto; Steve Cattuna; Marylee Vignola; Christine Sanz; Sara Sundell; Colleen Mercado; Brian Aberback
Cc: Robert Ceberio; Matthew Ceberio; Zoning Dept; Chris Assenheimer; Dave Malinowski; Joseph Crifasi; robert.zimmermann@verizon.net; jdonahue@brickdonlaw.com; rallen@kippallenlaw.com; rcedzesq@aol.com
Subject: Carlstadt to NJSEA for zoning enforcement
Attachments: 2022 ltr to NJSEA for Boro Zoning takeover.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Caution: This is an External Email. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Prieto & Staff:

Please see attached request letter and final ordinance for the Borough of Carlstadt to accept the responsibilities for the construction, zoning and enforcement dept under the Hackensack Meadowlands Agency Consolidation Act.

A raised seal copy has been mailed to your Lyndhurst office.

We respectfully request that this be placed on your next meeting agenda. It is the Borough's intent and request that we begin this new initiative on January 1, 2023.

Thank you,

Joe Crifasi
Borough Administrator



BOROUGH OF CARLSTADT, NEW JERSEY 07072

Robert J. Zimmermann
Mayor

MEMORIAL MUNICIPAL BUILDING
500 MADISON STREET

September 14, 2022

Mr. Vincent Prieto, President, and CEO
New Jersey Sports and Exposition Authority
1 DeKorte Park Plaza
Lyndhurst, NJ 07071

TEL: 201-939-2850
FAX: 201-939-6945
WWW.CARLSTADTNJ.US

Dear Mr. Prieto,

Enclosed, please find a certified copy of Ordinance No. __22-6__ amending Ordinance 21-3 that will satisfy the terms and conditions of the Hackensack Meadowlands Agency Consolidation Act at N.J.S.A 5:10A-1 et seq., Section 11(a) allowing a constituent municipality that adopts and maintains the commission's master plan zoning regulations, codes, and standards to review and approve or reject applications for the development, improvement, redevelopment, construction, or reconstruction on land in the district.

The amendments in the ordinance reflect the changes requested by you and your staff. We ask that you place this on your next Board agenda for consideration.

Sincerely,

Robert J. Zimmermann

Mayor

Carlstadt Planning Board
Carlstadt Zoning Board
Frank Recanati, Zoning Official
Joseph Crifasi, Borough Administrator
Matthew Ceberio, RCM Ceberio LLC

ORDINANCE NO. 22-6

AN ORDINANCE AMENDING SECTION 21-24.1a OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF CARLSTADT, 2002, ENTITLED "MEADOWLANDS OVERLAY DISTRICT" AS AMENDED BY ORDINANCE NO. 21-3

21-24 Meadowlands Overlay District.
[Added 10-7-2020 by Ord. No. 20-6]

This Section is applicable to lands within the Borough of Carlstadt that are located within the jurisdictional boundary of the Hackensack Meadowlands District.

21-24.1.

The Hackensack Meadowlands Agency Consolidation Act, at N.J.S.A 5:10A-1 et seq., the Act (the Act) provides at Section 11(a) that 'A constituent municipality that adopts and maintains the commission's master plan, zoning regulations, codes, and standards shall review and approve or reject applications for the development, improvement, redevelopment, construction, or reconstruction on land in the district..., upon the commission's determination that the master plan, zoning regulations, codes and standards adopted by the constituent municipality conform in all material respects to those of the commission.' Accordingly, the Borough of Carlstadt hereby adopts and maintains the NJSEA's master plan, zoning regulations, codes, and standards and that, further, the following documents are incorporated by reference and deemed to be part of this section:

- a. Hackensack Meadowlands District Master Plan Update 2020, adopted February 2020.
- b. NJMC District Zoning Regulations, N.J.A.C. 19:4.
- c. NJMC Subdivision Regulations, N.J.A.C. 19:5.
- d. NJMC Building Code, N.J. A.C. 19:6.
- e. NJMC District Transportation Plan Rules, N.J.A.C. 19:7.
- f. Hackensack Meadowlands District Official Zoning Map.
- g. Interim Policies Governing Affordable Housing Development in the Meadowlands District effective July 24,2008, last revised July 27,2011.
- h. Redevelopment plans: Paterson Plank Road Redevelopment Plan amended December 19,2012.
- i. Pallet racking installation requirements.
- j. Landscape and Open Space Design Guidelines.
- k. Open space requirements.
- l. Recommended plant list (including native plants).
- m. Guideline on invasive plants.
- n. Tank checklist.

21-24.2.

The Borough of Carlstadt shall adopt, maintain, and abide by all the applicable rules within the Hackensack Meadowlands District, inclusive of the aforementioned documents listed in Section 21-24.1, as amended and supplemented, in the course of any and all land use and zoning application reviews for properties located in the District. The requirements of Municipal Land Use Law, N.T.S.A. 40:55D-1 et seq., are not applicable within the portion of the Borough of Carlstadt within the Hackensack Meadowlands District, and as per N.J.A.C. 19:4-2.1(e), no process, procedure, decision, or other action required or occurring pursuant to the District zoning regulations shall necessarily be interpreted to operate in the same manner set forth in the Municipal Land Use Law (MLUL), N.T.S.A. 40:55D-1 et seq.

21-24.3.

In the interest of continuity of review, all applications shall be first submitted to the NJSEA, and the NJSEA shall within three business days of receipt forward a complete copy of the application to the Borough of Carlstadt.

21-24.4.

The Borough of Carlstadt acknowledges that the NJSEA shall continue to perform the following reviews:

- a. Determination of any project which requires a use variance or special exception, in accordance with Section 11d. of the Act, which shall be evaluated within five business days of receipt, if possible. The review, and subsequent approval or rejection, of any project which requires a use variance or special exception shall be retained by the NJSEA.
- b. Calculation of Transportation Mitigation Assessment (TMAN), as required by the Hackensack Meadowlands Transportation Planning District Act of 2015, N.T.S.A. 5:10A-69 et seq. (the TPD Act).
- c. Determination of best available flood hazard data elevation, as required by FEMA's National Flood Insurance Program (NFIP) Community Rating System (CRS); and
- d. Administration of floodplain management regulations/floodproofing, as required by FEMA's NFIP CRS; and
- e. Evaluation of the state's riparian interest, as required by N.J.S.A. 13:1B-13.8 regarding the New Jersey Department of Environmental Protection Bureau of Tidelands; and
- f. Evaluation of development's conformance with the New Jersey Coastal Zone Management Program, as required by N.J.A.C. 7:7- 9.43; and
- g. Conformance with the interim policies governing Interim Policies Governing Affordable Housing Development in the Meadowlands District.

21-24.5.

The Borough of Carlstadt shall provide the NJSEA with "all documentation, plans, and information regarding all applications," inclusive of copies of all letters, permits and approvals issued, as required by Section 11a. of the Act.

21-24.6.

If a TMAN is determined by the NJSEA to be required, the Borough of Carlstadt agrees to refrain from issuance of any approval until such time that the TMAN is paid to the NJSEA or the appropriate agreement with the NJSEA for future payments is signed and filed in the County Registrar's office.

21-24.7.

Thirty percent of any TMAN funds collected in accordance with the TPD Act for any project in the Borough of Carlstadt shall be used for transportation related projects within the Borough of Carlstadt as required by Section 74k. of the TPD Act.

21-24.8.

The Borough of Carlstadt acknowledges that the NJSEA shall independently enforce the Hackensack Meadowlands Transportation Planning District Act of 2015, if an approval is issued by the Borough of Carlstadt prior to the payment of the TMAN to the NJSEA.

21-24.9.

"In adopting the District zoning regulations, the NJSEA fee schedule shall govern. No additional fees may be charged to District applicants. The Borough of Carlstadt shall retain all fees generated by the applications handled by the municipality in accordance with the fee schedule set forth in N.J.A.C. 19:4-11.

21-24.10.

The Borough of Carlstadt shall provide all necessary information to and cooperate with the NJSEA to ensure the continuity of the FEMA NFIP CRS program for the benefit of the constituent property owners within the Borough of Carlstadt as well as within the Hackensack Meadowlands District, including, but not limited to, the following:

RESOLUTION 2022-41
ATTACHMENT

- a. As-built plans for completed building and / or addition construction prior to the issuance of any temporary or final certificate of completion and/or occupancy approval or certificate of occupancy. The Borough shall not issue any temporary or final certificate of completion and/or occupancy approval or certificate of occupancy until the applicant has first obtained a FEMA NFIP Elevation Certificate that has been signed by the NJSEA.
- b. A link on the municipal website, listing the NJSEA as the floodplain administrator for all district properties and directing inquiries to the NJSEA;
- c. The records for all construction, maintenance and inspections regarding drainage structures located within the district portion of the municipality.

21-24.11.

The Borough of Carlstadt hereby agrees that, as the NJSEA is the floodplain administrator for the FEMA NFIP CRS program and is responsible for enforcement of the Floodplain Management regulations at N.J.A.C. 19:4-9.1 et seq., all applications involving a request for a variance from the NJSEA's required finished floor elevation shall be submitted to the NJSEA for review and approval or rejection.

21-24.12.

To the extent that the New Jersey Administrative Code regulations permit an appeal to the Executive Director of the NJMC (by way of example, but not by way of limitation, N.J.A.C. 19:4-4.19), said appeal shall be made to the Zoning Code Official of the Borough of Carlstadt.

21-24.13.

To the extent that the New Jersey Administrative Code regulations permit the Executive Director of the New Jersey Meadowlands Commission to waive or reduce any application fee (by way of example, but not by way of limitation, N.J.A.C. 19:411.1), said request for a waiver or reduction of the application fee shall be made to the Zoning Code Official of the Borough of Carlstadt.

21-24.14.

This section is limited to that portion of the Borough of Carlstadt within the Hackensack Meadowland District, as delineated on the Hackensack Meadowlands District Official Zoning Map. For the remaining portion of the Borough of Carlstadt, which is outside of the Hackensack Meadowlands District boundaries, all existing development regulations shall remain in full force and effect.

21-24.15.

If any section, paragraph, subdivision, clause or provision of this section shall be adjudged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision so adjudged and the remainder of this section shall be deemed to be valid and effective.

21-24.16.

This section is hereby referred to the Borough of Carlstadt Planning Board, pursuant to N.J.S.A. 40:55D-64 for a report, if any, pursuant to N.J.S.A. 40:55D-26(a).

