



Board Meeting

Thursday, March 17, 2016



We Bring the World to New Jersey

## **AGENDA**

### **REGULAR SESSION**

Thursday, March 17, 2016 - 10:00 a.m.  
Two DeKorte Park Plaza, Lyndhurst, NJ

I. **APPROVAL OF MINUTES** - (Action)

- Approval of Regular Session Meeting Minutes of February 11, 2016

II. **PUBLIC PARTICIPATION ON RESOLUTIONS**

III. **APPROVALS** – (Action)

Cash Disbursements Approval and/or Ratification of Cash Disbursements over \$100,000 for February 2016.

Resolution 2016-04 Consideration of a Resolution Issuing a Decision on the Variance Application submitted as part of File No. 14-705 - North Bergen MUA/Minor Subdivision, in the Township of North Bergen.

Resolution 2016-05 Consideration of a Resolution issuing a Decision on the Variance Application submitted as part of File No 15-296 – North Bergen MUA/W5 Group LLC-C.O./ Variance, in the Township of North Bergen.

Resolution 2016-06 Consideration of a Resolution authorizing the acquisition of land adjacent to the Jets training facility; amendment of the ground lease and other matters.

Resolution 2016-07 Consideration of a Resolution regarding acceptance of 2014 Audit.

IV. **AWARDS AND CONTRACTS** (Action)

Resolution 2016-08 Consideration of a Resolution authorizing the President and CEO to enter into a contract for partial re-roofing and HVAC replacement for the administration buildings and environment center.

V. **CHIEF EXECUTIVE OFFICER'S REPORT**

VI. **PUBLIC COMMENTS**

VII. **EXECUTIVE SESSION**

Resolution 2016-09      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 matters, personnel matters and contract negotiations.

VIII. **MOTION TO ADJOURN**



**REGULAR SESSION BOARD MEETING**  
**February 11, 2016**

DATE: February 11, 2016  
TIME: 10:00 a.m.  
PLACE: 2 DeKorte Park Plaza - Lyndhurst, NJ  
RE: **REGULAR SESSION MEETING MINUTES**

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**Members in Attendance:**

Michael Ferguson, Chairman (via phone)  
Joseph Buckelew, Vice Chairman  
Wayne Hasenbalg, Esq., President and Chief Executive Officer  
John Ballantyne, Member  
Armando Fontoura, Member  
Michael H. Gluck, Esq., Member  
LeRoy Jones, Member  
George Kolber, Member (via phone)  
Steven Plofker, Member  
Andrew Scala, Member  
Anthony Scardino, Member (via phone)  
Robert Yudin, Member  
James Wooster, NJ State Treasurer's Representative (via phone)

**Absent:** - None

**Also Attending:**

Ralph J. Marra, Jr., Esq. Sr. Vice President, Chief of Legal and Regulatory Affairs  
Christine Sanz, Sr. Vice President/Chief Operating Officer  
Adam Levy, Vice President of Legal and Regulatory Affairs  
Sara J. Sundell, Director of Land Use Management  
Amy Herbold, Assistant Counsel, Governor's Authorities Unit  
Christine Ferrante, Executive Assistant/Paralegal  
Fred Dressel, HMMC

Vice Chairman Buckelew called the meeting to order.

Vice Chairman Buckelew stated that the New Jersey Sports and Exposition Authority gave notice of the time, place, and date of this meeting by providing such notice to the Secretary of State for the State of New Jersey, The Star-Ledger, The Record, and other newspapers and by posting the notice at the offices of the Authority.

**I. APPROVAL OF MINUTES**

Vice Chairman Buckelew presented the minutes of the Regular Session Board Meeting held on January 14, 2016.

Upon motion made by Commissioner Jones and seconded by Commissioner Gluck, the minutes of the Regular Session Board Meeting held on January 14, 2016, were unanimously approved by a vote of 13-0.