RESOLUTION 2022-41
ATTACHMENT

21-24.17.

Should the Borough of Carlstadt Planning Board fail to transmit said report within the required thirty-five-day period provided for in said statute, then the governing body shall be relieved from the requirements of N.J.S.A. 40:55D-26.

[1] Editor's Note: Former Sections 21-24 through 21-27 were renumbered as Sections 21-25 through 21-28, respectively, to accommodate the addition of new Section 21-24.

INTRODUCED: June 15, 2022

PUBLISHED: June 21, 2022

ADOPTED: July 6, 2022

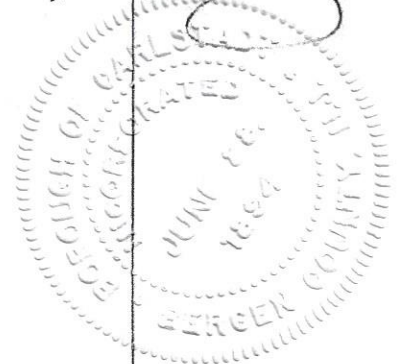
APPROVED: Robert J. Zimmermann
ROBERT J. ZIMMERMANN, MAYOR

ATTEST: Claire Foy
CLAIRE FOY, BOROUGH CLERK

I hereby certify that the foregoing is a true
copy adopted by the Borough Council of the
Borough of Carlstadt, New Jersey on

July 6, 2022

Claire Foy
Claire Foy, Borough Clerk





MEMORANDUM

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

From: Sara J. Sundell *Date:* October 27, 2022

Subject: Approval of Borough of Carlstadt Ordinance to Assume Certain Zoning Approval Authority within the Hackensack Meadowlands District (File No. SP-780)

The Hackensack Meadowlands Agency Consolidation Act at N.J.S.A. 5:10A-11(a) provides that “a constituent municipality that adopts and maintains the commission’s master plan, zoning regulations, codes, and standards shall review and approve or reject applications for the development, improvement, redevelopment, construction, or reconstruction on land in the district ... upon the commission’s determination that the master plan, zoning regulations, codes, and standards adopted by the constituent municipality conform in all material respects to those of the commission”.

As such, the Borough of Carlstadt has expressed interest in municipal assumption of certain zoning authority in the portion of the Borough of Carlstadt located within the Hackensack Meadowlands District. NJSEA staff collaborated with the Borough of Carlstadt on the development of a suitable municipal ordinance to be in conformance with the Act.

The Borough Council of the Borough of Carlstadt adopted an ordinance on July 6, 2022, which was transmitted to the NJSEA on September 20, 2022, with a statement that the Borough intends to assume such authority beginning on January 1, 2023.

NJSEA staff has reviewed the adopted municipal ordinance and finds it to be in conformance with the Act. At this time, the NJSEA Staff recommends that the Board makes a determination that the municipal ordinance is in conformance with the intent of the Act and provides its approval of the implantation of the ordinance beginning on January 1, 2023.

RESOLUTION 2022-42

RESOLUTION SUPPORTING COLLABORATION OF NJSEA STAFF AND NYU C2SMART CENTER IN PREPARING A USDOT SMART GRANT PROPOSAL AND AUTHORIZING THE PRESIDENT & CEO TO SUBMIT SAME TO THE USDOT

WHEREAS, the Hackensack Meadowlands Transportation Planning District Act at N.J.S.A 5:10A-69 (the Act) authorizes the NJSEA to create a regional transportation plan establishing goals, policies, needs, and improvement priorities for transportation in the Hackensack Meadowlands District (“District”), and to undertake the development of transportation projects to effectuate said plan; and

WHEREAS, in accordance with the Act, the Meadowlands District Transportation Plan (the “Plan”) was adopted by resolution on November 28, 2007; and

WHEREAS, in accordance with the Plan, the Authority developed, designed, and implemented a regional adaptive traffic signal system, known as the Meadowlands Adaptive Signal System for Traffic Reduction (“MASSTR”), to efficiently reduce roadway congestion, delays, travel time, fuel consumption, and airborne emissions; and

WHEREAS, through servers and equipment maintained by the NJSEA, the MASSTR traffic signal system continuously coordinates and adjusts the timings of traffic signals along multi-jurisdictional boundaries for optimal operation; and

WHEREAS, the U.S. Department of Transportation (“USDOT”) has recently released a Notice of Funding Opportunity (“NOFO”) to solicit applications for Strengthening Mobility and Revolutionizing Transportation (“SMART”) Grants to fund projects that focus on using technology interventions to solve real-world challenges facing communities inclusive of demonstration projects focused on advanced smart city or community technologies to improve transportation efficiency and safety; and

WHEREAS, this NOFO makes available up to \$100,000,000 for FY2022 grants under the SMART Grants Program with an anticipated funding of up to \$2,000,000 per project for Stage 1.

WHEREAS, NJSEA staff and the NYU C2SMART Center propose to work cooperatively to develop a collaborative SMART Grant application to address transportation needs within the Hackensack Meadowlands District; and

WHEREAS, NYU's C2SMART is a solution-oriented research center taking on some of today's most pressing urban mobility challenges to deliver innovative solutions; and

WHEREAS, C2SMART operates as a consortium of member universities led by the New York University Tandon School of Engineering, and offers a combination of strengths and resources through the various member universities; and

WHEREAS, the collaborative SMART Grant application being developed by NJSEA and the NYU C2SMART Center will address the development and implementation of Smart Technology Traffic Signals to assess the performance of the MASSTR signal system, an expansion of MASSTR functionalities to include a pedestrian/pedal-cyclist crossing warning system at signalized intersections, an air pollution and flood monitoring alert system, and the development of a Dashboard tool tailored for local stakeholders to access system data such as traffic volume, traffic signal timings, video cameras, flooding, and GHG emissions (the "Project").

NOW, THEREFORE, BE IT RESOLVED that the New Jersey Sports and Exposition Authority supports the collaboration of the NJSEA staff and the NYU C2SMART Center in preparing a SMART Grant proposal to be submitted to the USDOT to seek funding for the development and implementation of the Project.

BE IT FUTHER RESOLVED that the President and CEO of the New Jersey Sports and Exposition Authority is hereby authorized to submit the SMART Grant proposal to the USDOT.

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 October 27, 2022.



Vincent Prieto
Secretary



MEMORANDUM

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

From: Sara J. Sundell *Date:* October 27, 2022

Subject: Support for Collaboration of the NJSEA and NYU C2SMART Center in Preparing a USDOT SMART Grant Proposal

The Hackensack Meadowlands Transportation Planning District Act at N.J.S.A 5:10A-69 authorizes the NJSEA to create a regional transportation plan establishing goals, policies, needs, and improvement priorities for transportation in the Hackensack Meadowlands District (District), and to undertake the development of transportation projects to effectuate said plan.

In accordance the Meadowlands District Transportation Plan, which was adopted by resolution on November 28, 2007, the Authority developed, designed, and implemented a regional adaptive traffic signal system, known as the Meadowlands Adaptive Signal System for Traffic Reduction (MASSTR), to efficiently reduce roadway congestion, delays, travel time, fuel consumption, and airborne emissions. Through servers and equipment maintained by the NJSEA, the MASSTR traffic signal system continuously coordinates and adjusts the timings of traffic signals along multi-jurisdictional boundaries for optimal operation.

The U.S. Department of Transportation (USDOT) recently released a Notice of Funding Opportunity to solicit applications for Strengthening Mobility and Revolutionizing Transportation (SMART) Grants to fund projects that focus on using technology interventions to solve real-world challenges facing communities inclusive of demonstration projects focused on advanced smart city or community technologies to improve transportation efficiency and safety.

NJSEA staff and the NYU C2SMART Center propose to work cooperatively to develop a SMART Grant application to address transportation needs within the Hackensack Meadowlands District. NYU's C2SMART is a solution-oriented research center taking on some of today's most pressing urban mobility challenges to deliver innovative solutions. C2SMART operates as a consortium of member universities led by the New York University Tandon School of Engineering, and

offers a combination of strengths and resources through its various member universities.

The collaborative SMART Grant application being developed by NJSEA and the NYU C2SMART Center will address the development and implementation of Smart Technology Traffic Signals to assess the performance of the MASSTR signal system, an expansion of MASSTR functionalities to include a pedestrian/cyclist-crossing warning system at signalized intersections, an air pollution and flood monitoring alert system, and the development of a Dashboard tool tailored for local stakeholders to access system data such as traffic volume, traffic signal timings, video cameras, flooding, and GHG emissions (the “Project”).

NJSEA staff is requesting Board support of the collaboration between the NJSEA staff and the NYU C2SMART Center in preparing a SMART Grant proposal to be submitted to the USDOT to seek funding for the development and implementation of the Project and for the Board to authorize the submission of the SMART Grant proposal to the USDOT.

RESOLUTION 2022-43

**RESOLUTION AUTHORIZING THE SECOND AMENDMENT OF A 2007
SETTLEMENT AGREEMENT BETWEEN THE NJMC, FDP ENTERPRISES AND
NATIONAL RETAIL TRANSPORTATION REGARDING
PROPERTY IN JERSEY CITY**

WHEREAS, the New Jersey Meadowlands Commission ("NJMC"), FDP Enterprises ("FDP"), and National Retail Transportation ("NRT"), entered into a Stipulation of Settlement, dated August 14, 2007 ("2007 Stipulation") in resolution of violations pertaining to property on Secaucus Road, Jersey City, New Jersey ("Property"); and

WHEREAS, the Property was owned by FDP and occupied by related entity NRT at the time the 2007 Stipulation was executed; and

WHEREAS, shortly thereafter, the Property was sold to 20 Aquarium Drive, LLC ("Owner"), which is a related entity to NRT; and

WHEREAS, it was contemplated under the 2007 Stipulation that Owner would undertake improvements to the Property; and

WHEREAS, Owner completed a portion of the required work and has sold part of the property to a developer, which sale has generated additional revenue that will be dedicated to completion of improvements on Owner's remaining portion of the property; and

WHEREAS, effective February 5, 2015, pursuant to P.L. 2015, c. 19, the New Jersey Meadowlands Commission became part of the New Jersey Sports and Exposition Authority ("NJSEA"); and

WHEREAS, NJSEA Land Use Management staff and legal counsel reached acceptable terms to amend the 2007 Stipulation; and

WHEREAS, the New Jersey Sports and Exposition Authority ("NJSEA") and 20 Aquarium Drive, LLC ("Aquarium"), a related entity to NRT, entered into an Amendment to the Stipulation of Settlement dated May 14, 2015 ("2015 Amended Stipulation") pertaining the Property; and

WHEREAS, the Owner previously agreed to complete the required improvements for a trailer parking lot complying with NJSEA site plan standards on the Property, however, it has recently modified its development plans and applied for a zoning certificate for construction of a 500,000+ sf. warehouse/distribution building and related site improvements on the Retained Property, NJSEA File No. 21-485; and

WHEREAS, NJSEA Land Use Management staff and legal counsel have reached acceptable terms to further amend the stipulation of settlement to address the current development application under review by the NJSEA staff.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority that the President and CEO and his designees are hereby authorized to enter into a second amended stipulation of settlement substantially in accordance with the terms outlined therein.

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 October 27, 2022.

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

Vincent Prieto
Secretary

**RESOLUTION 2022-43
ATTACHMENT**

Second Amendment to Stipulation of Settlement

OAL Docket No: HMD 12930-2005N; HMD 11110-2006N

WHEREAS, the New Jersey Meadowlands Commission ("NJMC"), FDP Enterprises ("FDP"), and National Retail Transportation ("NRT"), entered into a Stipulation of Settlement, dated August 14, 2007, pertaining to property formerly known as Block 101, Lot 1, 16, 18 and 23, and Block 1001, Lot 3, (now known as Block 101, Lots 1.01, 18.01 and 23.01) on Secaucus Road, Jersey City, New Jersey ("Property"); and

WHEREAS, at the time the Stipulation of Settlement was executed, FDP was the owner of the Property and NRT was under contract to purchase the Property (upon closing, fee title to the Property was taken in the name of 20 Aquarium Drive, LLC - a related entity to NRT, which will be referred to hereinafter as "Owner"), and it was contemplated under the Stipulation of Settlement that the Owner would undertake, inter alia, certain improvements to the Property as set forth more specifically in the Stipulation of Settlement; and

WHEREAS, citing economic hardship, the Owner completed only a portion of the required site improvements, namely soil stabilization, site grading and part of the stormwater collection system; and

WHEREAS, the Owner sold a portion of the Property for development by a third-party (the "Disposition Parcel"); and

WHEREAS, the NJMC approved the subdivision of the Property creating new lots for the Disposition Parcel (Block 101, Lots 18.01 and 23.01) and the Retained Property (Block 101, Lot 1.01), and subsequently, on November 19, 2014, the NJMC approved a conditional zoning certificate (CZC#14-373) for construction of a 300,000+ sf. warehouse/distribution building and related site improvements on the Disposition Parcel; and

**RESOLUTION 2022-43
ATTACHMENT**

WHEREAS, on December 1, 2014, Scannell Properties #181, LLC ("Third-Party Developer") purchased the Disposition Parcel; and

WHEREAS, effective February 5, 2015, pursuant to P.L. 2015, c. 19, the NJMC became part of the New Jersey Sports and Exposition Authority ("NJSEA"); and

WHEREAS, the Stipulation of Settlement was amended on May 14, 2015 ("the First Amendment"); and

WHEREAS, the Third-Party Developer is not a party to the Stipulation of Settlement or any amendments thereto, and use of the Disposition Parcel will be otherwise governed by applicable NJMC/NJSEA regulations wholly independent of the Stipulation of Settlement between the Owner and NJSEA as to the Retained Property; and

WHEREAS, the Owner, having previously agreed to complete the required improvements for a trailer parking lot complying with NJSEA site plan standards on the Retained Property, it has now modified its development plan and applied for a zoning certificate for construction of a 500,000+ sf. warehouse/distribution building and related site improvements on the Retained Property, NJSEA File No. 21-485; and

WHEREAS, the proposed development will include the warehouse building, landscaped areas, access roads, parking lots and stormwater management areas and site improvements (collectively the "Improvements"), which will act as engineering controls in accordance with the Remedial Action Workplan for the Retained Property prepared by Boswell Engineering; and

WHEREAS, the Owner has completed site plan design and submitted applications for development of the Retained Property, including zoning certificate application to the NJSEA, site plan application to Hudson County, and other governmental approvals.

**RESOLUTION 2022-43
ATTACHMENT**

NOW THEREFORE, the Owner and NJSEA (the "Parties") wish to enter into a Second Amendment ("Second Amendment") to the Stipulation of Settlement as to the Retained Property consistent with the current development plans and the Remedial Action Workplan prepared by Boswell Engineering, dated April 2022, and submitted to NJSEA, including a timetable for completion of the construction on the Retained Property by Owner, as set forth below:

1. The Owner shall diligently pursue all applications in order to obtain NJSEA zoning certificate approval and other governmental approvals required to commence construction by December 31, 2022 and shall complete construction not later than three (3) years following receipt of such approvals.
2. If the Owner is proceeding in good faith, but the receipt of NJSEA zoning certificate approval or other governmental approvals is nonetheless delayed beyond December 31, 2022, then the Owner shall complete construction not later than three (3) years following receipt of such delayed approvals.
3. In the event that the Owner fails to meet the timeframes for completion of the Improvements, and the NJSEA has not otherwise approved any extension of such timeframes in writing, then the NJSEA shall have the authority to take any and all actions available to the NJSEA by law, including such actions that are set forth under NJSEA regulations at NJAC 19:4-4.21 *Penalties and Enforcement*, providing for civil penalties of not less than \$200.00 and not more than \$5,000 per day, and/or to enforce removal of the trailers from the Retained Property.
4. In order to provide financial assurance for the Owner's completion of the Improvements, the sum of \$600,000.00 was withheld from the proceeds of the sale of the Disposition Parcel, and is being held in an escrow account by First American Title Insurance Company, Escrow Number

RESOLUTION 2022-43
ATTACHMENT

642267 ("Construction Escrow"). The Construction Escrow shall be held by First American Title Insurance Company according to the terms of an escrow agreement, which provides for such funds to be held in the escrow until receipt of written authorization from the NJSEA for release, or partial release, of said funds as provided herein.

5. Written authorization for releases from the Construction Escrow shall be provided by the NJSEA upon proof, acceptable to the NJSEA, of the owner's satisfactory completion of the following milestones in the design, permitting, and construction of the Improvements:
 - a. \$200,000.00 - upon receipt of NJSEA zoning certificate approval and other governmental approvals required to commence construction, and the Owner having entered into a signed contract for construction of the Improvements;
 - b. \$200,000.00 - upon completion of the building foundation and all subsurface drainage, curbing, and base course paving of the Retained Property;
 - c. Remaining Balance (including interest, if any) - upon issuance of the final Certificate of Completion by the NJSEA.
6. Upon completion of the Improvements by the Owner on the Retained Property, the issuance of a final Certificate of Completion by the NJSEA shall constitute full compliance by the Owner with the terms of the Stipulation of Settlement and with this Amendment.
7. Each of the persons signing this Second Amendment in a representative capacity represents and warrants that he or she is an authorized representative of the entity for which he or she has signed and is duly authorized to execute this Amendment.
8. The Second Amendment shall become effective upon the execution hereof by Owner and the NJSEA.
9. Except as otherwise expressly provided herein with respect to the Third-Party

RESOLUTION 2022-43
ATTACHMENT

Developer, this Second Amendment shall be binding upon the parties and their successors-
in-interest, if any.

FOR NEW JERSEY SPORTS AND EXPOSITION AUTHORITY:

Witnessed By:

Title:

Date:

By:

Title:

Date:

FOR 20 AQUARIUM DRIVE, LLC:

Witnessed By:

Title:

Date:

By:

Title:

Date:

AWARDS / CONTRACTS

RESOLUTION 2022-45

**RESOLUTION AUTHORIZING THE PRESIDENT AND CEO TO EXECUTE
A MEMORANDUM OF UNDERSTANDING BETWEEN THE NEW JERSEY
SPORTS AND EXPOSITION AUTHORITY, RAMAPO COLLEGE OF NEW JERSEY
AND THE RAMAPO FOUNDATION FOR THE OPERATION OF
THE MEADOWLANDS ENVIRONMENT CENTER**

WHEREAS, since 2003 Ramapo College has successfully and continuously operated the Meadowlands Environment Center (MEC); and

WHEREAS, the MEC is a valuable resource to the Meadowlands region and the entire State of New Jersey for environmental education; and

WHEREAS, Ramapo College, through the MEC, offers school field trip programs for students in grades K-12, summer camps, after school programs, community programming and the Marsh Access Program, among other programs; and

WHEREAS, the execution of the MOU would provide for the continued operation of these educational programs, thereby allowing access to quality environmental education to thousands of students per year.

NOW, THEREFORE, BE IT RESOLVED that the President and CEO is authorized to execute the attached MOU with Ramapo College of New Jersey and The Ramapo Foundation through December 31, 2023, with the possibility of two, one-year renewals.

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 October 27, 2022.



Vincent Prieto
Secretary

RESOLUTION 2022-45
ATTACHMENT

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY,
RAMAPO COLLEGE OF NEW JERSEY
AND
THE RAMAPO COLLEGE FOUNDATION**

This Memorandum of Understanding (“MOU” or “Agreement”) is an agreement made and entered as of this 30th day of December, 2022, by and between the New Jersey Sports and Exposition Authority (“NJSEA”), located at One DeKorte Park Plaza, Lyndhurst, New Jersey, Ramapo College of New Jersey (“Ramapo College”), a New Jersey State entity, located at 505 Ramapo Valley Road, Mahwah, New Jersey, and the Ramapo College Foundation (the “Foundation”), an auxiliary organization created pursuant to N.J.S.A. 18A:64-27, located at 505 Ramapo Valley Road, Mahwah, New Jersey (Ramapo College and the Foundation may be collectively referred to herein as “Ramapo”).

WHEREAS, in August 2003, the Meadowlands Commission entered into its first MOU with Ramapo to operate the Commission’s Environment Center (“MEC”); and

WHEREAS, since that time, Ramapo has successfully and continuously operated the MEC; and

WHEREAS, the MEC is a valuable resource to the Meadowlands region and the entire State of New Jersey for environmental education.