**II. PUBLIC PARTICIPATING ON RESOLUTIONS - None**

**III. APPROVALS**

- Approval of Cash Disbursements Over \$100,000 and Professional Invoices

Vice Chairman Buckelew presented the report of cash disbursements over \$100,000 and Professional Invoices for the months of January 2016.

Upon motion by Commissioner Ballantyne and seconded by Commissioner Gluck, the cash disbursements over \$100,000 for the month of January 2016, were approved subject to the following recusals:

<u>Member</u>	<u>Recused as to</u>
Commissioner Buckelew	Borough of Oceanport

Resolution 2016-01 Resolution issuing a Decision on the Variance Application submitted as part of File No. 14-323 Kearny/Digital Billboard & Variance Block 285, Lot 11 in Kearny.

Ms. Sundell explained Resolution 2016-01 to the commissioners.

Commissioner Yudin inquired if there is any residential and why the variation in the permitted height of the sign. Ms. Sundell stated that there is no residential. Ms. Sundell also explained that the spacing requirement by DOT pushed the sign out an additional 30 feet from the road. Therefore, in order for the sign to be in the cone of vision, it had to go higher.

Vice Chairman Buckelew presented Resolution 2016-01. Upon motion by Commissioner Fontoura and seconded by Commissioner Gluck, proposed resolution 2016-01 was approved by a vote of 12-0 with Commissioner Yudin abstaining.

Resolution 2016-02 Resolution issuing a decision on the Variance application submitted as part of File No. 15-572 Haratz/MLB-Antennas – Spec. Exception & Variances Block 54, Lot 2.02 in Secaucus

Ms. Sundell explained Resolution 2016-02 to the commissioners.

Vice Chairman Buckelew presented Resolution 2016-02. Upon motion by Commissioner Jones and seconded by Commissioner Gluck, proposed resolution 2016-02 was approved by a vote of 13-0.

**IV. AWARDS/CONTRACTS - None**

**V. CEO REPORT - None**

**VI. PUBLIC COMMENTS – None**

**VII. EXECUTIVE SESSION**

Vice Chairman Buckelew stated a need for the Board to enter into Executive Session to discuss contractual matters and litigation matters.

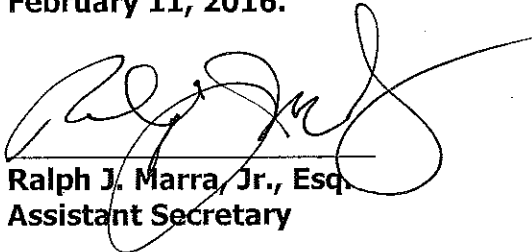
Resolution 2016-03 Resolution authorizing the NJSEA to enter into a meeting to which the general public shall not be admitted to discuss legal matters, personnel matters and contract negotiations.

Upon motion made by Chairman Scala and seconded by Commissioner Jones, Resolution 2016-03 was approved by a vote of 13-0.

Motion and second to enter into open session was made and carried with all in favor.

Vice Chairman Buckelew requested a motion to conclude the open meeting. Upon motion made by Commissioner Gluck and seconded by Commissioner Scala, the public meeting was adjourned.

**I certify that this is a true and accurate transcript of the Regular Session Minutes of the New Jersey Sports and Exposition Authority Board meeting of February 11, 2016.**



**Ralph J. Marra, Jr., Esq.**  
**Assistant Secretary**

February 11, 2016

Commissioner	Roll Call	2016-01	2016-02	2016-03
Ferguson	P via phone	Y	Y	Y
Buckelew	P	Y	Y	Y
Hasenbalg	P	Y	Y	Y
Ballantyne	P	Y	Y	Y
Fontoura	P	Y	Y	Y
Gluck	P	Y	Y	Y
Jones	P	Y	Y	Y
Kolber	P via phone	Y	Y	Y
Plofker	P	Y	Y	Y
Scala	P	Y	Y	Y
Scardino	P via phone	Y	Y	Y
Yudin	P	A	Y	Y
Treasury Rep Wooster	P via phone	Y	Y	Y