NOW, THEREFORE, in consideration of the foregoing recitals, the parties agree as follows:

1. **PURPOSE**: The purpose of the MOU is to ensure the continued operation of a premier environmental center.

RESOLUTION 2022-45
ATTACHMENT

2. **TERM:** This MOU shall begin as of the date of execution and continue up through and include December 31, 2023. The term of this MOU may be extended with two (2), one (1) year renewals with the written consent of both parties.

3. **RAMAPO COLLEGE RESPONSIBILITIES:**

A. **Operation of Educational Center.**

Ramapo shall be responsible for operating the educational component of the MEC. At a minimum, Ramapo shall offer school field trip programs for students in grades K-12. There shall be an estimated 4-5 classes per day from January through mid-March, and mid-November through December; and an estimated 8 classes per day from mid-March through June and September through mid-November. In the months of July and August, Ramapo shall offer field trip programs to camps. A summary of schools served, number and ages of students participating, fees collected, and program descriptions shall be distributed to the NJSEA on a quarterly basis.

B. **Marsh Access Program.**

Ramapo shall continue to operate the Marsh Access Program.

C. **Offer Educational Programs.**

In developing programs covering K-12, on-site and off-site teaching modules will be implemented by Ramapo. Ramapo will continuously develop and upgrade curriculum, and expand and deepen the content covered by the MEC's curriculum.

D. **In-Service Teaching.**

Ramapo may continue to create and implement in-service teaching enhancement programs. These programs include (food science, hydroponics, web-based learning systems, watershed studies). The goal of such programs is to more fully utilize the Meadowlands as a resource.

RESOLUTION 2022-45
ATTACHMENT

E. **Create Education Network.**

Ramapo will continue to foster the education-based network with school districts, which has contributed to success in obtaining approximately 1.5 million dollars in grant funding from the National Science Foundation, New Jersey DOE and the United States Environmental Protection Agency. This network will continue to enhance the MEC educational programs for K-12 facilitating off-site classes, facilitating the distribution and utilization of information generated by the NJSEA, and by allowing for a more effective mechanism to promote MEC programs. Networking shall stimulate the growth of the teacher enhancement program at the MEC as well as growth of other appropriate education programs offered by Ramapo.

F. **Community Programming.**

Ramapo will continue to participate and help coordinate the NJSEA's annual Halloween event held in October. Additionally, Ramapo will partner with NJSEA staff to plan and host an annual Earth Day event to be held in April. To the extent practicable, Ramapo will support the NJSEA's public schedule of events where feasible.

G. **Publication Rights.**

1. The NJSEA recognizes that under Ramapo College policy, the results of specific projects must be published and the NJSEA agrees that Ramapo College researchers engaged in such projects shall be permitted to present at symposia, national or regional professional meetings, and to publish in journals, these dissertations or others of their own choosing, methods and results of such projects, provided, however the NJSEA shall have been furnished copies of any proposed publication or presentation at least sixty (60) days in advance of the submission of such proposed publication or presentation to permit the NJSEA to make

RESOLUTION 2022-45
ATTACHMENT

written comments in said publication or object in writing to such proposed presentation or proposed publications. The NJSEA shall provide Ramapo College with such commentary or objection within thirty (30) days.

2. In the event that the NJSEA makes a timely objection to a proposed publication, Ramapo College shall refrain from making such publication or presentation for a maximum of ninety (90) days from date of receipt of such objection in order to resolve the objection.

4. FUNDING AND PAYMENT:

A. Funding.

Funding shall be established by the NJSEA annually over the term of the MOU by resolution and shall be subject to appropriation in its annual budget.

B. Personnel.

The NJSEA shall have the right, at any time during the term, and any extension or renewal of the term, of this MOU, to retain or employ a Director of Education to integrate Meadowlands Environment Center (MEC) educational programming with NJSEA programs and research.

Except for the Director of Education, who shall be retained or employed by the NJSEA, faculty and staff assigned to the Meadowlands Environment Center (MEC) will be considered Ramapo College employees and paid through Ramapo College.

C. Amount.

Subject to annual budget appropriation, funding for calendar year 2023 shall be \$550,000 and shall be paid by the NJSEA to the Ramapo College Foundation as follows: \$275,000 on January 1, 2023, or upon the execution of this MOU, and \$275,000 on July 1, 2023. Subsequent years' funding are,

RESOLUTION 2022-45
ATTACHMENT

however, contingent upon availability of funds as authorized by the NJSEA's annual budget. Ramapo shall be entitled to retain an administrative fee of up to 10% of the calendar year funding. The remainder of the funding shall be used exclusively and directly towards the operation of the MEC program. An accounting of the expenditure of all funds received from the NJSEA shall be included in the Annual Report described below. Ramapo shall be entitled to retain monies collected from programs at the MEC; provided however, that such funds must be utilized towards its responsibilities to operate the MEC. The MEC shall share equally with the NJSEA any revenue collected from the operation of programs at the MEC in excess of \$20,000 above the cost to operate MEC programs.

D. Other Sources of Funding.

In the event that Ramapo obtains federal grant funding for MEC programming, and such funding can be utilized to offset overhead and administrative costs, NJSEA and Ramapo shall make best efforts to distribute such funds equitably between NJSEA and Ramapo to offset their respective overhead and administrative costs. NJSEA and Ramapo shall jointly develop a budget reflecting their respective overhead and indirect cost allocations.

E. Payment.

The NJSEA shall remit payment to:

Ramapo College Foundation
505 Ramapo Valley Road
Mahwah, New Jersey 07430

F. Ownership of Property.

1. Title to non-expendable property (such as equipment) acquired in direct support of the programs at the MEC site and with funds from the budget for this project vest with the NJSEA.

RESOLUTION 2022-45
ATTACHMENT

2. The NJSEA grants Ramapo College the right to use data, information, photographs and knowledge in connection with this MOU to produce publications subject to the terms of Section 3G of this MOU. The parties agree to identify each other as a partner in the MEC in advertisements, publications or media materials.
3. The NJSEA and Ramapo College shall have equal rights to any copyrighted or trademarked material.

G. Space

The NJSEA shall provide space appropriate for the agreed upon programs, classes and conferences as well as offices for the Ramapo College staff. A facility map indicating the space that will be provided is attached to this MOU.

5. RAMAPO FOUNDATION RESPONSIBILITIES

A. Liaison.

The Foundation shall manage fundraising for Ramapo College and manage funds under this MOU.

B. Annual Report.

An Annual Report, including financial reports and statements by the Foundation shall be provided to the NJSEA no later than August 31 of each year. The Annual Report shall include but not be limited to, an accounting of all funds collected from the operation of programs at the MEC and all expenses associated with the operate MEC programs. Ramapo shall provide a final expenditure report reporting all expenditures over the course of the year, within ninety (90) days of the termination date of the MOU. The final invoice may serve as the final financial report if it is clearly marked "Final."

RESOLUTION 2022-45
ATTACHMENT

6. CONFIDENTIALITY.

Subject to the disclosure requirements of the New Jersey Open Public Records Act, The Foundation and Ramapo College will hold in confidence information divulged as specifically identified by the NJSEA as confidential or proprietary, and impose the same level of protective measure it would employ to safeguard its own confidential or proprietary information.

7. PERFORMANCE STANDARDS.

The parties will jointly develop a method to measure performance, including the quality of programming provided and customer service under this MOU.

8. TERMINATION.

A. The NJSEA reserves the right to terminate this MOU upon 90-days' notice for the following reasons:

1. Lack of funding in the annual budget or as a result of resolution of the Board of Commissioners.
2. Failure of Ramapo to meet its obligations under this Agreement. The NJSEA shall be obligated to provide Ramapo College notice of such default in writing, giving it at least 90 days to remedy any problems identified. If after 90 days, the identified problem is not resolved to the satisfaction of the NJSEA, the NJSEA may terminate this Agreement upon 90 days written notice to Ramapo College and the Foundation.
3. Failure to meet performance standards.
4. In the event that Ramapo College and/or the Foundation has taken any action that runs contrary to the NJSEA's enabling legislation at N.J.S.A. 13:17-1 et seq., its regulations at N.J.A.C. 19:3-1 et seq., or its written policies, the NJSEA may terminate this MOU by providing 90 days-notice to Ramapo.

RESOLUTION 2022-45
ATTACHMENT

B. Ramapo College reserves the right to terminate this MOU upon 90-days' notice for the following reasons:

1. If the NJSEA fails to fund the project at levels agreed to herein.
2. Ramapo College does not have availability of funds to support the operation of the project.

9. **MISCELLANEOUS**

A. **Entire Agreement.**

This MOU, including any Exhibits and Addenda attached hereto, is the sole and entire agreement between the parties to this Agreement (the "Parties") and supersedes all negotiations and prior agreements or understandings between the Parties, whether oral or written. The Parties acknowledge and agree that they have not made any representations including the execution and delivery hereof, except such representations as are specifically set forth herein.

B. **No Third-Party Rights Created.**

Nothing in this MOU shall be construed as creating or giving rise to any right in any third parties or other persons other than the Parties hereto. This MOU is not a third-party beneficiary contract and confers no rights upon any students or employees of the Parties.

C. **Governing Law.**

This MOU shall be governed by and construed in accordance with the laws of the State of New Jersey, including the New Jersey Tort Claims Act, N.J.S.A. 59:1-2 et seq., and the New Jersey Contractual Liability Act, N.J.S.A. 59:13 et seq., without regard to its conflict of law principles. All disputes arising out of this Agreement shall be resolved in the Courts of the State of New Jersey.

RESOLUTION 2022-45
ATTACHMENT

D. **Notice.**

When notice is given, required or permitted to be given by any Party or to any other Party, such notice shall be deemed to have been sufficiently given if written, deposited in the certified or registered mail, return receipt requested, addressed to the Party to whom it is to be given at the address hereinafter set forth. Either Party may change its respective address by written notice in accordance with this Paragraph.

If to the NJSEA:

Vincent Prieto, President and CEO
New Jersey Sports and Exposition Authority
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071

If to Ramapo College:

Cindy Jebb, President
Ramapo College of New Jersey
505 Ramapo Valley Road
Mahwah, New Jersey 07430-1680

If to Ramapo College Foundation:

Chris Romano, Executive Director
Ramapo College Foundation
505 Ramapo Valley Road
Mahwah, New Jersey 07430-1680

E. **Modification.**

This Agreement may not be amended in any manner except by an instrument in writing signed by the Parties.

F. **No Assignment.**

This Agreement may not be assigned in whole or in part without the express written permission of the Parties.

RESOLUTION 2022-45
ATTACHMENT

G. Standards of Conduct.

All employees, staff and students participating pursuant to this MOU shall comply with the following State policies:

1. Drug-Free Workplace
2. Workplace Violence
3. Discrimination, Harassment or Hostile Environments

(Find copies attached collectively hereto as Exhibit B.)

H. Indemnification.

1. Ramapo College and the NJSEA shall each, subject to the provisions of the New Jersey Tort Claims Act and the New Jersey Contractual Liability Act, be responsible for, and shall each, at their own expense, defend themselves against any and all suits, claims, losses, demands or damages of whatsoever kind of nature, arising out of or connection with any act or omission of their own employees, agents or contractors in the performance of their respective obligations pursuant to this MOU.
2. The Ramapo College Foundation shall be responsible for, and at its own expense, defend itself against any and all suits, claims, losses, demands or damages of whatsoever kind of nature arising out of or in connection with any act or omission of its own employees, agents in connection with its performance of obligations pursuant to this MOU.

I. Independent Contractor.

The NJSEA, Ramapo College and the Foundation are independent contractors. It is not intended that an employer/employee, joint venture or partnership agreement be established hereby expressly or by implication between the NJSEA, Ramapo College and the Foundation. Rather, in discharging all duties and obligations hereunder, the Meadowlands,

RESOLUTION 2022-45
ATTACHMENT

Ramapo College and the Foundation shall at all times be in and remain in an independent contractor relationship.

J. **Section Headings.**

Section headings as used herein are for convenience only and shall not affect the construction of this Agreement.

10. **BEST EFFORTS.**

Each Party agrees that it will undertake its respective best efforts to ensure the success of this project and the achievement of the objectives described in this MOU.

**RESOLUTION 2022-45
ATTACHMENT**

IN WITNESS WHEREOF, the Parties hereto duly authorized, acknowledge that they have read this document and agree to be bound by these terms and conditions.

**NEW JERSEY SPORTS AND
EXPOSITION AUTHORITY**

Signature

Vincent Prieto

Name

President and CEO

Title

Date

RAMAPO COLLEGE OF NEW JERSEY

Signature

Name

Title

Date

RAMAPO COLLEGE FOUNDATION

Signature

Name

Title

Date

RESOLUTION 2022-46

**RESOLUTION AUTHORIZING THE AWARD OF A
CONTRACT FOR AUDIT SERVICES**

WHEREAS, the process for the selection of auditors is set forth in Executive Order 122 (2004); and

WHEREAS, in accordance with EO 122, a Request for Proposals (RFP) was issued on July 15, 2022 for the Annual Audit of the NJSEA for the years ending December 31, 2022, December 31, 2023 and December 31, 2024 with two one-year extension options; and

WHEREAS, a total of four firms attended the mandatory pre-bid meeting held on July 27, 2022; and

WHEREAS, the due date for the responses was August 29, 2022, and the following four firms submitted proposals for a three-year contract: Mercadien P.C.; PFK O'Connor Davies, LLP; RSM US LLP; and Donahue, Gironda, Doria & Tompkins, LLC CPA; and

WHEREAS, in accordance with EO 122, an Evaluation Committee was established to review and rank the proposals based on the criteria established in the RFP. A written report of the Committee's findings was provided to the Audit Committee; and

WHEREAS, of the four firms, Mercadien P.C. was ranked the highest by the Evaluation Committee; and

WHEREAS, the Audit Committee reviewed the findings of the Evaluation Committee, concurs with the Evaluation Committee's scoring, and recommends that the contract for the audit services be awarded to Mercadien P.C.

NOW, THEREFORE, BE IT RESOLVED the President and CEO of the New Jersey Sports and Exposition Authority is hereby authorized to enter into a three-year contract with Mercadien P.C. at a cost not to exceed \$409,627.19.

BE IT FURTHER RESOLVED that if the NJSEA and vendor are in agreement to extend the contract, the cost for the first and second year options will not exceed \$138,294.43 and \$142,443.26 respectively.

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 October 27, 2022.



Vincent Prieto
Secretary

RESOLUTION 2022-47

**RESOLUTION AUTHORIZING THE PURCHASE OF AN
ALUMINUM RESEARCH UTILITY BOAT**

WHEREAS, the NJSEA Meadowlands Research and Restoration Institute ("MRRI") staff currently utilize a utility research boat for daily estuary monitoring, research, contract projects, and operations that require reaching shallow areas in the estuary by boat; and

WHEREAS, the current utility research boat used by MRRI staff is over 25 years old and requires replacement to ensure that MRRI staff are able to continue their work in the estuary in a safe and efficient manner; and

WHEREAS, the staff has determined that a replacement utility research boat, which will be available to all NJSEA departments, is necessary for its existing responsibilities and also can be used to generate revenues by providing special contracted services for entities conducting research, restoration and remediation; and

WHEREAS, MRRI received an appropriation of \$100,000 in the FY2023 State Budget; and

WHEREAS, in an effort to procure a replacement, on September 28, 2022, MRRI issued an RFP seeking a vendor to build an Aluminum Research Utility Boat in accordance with the included specifications; and

WHEREAS, in response to the RFP, the MRRI received two proposals; and

WHEREAS, an evaluation committee comprised of NJSEA staff reviewed the proposals based on established and published criteria; and

WHEREAS, after evaluating and scoring the submitted proposals, the bid provided by Elastec Inc. met the technical specifications, the required delivery date and included additional safety features such as a powered shallow water anchoring system; and

WHEREAS, the evaluation committee recommends that the award of the contract to Elastec, Inc. is in the best interest of the NJSEA, price and other factors considered.

NOW, THEREFORE, BE IT RESOLVED that the President and Chief Executive Office is authorized to enter into a purchase agreement with Elastec Inc. that does not exceed the bid price of \$114,278.42.

BE IT FURTHER RESOLVED that the \$100,000 appropriation shall be used towards the purchase of the utility research boat.

I hereby certify the forgoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting on October 27, 2022.

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

Vincent Prieto
Secretary

RESOLUTION 2022-48

**RESOLUTION AUTHORIZING THE EXECUTION OF A COOPERATION
AGREEMENT BY AND BETWEEN THE NEW JERSEY SPORTS AND
EXPOSITION AUTHORITY AND BERRY'S CREEK STUDY AREA
COOPERATIVE POTENTIALLY RESPONSIBLE PARTY GROUP**

WHEREAS, by way of its Resolution 2022-19 the New Jersey Sports and Exposition Authority ("NJSEA") and the Berry's Creek Study Area Cooperating Potentially Responsible Party Group ("BCSA Group") have heretofore entered into an Access and Easement Agreement to facilitate the remediation at the Berry's Creek Superfund site; and

WHEREAS, the NJSEA and BCSA Group recognize that their continued cooperation regarding remediation of the Berry's Creek Superfund site will ensure to their mutual benefit; and

WHEREAS, the parties have agreed upon: mutual covenants not to sue each other; and subject to NJSEA enabling statutes, regulations and appropriations, further cooperation regarding: dedication of personnel and resources; property access; regulatory review relating to BCSA Group work; wetlands restoration; land use restrictions; flood control and mitigation; and engagements with other local governments.

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of the New Jersey Sports and Exposition Authority, that it enter into a Cooperation 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 Cooperation 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 October 27, 2022.



Vincent Prieto
Secretary

**COOPERATION AGREEMENT BETWEEN NEW JERSEY SPORTS AND
EXPOSITION AUTHORITY AND BERRY'S CREEK STUDY AREA COOPERATING
POTENTIALLY RESPONSIBLE PARTY GROUP**

This Cooperation Agreement ("Agreement") is made and effective as of _____, by and among the Berry's Creek Study Area ("BCSA") Cooperating Potentially Responsible Parties Group, an unincorporated association further defined below ("BCSA Group"), the Members of the BCSA Group, and the New Jersey Sports and Exposition Authority, the administrative offices of which are located at One DeKorte Park Plaza, P.O. Box 640, Lyndhurst, New Jersey ("NJSEA") (collectively the "Parties").

I. BACKGROUND

1. NJSEA was created in 1971 by the New Jersey State Legislature specifically to develop a sports exposition complex in the Hackensack Meadowlands to "stimulate the needed development of said Meadowlands." N.J.S.A. 5:10-2. The Legislature directed that NJSEA develop the Sports Complex in the Meadowlands and provided NJSEA with the power of eminent domain to do so. N.J.S.A. 5:10-6.a(1) and N.J.S.A. 5:10-5.m. NJSEA was further chartered by the Legislature with preserving and protecting the "delicate environmental balance" of the Meadowlands. N.J.S.A. 5:10-23. Since 1971, NJSEA has implemented its enabling legislation, including by investigation, remediation, development and stewardship of what is known as the "MetLife Sports Complex" (formerly the "Meadowlands Sports Complex") (hereinafter "Sports Complex").

2. The Hackensack Meadowlands Development Commission ("HMDC," also known as the Meadowlands Commission), was created in 1968 by the Hackensack Meadowlands

Reclamation and Development Act, N.J.S.A. 13:17-1 et seq., as the planning and zoning authority for the Meadowlands District. Like NJSEA created three (3) years later in 1971, the Meadowlands Commission charter included preservation of the “delicate balance” of nature in the Meadowlands District. N.J.S.A. 13-17-1. In 2015, the Legislature consolidated the Meadowlands Commission and the NJSEA. N.J.S.A. 5:10A-1 et seq.

3. By this Agreement, the Parties intend to promote the successful implementation of remedial actions selected and to be selected by the U.S. Environmental Protection Agency (“EPA”) for the BCSA under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA” or “Superfund”), and to resolve certain potential claims among the Parties. EPA is addressing the BCSA, including 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 “BCSA Superfund Remedy”).

4. The Parties to this Agreement have identified various areas of cooperation and collaboration concerning the design and implementation of EPA’s selected initial remedy for the BCSA and areas of overlap with the broader mission of NJSEA, including environmental restoration. The Parties anticipate that the cooperation and collaboration as described in this Agreement will facilitate timely completion of the BCSA Superfund Remedy, enhance the prospects for its success, avoid unnecessary litigation, and improve the sustainability of the ecosystems in the BCSA and the larger Meadowlands District, serving the objectives of all Parties and the public interest. To assist with cooperation and collaboration, the Parties

negotiated an Access Agreement in which NJSEA agreed to provide to the BCSA Group access to certain real property it owns for implementation of the BCSA Superfund Remedy. The Access Agreement was fully executed and became effective on June 20, 2022.