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



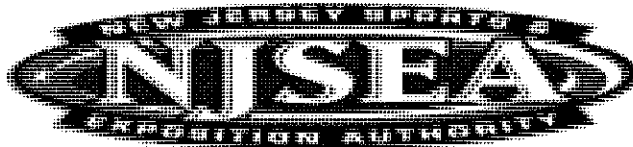
CASH DISBURSEMENTS  
\$100,000 OR MORE  
FEBRUARY 2016

SPORTS COMPLEX

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
NEW JERSEY STATE POLICE	440,955.25	A	OVERTIME CHARGES: OCT 2015 - NOV 2015
NRG BUSINESS SOLUTIONS	336,957.12	A	ELECTRICITY CHARGES: JAN 2016
<b>SPORTS COMPLEX TOTAL</b>	<u>777,912.37</u>		

OTHER

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
NEW JERSEY HEALTH BENEFITS FUND	191,434.66	A	HEALTH BENEFITS - ACTIVE EMPLOYEES: FEB 2016
PHILADELPHIA INSURANCE COMPANIES	280,331.32	A	GENERAL LIABILITY & AUTO POLICY INSURANCE RENEWAL - 50% PREMIUM: JAN 2016 - DEC 2016
WASTE MANAGEMENT OF NEW JERSEY	199,644.32	A	OPERATIONS CONTRACT - KEEGAN LANDFILL: JAN 2016
<b>OTHER TOTAL</b>	<u>671,410.30</u>		



CASH DISBURSEMENTS  
\$100,000 OR MORE

<u>REFERENCE LETTER</u>	<u>TYPE</u>
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	EXECUTIVE DIRECTOR APPROVAL
I	STATUTORY PAYMENT
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 2016 -04**

**RESOLUTION ISSUING A DECISION ON THE  
VARIANCE APPLICATION SUBMITTED AS PART OF FILE NO. 14-705  
NORTH BERGEN MUA/MINOR SUBDIVISION  
4300 WEST SIDE AVENUE, BLOCK 452.04, LOT 6.04, IN THE TOWNSHIP OF  
NORTH BERGEN, NEW JERSEY**

**WHEREAS**, an application for two (2) bulk variances was filed with the New Jersey Sports and Exposition Authority (NJSEA) by Frank Pestana, Executive Director, North Bergen Municipal Utilities Authority (NBMUA), for the premises identified as 4300 West Side Avenue, Block 452.04, Lot 6.04, in the Township of North Bergen, New Jersey; and

**WHEREAS**, the variances are sought in connection with the NBMUA's application for a technical major subdivision to subdivide existing Block 452.04, Lot 6.04 into proposed Lots 6.05 and 6.0401; and

**WHEREAS**, the premises is located within the Hackensack Meadowlands District's Public Utilities zone; and

**WHEREAS**, the applicant requested bulk variance relief from N.J.A.C. 19:4-5.112(a)1, which provides for maximum lot coverage of 50 percent, whereas proposed Lot 6.0401, which includes the existing NBMUA treatment plant building, proposes 53 percent lot coverage; and

**WHEREAS**, the applicant requested bulk variance relief from N.J.A.C. 19:4-5.112(a)3ii, which requires a minimum side yard of 20 feet, whereas a minimum side yard setback of five feet is proposed to the existing structures to remain from the northerly lot line of proposed Lot 6.05; and

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

**WHEREAS**, a public hearing was held in the Office of the NJSEA on January 26, 2016, before Sara Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer, Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer, and Mia Petrou, P.P., AICP, Senior Planner; and

**WHEREAS**, no comments were received regarding this matter; and

**WHEREAS**, a comprehensive report, dated March 7, 2016, has been prepared indicating the recommendations of the Director of Land Use Management and the Senior Vice President, Legal & Regulatory Affairs, in this matter; and