5. In 2007, BCSA Group Members entered into an Administrative Settlement Agreement and Order on Consent with EPA for RI/FS Scoping Activities for the BCSA, U.S. EPA Index No. II-CERCLA-2007-2006 (“RI/FS Scoping Activities AOC”).

6. In 2008, BCSA Group Members entered into an Administrative Settlement Agreement and Order on Consent with EPA for preparation of a Remedial Investigation and Feasibility Study (“RI/FS”) for the BCSA, U.S. EPA Index No. II-CERCLA-2008-2011 (“RI/FS AOC”). The BCSA Group engaged in an intensive, multi-phase investigation of BCSA and reference area conditions and an evaluation of remedial alternatives from 2008 to 2018. The BCSA Group submitted final RI and FS reports to EPA in 2018 that are publicly available.

7. On September 25, 2018, EPA issued a Record of Decision for an interim remedy for contaminated sediments in the BCSA (“BCSA Phase 1 ROD”). The selected interim remedy includes:

- a. removal of two feet of soft sediment (or all soft sediment where less than two feet is present) from waterways and tributaries within a specified remediation footprint in Upper Berry’s Creek and Middle Berry’s Creek, followed by placement of clean backfill in the same thickness that was removed;
- b. removal of Upper Peach Island Creek Marsh sediments to a depth of one foot, with removal of two feet of sediment within a 10-foot strip along the marsh edge of the waterway banks, followed by placement of clean backfill; in the area surrounding the radio towers in the southern portion of the Marsh, a thin-layer cover of clean material will be placed over the existing Marsh surface;
- c. dewatering, stabilization as needed, and offsite disposal of all excavated and dredged sediment for disposal at a permitted facility;

- d. a marsh demonstration project;
- e. long-term monitoring to evaluate effectiveness; and
- f. institutional controls.

8. Members of the BCSA Group have entered into an Administrative Settlement Agreement and Order on Consent for Remedial Design (“BCSA RD AOC”), CERCLA Docket No. 02-2018-2025, with EPA to prepare the RD in accordance with the BCSA Phase 1 ROD. The Effective Date of the BCSA RD AOC is October 7, 2019.

9. On September 27, 2010, EPA and Honeywell International Inc. (“Honeywell”) entered into an Administrative Settlement Agreement and Order on Consent for continuation of a Remedial Investigation and Feasibility Study (which had begun pursuant to an Administrative Consent Order with NJDEP) and performance of a non-time critical removal action at Operable Unit 2 at the Universal Oil Products (“UOP”) Site (“UOP OU2 RI/FS AOC”).

10. On October 4, 2006, Honeywell entered into an Agreement of Sale with NJSEA (“2006 Agreement of Sale”) pursuant to which title to a portion of the UOP Site, consisting of Block 105.01, Lot 8 and Block 105.02, Lot 5, was transferred to NJSEA. The 2006 Agreement of Sale and its attachments addressed the mutual rights and obligations between Honeywell and NJSEA with respect to the remediation of the UOP Site.

11. On February 11, 2019, EPA and Honeywell amended the UOP OU2 RI/FS AOC to include in its scope the waterways in the area known as “Ackermans Area South,” comprised of waterways south of Ackermans Creek. This amendment also acknowledged that the portion of UOP OU2 east of Murray Hill Parkway had been included in the BCSA Phase 1 ROD.

12. On August 12, 2019, EPA issued a ROD for an interim remedy (“UOP Phase 1 ROD”) in waterways at the UOP Site and Ackermans Area South (collectively “UOP Phase 1 ROD Area”). The interim remedy is similar to the Phase 1 remedy selected in the BCSA Phase 1 ROD. 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 BCSA Group and Honeywell have entered into an Agreement to manage RD activities under the BCSA Phase 1 ROD and UOP Phase 1 ROD in a largely integrated manner, consistent with their respective AOCs and subject to certain other conditions.

13. While the BCSA Group Members and NJSEA have received notices of potential liability from EPA with respect to the BCSA, and NJSEA and the Group assert that each has claims against the other Party, each denies the claims against it by EPA and the other Party. By entering into this Agreement, the Parties do not admit any liability to each other or to the United States or the State of New Jersey or any other person with respect to or in connection with the BCSA or the UOP Site. The Parties desire to settle and resolve certain claims among themselves and avoid the cost, disruption, and inconvenience of any dispute that might arise in the future with respect to the BCSA or the UOP Site.

14. In consideration of the mutual promises and covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the terms set forth herein.

II. DEFINITIONS

15. Capitalized terms and phrases in this Agreement shall have the meanings defined in this Agreement, or if no definition is provided, such terms shall have the meaning provided under CERCLA and its implementing regulations.

a. “Agreement” shall mean this Cooperation Agreement and all appendices attached hereto (listed in Section XIII). In the event of conflict between this main text of the Cooperation Agreement and any appendix, this main text of the Cooperation Agreement shall control.

b. “Access Agreement” shall mean the Access and Easement Agreement by and among NJSEA and the BCSA Group (including any subgroup that implements response action as part of the BCSA Superfund Remedy) in which NJSEA agreed to provide to the BCSA Group access to certain real property it owns for implementation of the BCSA Superfund Remedy. The Access Agreement was fully executed and effective on June 20, 2022.

c. “Berry’s Creek Study Area” or “BCSA,” which is designated as Operable Unit 2 (OU2) of the Ventron/Velsicol Superfund Site, shall mean the area of contaminated waterways and marshes associated with past releases of hazardous substances to Berry’s Creek, comprised of the water body known as Berry’s Creek, including the Berry’s Creek Canal and the natural course of Berry’s Creek; all tributaries to Berry’s Creek from its headwaters to the Hackensack River; and wetlands that are hydrologically connected to Berry’s Creek or its tributaries, located in the Boroughs of Carlstadt, East Rutherford, Moonachie, Rutherford, Teterboro and Wood-Ridge in Bergen County, New Jersey. The BCSA is depicted on Figure 1 in **Appendix A**.

d. “BCSA Group” shall mean the unincorporated association that formed to respond to claims and potential claims of the United States and the State of New Jersey under CERCLA regarding the BCSA.

e. “BCSA Group Members” shall mean the entities listed in **Appendix B**.

f. “BCSA Superfund Remedy” shall mean the remedial actions selected and to be selected by EPA for the BCSA under CERCLA, including the remedial actions selected by EPA for the tidally influenced portions of the Superfund sites located within the BCSA.

g. “CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675.

h. “Effective Date” shall mean the date in the first paragraph of this Agreement.

i. “EPA” shall mean the United States Environmental Protection Agency and its successor departments, agencies, or instrumentalities.

j. “Flood Mitigation Infrastructure” shall mean infrastructure constructed and maintained for the purpose of managing surface water flow and providing flood mitigation or management, and includes but is not limited to structures such as tide gates, berms, levees, and pumping stations.

k. “Future Group Costs” shall mean any and all response costs incurred by the BCSA Group or its Members after the Effective Date with respect to RD or RA under the BCSA Phase 1 ROD or with respect to any component of the BCSA Superfund Remedy that EPA requires after the Effective Date; the costs of implementing this Agreement and the Access Agreement; the costs of allocating costs relating to any aspect of the BCSA Superfund Remedy;

and all other costs of participating in, operating, or managing the BCSA Group or its activities with respect to the RD or RA or any other component of the BCSA Superfund Remedy.

l. “Future NJSEA Costs” shall mean any and all response costs incurred by NJSEA or its legal successors after the Effective Date with respect to RD or RA under the BCSA Phase 1 ROD or the UOP Phase 1 ROD or with respect to any other component of the BCSA Superfund Remedy, and the costs of implementing this Agreement and the Access Agreement.

m. “Future UOP Costs” shall mean any and all response costs incurred by Honeywell or the BCSA Group or its Members after the Effective Date with respect to RD or RA under the UOP Phase 1 ROD or with respect to any other component of the BCSA Superfund Remedy as it relates to the UOP Phase 1 ROD Area.

n. “NJDEP” shall mean the New Jersey Department of Environmental Protection and any successor departments or agencies of the State.

o. “NJSEA Property” shall mean all property in or adjacent to the BCSA and UOP OU2 owned by NJSEA, regardless of when acquired.

p. “Paragraph” or “¶” shall mean a portion of this Agreement identified by an Arabic numeral or an upper or lower case letter.

q. “Past Group Costs” shall mean any and all costs incurred by the BCSA Group or its Members prior to the Effective Date with respect to the BCSA, including but not limited to the costs of complying with, implementing, and making payments under the RI/FS Scoping Activities AOC, the RI/FS AOC, the BCSA RD AOC, and the UOP RD AOC; the costs of allocation activities; and all other costs of participating in, operating, or managing the BCSA Group or its activities with respect to the BCSA.

r. “Past NJSEA Costs” shall mean any and all costs incurred by NJSEA or its legal predecessors prior to the Effective Date with respect to the BCSA or the UOP Site or allegedly arising from or relating to the BCSA or the UOP Site or releases to the BCSA or UOP Site from any BCSA Group Member.

s. “Past UOP Costs” shall mean any and all costs incurred by Honeywell prior to the Effective Date with respect to UOP OU2 or the UOP Phase 1 ROD Area, including but not limited to the costs of complying with, implementing, and making payments under the UOP OU2 RI/FS AOC and the UOP RD AOC. To avoid confusion, costs within the definition of “Past UOP Costs” are not considered “Past Group Costs” for purposes of this Agreement.

t. “RA” shall mean Remedial Action as selected by EPA in the BCSA Phase 1 ROD and UOP OU2 Phase 1 ROD.

u. “RD” shall mean Remedial Design as required by the BCSA RD AOC and the UOP RD AOC.

v. “RCRA” shall mean the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992k (also known as the Resource Conservation and Recovery Act).

w. “Section” shall mean a portion of this Agreement identified by a Roman numeral.

x. “State” shall mean the State of New Jersey.

y. “UOP Phase 1 ROD Area” shall mean the area comprised of a former lagoon area, low-lying marshes, and waterway channels located on the west side of Murray Hill Parkway, including Ackermans Creek and Ackermans Area South, and wetlands that are hydrologically connected to Ackermans Creek or its tributaries, located in the Borough of East

Rutherford, New Jersey, as described in the UOP Phase 1 ROD. The UOP Phase 1 ROD Area is depicted on Figure 2 in Appendix A.

z. “Waste Material” shall mean (1) any “hazardous substance” under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (3) any “solid waste” under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); (4) petroleum as defined in 42 U.S.C. § 6991; and (5) any mixture containing any of the constituents noted in (1), (2), (3), or (4) above.

III. MUTUAL COVENANTS NOT TO SUE

16. In consideration of the mutual commitments provided in this Agreement, and except as provided in Paragraph 20 below, the BCSA Group and each of the BCSA Group Members covenants not to sue or take other adverse action against NJSEA under CERCLA, Section 7002 of RCRA (42 U.S.C. § 6972), and state statutory and common law with respect to Past Group Costs, Future Group Costs, Future UOP Costs, RD, RA, and the BCSA Superfund Remedy. Honeywell covenants not to sue or take other adverse action against NJSEA under CERCLA, Section 7002 of RCRA (42 U.S.C. § 6972), and state statutory and common law with respect to Past UOP Costs, Future UOP Costs, RD, RA, and the BCSA Superfund Remedy, except to the extent such actions are encompassed by rights retained by Honeywell pursuant to Paragraphs 19 and 20 below. These covenants are conditioned upon the satisfactory performance by NJSEA of its obligations under this Agreement.

17. In consideration of the mutual commitments provided in this Agreement, and except as provided in Paragraph 20 below, NJSEA covenants not to sue or take other adverse action against the BCSA Group and the BCSA Group Members under CERCLA, Section 7002

of RCRA (42 U.S.C. § 6972), and state statutory and common law with respect to Past NJSEA Costs, Future NJSEA Costs, RD, RA, and the BCSA Superfund Remedy. This covenant is conditioned upon the satisfactory performance by the BCSA Group and its Members of their obligations under this Agreement.

18. The foregoing covenants not to sue or take other adverse action extend only to the BCSA Group, the BCSA Group Members, and NJSEA and do not apply to any other person or entity. The BCSA Group and its Members and NJSEA do not waive, and specifically reserve, any rights to cost recovery, contribution, indemnification, or injunctive relief from persons or entities other than the BCSA Group and its Members and NJSEA by entering into the foregoing covenants not to sue or take other adverse action. The BCSA Group and its Members and NJSEA each expressly reserves the right, jointly and severally, to take such actions as may be necessary to enforce this Agreement.

19. By entering into this Agreement, Honeywell does not waive any of its rights under the 2006 Agreement of Sale.

20. The foregoing covenants not to sue or take other adverse action do not pertain to or include any matters other than those specified therein, and the following liabilities are specifically excluded from the covenants:

- a. Liability for failure to meet the requirements of this Agreement;
- b. Liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments, that may be sought by the United States or State of New Jersey;
- c. Criminal liability;

- d. Liability for personal injury, medical monitoring, property damage, diminution of value of property, or consequential or punitive damages;
- e. Liability concerning areas outside of the BCSA;
- f. Liability for unpermitted releases of Waste Material to, or arranging for disposal of Waste Material in, the BCSA after the Effective Date of this Agreement, other than as provided by the BCSA Phase 1 ROD, the UOP OU2 Phase 1 ROD, the BCSA Superfund Remedy, or as otherwise ordered by EPA or NJDEP;
- g. Liability under any prior agreements between Honeywell (including any predecessor) and NJSEA relating to the UOP Site (either operable unit);
- h. Liability arising from actions by NJSEA that adversely affect implementation or maintenance of the remedies selected in BCSA ROD 1 or UOP ROD 1 or otherwise selected as part of the BCSA Superfund Remedy (to the extent the BCSA Group or its Members incur increased response costs as a result thereof); and
- i. Liability arising from a directive, order, or action by (or agreement with) EPA or NJDEP or other governmental authority seeking to require the BCSA Group or any of its Members or NJSEA to perform further response actions relating to the BCSA or UOP OU2 based on:
 - (1) the determination by EPA or NJDEP that chemical constituents other than mercury, methyl mercury, PCBs, chromium, copper, lead, zinc, or thallium require additional response action; or
 - (2) the discovery of information regarding, or discovery of conditions at, the BCSA or UOP OU2 (other than information or conditions resulting from the implementation of the BCSA Phase 1 ROD and the UOP Phase 1 ROD) that were unknown to EPA and NJDEP prior to EPA's issuance of the BCSA Phase 1 ROD or the UOP Phase 1 ROD.

21. If the BCSA Group negotiates with EPA regarding a consent decree for performance of RA to implement the BCSA Phase 1 ROD and/or the UOP OU2 Phase 1 ROD (subject to any conditions, reservations of rights, and reopener provisions required by EPA), the BCSA Group agrees to endeavor in good faith to have the covenant not to sue and contribution protection provisions of the consent decree (subject to any conditions, reservations of rights, or reopener provisions required by EPA) apply to NJSEA. NJSEA agrees to sign the consent decree if necessary for NJSEA to be covered by the covenant not to sue and contribution protection provisions of the consent decree, as long as the consent decree does not impose any response action or payment obligations on NJSEA. The obligations of the BCSA Group under this Paragraph are subject to the willingness of the United States (and the State, if a party to the consent decree) to accept any such terms.

IV. DEDICATION OF PERSONNEL/RESOURCES

22. The Parties acknowledge that cooperation and collaboration on tasks related to the BCSA Superfund Remedy will be time consuming and frequently time-sensitive, which will require resources, including personnel with appropriate background and/or expertise, to be devoted to the various tasks described in this Agreement. Subject to the terms of this Agreement, the BCSA Group and NJSEA therefore agree to timely provide the human and financial resources reasonably necessary to carry out the terms of this Agreement consistent with the scope and terms of the BCSA Superfund Remedy.

V. PROPERTY ACCESS

23. NJSEA has agreed with the BCSA Group to provide access to, on, under, and across various parcels owned by NJSEA in accordance with the Access Agreement that was fully

executed and became effective on June 20, 2022. NJSEA is providing this access to the BCSA Group and its Members at no charge and will continue to provide this access until the BCSA Superfund Remedy has been completed.

24. Related Access Issues.

a. Where appropriate, to support timely and cost-effective completion of the BCSA Superfund Remedy, NJSEA will support the BCSA Group in negotiations with other government entities (e.g., interaction with NJ Transit regarding access across the rail spurs on the NJSEA Property, and interactions with NJDEP and municipalities) and other property owners where the BCSA Group needs access for RD/RA activities, given the NJSEA's relationships with these parties and its information regarding properties in the Meadowlands District.

b. Where appropriate, to support timely and cost-effective completion of the BCSA Superfund Remedy, NJSEA will use its communications as a regulatory authority to support the BCSA Group in securing access to land owned by third parties that would facilitate and expedite remedy implementation in an efficient manner.

VI. REGULATORY REVIEWS RELATING TO BCSA GROUP WORK

25. NJSEA supports the remedies selected in the BCSA Phase 1 ROD and UOP Phase 1 ROD and will seek to promote timely and cost-effective implementation of those remedies.

26. Federal, state, and local permits are not required for onsite response actions under CERCLA. However, the RD will need to show, to EPA's satisfaction, that the designed remedy will be consistent with substantive environmental standards under federal, state, and local law. To reduce the duration of active remediation and accelerate the restoration of the BCSA, the

BCSA Group and NJSEA will coordinate and cooperate during the standard CERCLA processes of identifying and determining how the BCSA Superfund Remedy will meet substantive environmental standards under any State and NJSEA regulations that EPA has determined are applicable or relevant and appropriate for the BCSA Superfund Remedy. Upon request, and subject to the terms of this Agreement, NJSEA will provide staff to meet with BCSA Group representatives to discuss the specific procedures and standards that would benefit from collaboration. Action items will be developed and implemented pursuant to an agreed-upon schedule.

27. Where appropriate and supported by technical and other considerations, to support timely and cost-effective completion of the BCSA Superfund Remedy and thereby reduce overall environmental impacts, NJSEA will support BCSA Group requests for site-specific flexibility regarding any environmental standards and requirements typically administered by NJSEA, including any applicable land use requirements or restrictions. The BCSA Group will take the lead in developing the technical support for such requests consistent with the Superfund process.

28. Where appropriate, to support timely and cost-effective completion of the BCSA Superfund Remedy and thereby reduce overall environmental impacts, NJSEA will work with the BCSA Group in developing requests to other agencies for site-specific flexibility regarding environmental standards and requirements typically administered by such agencies, including exceptions to regulatory restrictions on waterway remedial activities relating to asserted fish passage/breeding periods, and requirements relating to appropriate traffic planning, management, and signage around staging areas. Any such BCSA Group request will be supported by technical

and other information developed over the course of its scientific studies and engineering analyses. In addition, where applicable, NJSEA staff will share information and data in their possession that can further support requests for regulatory flexibility. Based on this process, the NJSEA will support BCSA Group requests to other agencies for regulatory flexibility that facilitates timely completion of remedial actions and reduction of the overall impacts of the actions.

VII. WETLANDS RESTORATION

29. The Parties agree that maintaining the stability of the tidal wetlands is critical to the long-term functions and value of wetlands in the BCSA landscape, and the Parties agree to work cooperatively to sustain the stability of the tidal wetlands to the maximum extent practicable during the course of the BCSA Superfund Remedy.

30. The Parties acknowledge that the RD/RA, including post-remediation monitoring, will provide important information and analyses to the BCSA Group and NJSEA regarding the potential short- and long-term positive and negative impacts of remediation activities on wetland habitats in the BCSA. This information will be available to NJSEA for use in managing marsh areas throughout the Meadowlands in a protective and sustainable manner. This information can also be used to facilitate future inter-agency agreements and advancement of NJSEA projects in a protective and sustainable manner.

31. The Parties agree to work together on practical approaches to facilitate and accelerate wetlands restoration activities in Walden Swamp and other wetland areas that become necessary as a result of the disturbances required to implement the BCSA Superfund Remedy, including NJSEA support for restoration objectives typical of remediation projects, i.e., a 1:1

wetland mitigation ratio and in-kind restoration objectives (*Phragmites* marsh) that are most suitable for reducing storm surge flooding risks and sustaining the marsh environment in response to relative sea level rise. To promote prompt and efficient remediation and restoration, NJSEA will not seek or impose any requirements or conditions regarding wetland remediation or restoration on NJSEA Property beyond the remediation or restoration actions proposed or selected by EPA as part of the BCSA Superfund Remedy.

32. NJSEA agrees that the current marsh habitat in the BCSA (predominantly *Phragmites* marsh and its associated ecosystem) has been and will continue to be present in its current locations for reasons unrelated to the release or presence of any Waste Material, such as salinity, tidal conditions, sea level rise, and stressors associated with sewage outfalls to the Hackensack River.

VIII. LAND USE RESTRICTIONS

33. To the extent that EPA, in consultation with NJDEP, requires a deed notice or deed restrictions to assure that there will be no disturbance of residual contamination in tidally-influenced areas, NJSEA will accept and help implement such deed notice and/or restrictions without charge or burden to the BCSA Group.

IX. FLOOD CONTROL AND MITIGATION

34. Because flood control and mitigation is a high priority for stakeholders throughout the BCSA, the BCSA Group will share its information with NJSEA regarding BCSA hydrology, including data from monitoring during flood conditions and hydrodynamic modeling analyses. In addition, the BCSA Group will conduct its sediment remediation in a manner that does not cause or exacerbate flooding in the BCSA.

35. The BCSA Group will support NJSEA efforts to obtain sustainable State funding for operation and maintenance (“O&M”) of Flood Mitigation Infrastructure to help maintain the long-term stability of the waterway/marsh system and protect developed land.

36. NJSEA will establish, or work with one or more local governments to have such entities establish, a sustainable funding source for storm water management in the Berry’s Creek watershed and O&M of Flood Mitigation Infrastructure, including but not limited to the West Riser Ditch Tide Gate, the East Riser Ditch Tide Gate, the Peach Island Creek Tide Gate, the Rutherford Tide Gates, any additional flood mitigation infrastructure installed in the vicinity of any of these tide gates, and in performing or coordinating implementation of such O&M.

37. The BCSA Group will continue to work with NJSEA and the NJDEP Bureau of Flood Resilience regarding the protective and sustainable implementation of the Rebuild By Design - Meadowlands Project (“RBD”) flood mitigation activities affecting the BCSA.

38. In addition to the above, the Parties anticipate that NJSEA and BCSA Group cooperation on flood mitigation activities will include the following specific steps by both Parties:

- a. Active coordination and engagement with RBD, the NY/NJ Port Authority, Bergen County, and State executive and legislative representatives on flood mitigation initiatives that could affect the BCSA or the BCSA Superfund Remedy;
- b. participation in regularly scheduled calls and meetings with the relevant government agencies to discuss pending initiatives that could affect the BCSA and identify action items and possible additional initiatives pertinent to and consistent with the BCSA Superfund Remedy;

c. collaborative development of a fact sheet that supports the need for coordinated storm water and flood management in the BCSA (that would also serve as a template for other areas in the Meadowlands);

d. a coordinated outreach program to potential federal, state, or local funding sources for Flood Mitigation Infrastructure pertinent to and consistent with the BCSA Superfund Remedy;

e. coordinating long term planning for flood control in response to sea level rise, including monitoring of tide conditions, updating existing flood control structures, and constructing new structures or facilities that manage flood waters affecting the BCSA in a manner consistent with the changing conditions in the BCSA and the BCSA Superfund Remedy.

39. By the time the BCSA RA construction commences, in order to reduce sediment erosion and resuspension and to protect remediation personnel and watercraft in the vicinity of the Sports Complex storm water retention basin outfall, NJSEA will substantially reduce the high velocities of water discharges to Berry's Creek from the Sports Complex storm water retention basins, through structural or operational changes. NJSEA will consult with the BCSA Group regarding the alternatives and proposed design of the water velocity mitigation measures at the outfall.

X. ENGAGEMENT WITH OTHER LOCAL GOVERNMENTS

40. Where feasible, NJSEA will facilitate cooperation between local governments and the BCSA Group in areas of mutual interest among the BCSA Group, the NJSEA, and local governments, such as with respect to property access, storm water management, Flood

Mitigation Infrastructure, flood mitigation O&M, traffic management, and other remediation-related areas in which local governments may have a role.

XI. TOLLING AGREEMENTS

41. The BCSA Group and its Members and NJSEA entered into Tolling Agreements dated April 7, 2010 and July 21, 2011 (the “Tolling Agreements”) with respect to certain Trolled Claims as defined in those Tolling Agreements. Nothing in this Agreement affects those Tolling Agreements, which shall continue in full force and effect, except that (a) claims within the mutual covenants not to sue under Section III of this Agreement are no longer Trolled Claims, and (b) the Tolling Period under each of the Tolling Agreements shall continue until one hundred eighty (180) days after the date on which the BCSA Group or a Member of the BCSA Group or NJSEA provides notice to the other Parties that it is terminating the relevant Tolling Agreement; provided, however, that if notice is provided under the July 21, 2011 Tolling Agreement only by one or more individual Members of the BCSA Group, such termination date will be effective to end the Tolling Period only as to such Members.

XII. NOTICES

42. Whenever, under this Agreement, notice is required to be given by one party to the other party, it must be directed to the person(s) specified below at the address(es) specified below. Any party may change the person and/or address applicable to it by providing notice of such change to all Parties. All notices under this Paragraph are effective upon receipt, unless otherwise specified. Except as otherwise provided, notice to a party by email or by regular mail in accordance with this Paragraph satisfies any notice requirement of this Agreement regarding such party.

a. As to NJSEA:

Chief of Legal and Regulatory Affairs
Attn: Frank Leanza
One DeKorte Park Plaza
Lyndhurst NJ 07071
fleanza@njsea.com

and

Chief Operating Officer
Attn: Christine Sanz
One DeKorte Park Plaza
Lyndhurst NJ 07071
csanz@njsea.com

b. As to the BCSA 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
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

XIII. APPENDICES

43. The following appendices are attached to and incorporated into this Agreement:
“Appendix A” includes Figures 1 and 2 showing the BCSA and the UOP Phase 1 ROD Area.

“Appendix B” is the List of BCSA Group Members.

XIV. MISCELLANEOUS

44. Nothing in this Agreement obligates NJSEA to plan, undertake, perform, or make acts or decisions outside the scope of its enabling legislation and regulations. In the event of conflict between provisions of the Agreement and NJSEA enabling legislation or regulations, NJSEA legislation and regulations shall control and the conflicting provisions of the Agreement shall not apply to the extent needed to avoid the conflict.

45. Nothing in this Agreement obligates NJSEA to seek, apply for, or obtain additional personnel, funding or any other resources. All obligations are subject to the available personnel, funding and other resources of NJSEA in light of all of NJSEA’s obligations, and this Agreement shall not take precedence over or supersede any other obligations of NJSEA. However, consistent with its legislative mandate to preserve and protect the “delicate environmental balance” of the Meadowlands (N.J.S.A 5:10-23), and consistent with the finding in the Governor’s Executive Order 89 (October 29, 2019) that “New Jersey is especially vulnerable to the impacts of sea level rise, increased flooding and other aspects of climate change, with potentially disastrous consequences for public health and safety,” NJSEA recognizes that having appropriate personnel, funding, and other resources to address storm water and flood mitigation infrastructure and related BCSA remediation needs is important to NJSEA’s environmental mission in the Meadowlands. Thus, the NJSEA will routinely evaluate its current staffing capabilities and the value of adding additional staff with expertise (e.g., water resources engineer) to fulfill its management objectives identified in this agreement.

46. Nothing in this Agreement shall be construed as an admission of liability or responsibility with respect to the BCSA. Except to the extent necessary to enforce a remedy for any breach, 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.

47. This Agreement does not create, and shall not be construed to create, any agency, joint venture, or partnership relationship between or among the Parties.

48. Each Party represents and warrants that the execution, delivery, and performance of this Agreement has been duly authorized on its behalf and is within its power and authority and that the person signing on behalf of each Party has the authority to execute this Agreement. Each party represents and warrants that this Agreement constitutes a legal, valid, and binding obligation of such Party in accordance with its terms.

49. The failure of a Party to insist on strict performance of any, or all of, the terms of this Agreement, or to exercise any right or remedy under this Agreement, shall not constitute a waiver or relinquishment of any nature regarding such right or remedy or any other right or remedy. No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the Party giving such waiver, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature.

50. This Agreement shall be governed and interpreted in accordance with the laws of the State of New Jersey without regard to the principles governing conflicts of laws.

51. This Agreement constitutes the entire agreement among the Parties concerning its subject matter and supersedes any prior drafts, communications, or agreements among the Parties related to the same subject matter. Notwithstanding the foregoing, nothing in this Agreement

shall in any way affect or supersede the Tolling Agreements or the 2006 Agreement of Sale Between Honeywell and NJSEA except where expressly stated herein, and nothing in this Agreement shall in any way affect or supersede the Access Agreement.

52. This Agreement may be modified only by a written amendment executed by authorized representatives of all Parties.

53. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. An electronic copy of an executed signature page shall be deemed an original.

[SIGNATURES ON FOLLOWING PAGES]

COOPERATION AGREEMENT BETWEEN NEW JERSEY SPORTS AND EXPOSITION
AUTHORITY AND BERRY'S CREEK STUDY AREA COOPERATING POTENTIALLY
RESPONSIBLE PARTY GROUP

AGREED AS STATED ABOVE:

NEW JERSEY SPORTS AND EXPOSITION AUTHORITY

BY:

Signature of authorized representative

Date: _____

Printed name of signatory: _____

Title of signatory: _____

Address: _____

Phone: _____

E-mail address: _____

COOPERATION AGREEMENT BETWEEN NEW JERSEY SPORTS AND EXPOSITION
AUTHORITY AND BERRY'S CREEK STUDY AREA COOPERATING POTENTIALLY
RESPONSIBLE PARTY GROUP

AGREED AS STATED ABOVE:

BCSA GROUP MEMBER ENTITY NAME:

BY:

Signature of authorized representative

Date: _____

Printed name of signatory: _____

Title of signatory: _____

APPENDIX A

FIGURE 1 – BCSA

FIGURE 2 - UOP PHASE 1 ROD AREA

APPENDIX B

LIST OF BCSA GROUP MEMBERS