**WHEREAS**, a copy of the recommendation and comprehensive report was provided to the applicant on March 8, 2016; and

**WHEREAS**, the report recommends the approval of the requested bulk variance from N.J.A.C. 19:4-5.112(a)1 to provide 53 percent lot coverage on proposed Lot 6.0401; and

**WHEREAS**, the report recommends the approval of the requested bulk variance from N.J.A.C. 19:4-5.112(a)3ii to provide a minimum side yard setback of five feet to the existing structures to remain from the northerly lot line of proposed Lot 6.05; and

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

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

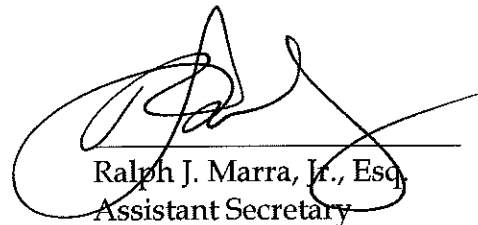
**WHEREAS**, the Board of Commissioners hereby determines that the requested bulk variance to provide 53 percent lot coverage on proposed Lot 6.0401 does conform with the standards for approving applications of variances as set forth in N.J.A.C. 19:4-4.14(e); and

**WHEREAS**, the Board of Commissioners hereby determines that the requested bulk variance to provide a minimum side yard setback of five feet to the existing structures to remain from the northerly lot line of proposed Lot 6.05 does conform with the standards for approving applications of 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 North Bergen MUA/Minor Subdivision application for one bulk variance to provide 53 percent lot coverage on proposed Lot 6.0401 within Block 452.04 in the Township of North Bergen is hereby **APPROVED** for the reasons set forth in the recommendation dated March 7, 2016.

**BE IT FURTHER RESOLVED**, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the North Bergen MUA/Minor Subdivision application for one bulk variance to provide a minimum side yard setback of five feet to the existing structures to remain from the northerly lot line of proposed Lot 6.05 within Block 452.04 in the Township of North Bergen is hereby **APPROVED** for the reasons set forth in the recommendation dated March 7, 2016.

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 March 17, 2016.



Ralph J. Marra, Jr., Esq.  
Assistant Secretary



## MEMORANDUM

*To:* NJSEA Board Member and Wayne Hasenbalg, President/CEO

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*From:* Sara J. Sundell

*Date:* March 17, 2016

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*Subject:* Variance Recommendation: North Bergen MUA/Minor Subdivision (File No. 14-705)

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An application for two bulk variances was filed with the New Jersey Sports and Exposition Authority (NJSEA) by Frank Pestana, Executive Director, North Bergen Municipal Utilities Authority (NBMUA), for the premises identified as 4300 West Side Avenue, Block 452.04, Lot 6.04, in the Township of North Bergen, New Jersey. The subject premises are located in the Hackensack Meadowlands District's Public Utilities zone. The variances are sought in connection with the applicant's proposal to subdivide existing Block 452.04, Lot 6.04 into proposed Lots 6.05 and 6.0401.

The applicant requested variance relief from the following:

1. N.J.A.C. 19:4-5.112(a)1, which provides for maximum lot coverage of 50 percent, whereas proposed Lot 6.0401, which includes the existing NBMUA treatment plant building, proposes 53 percent lot coverage.
2. N.J.A.C. 19:4-5.112(a)3ii, which requires a minimum side yard of 20 feet, whereas a minimum side yard setback of five feet is proposed to the existing structures to remain from the northerly lot line of proposed Lot 6.05.

A public hearing on this matter was held in the Office of the NJSEA on January 26, 2016.

In a comprehensive report dated March 7, 2016, the Director of Land Use Management and the Senior Vice President, Legal & Regulatory Affairs, recommended the approval of the requested bulk variances. A copy of the comprehensive report and variance recommendation was provided to the applicant on March 8, 2016.

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

**RECOMMENDATION ON THE VARIANCE APPLICATION OF**

North Bergen MUA/Minor Subdivision

FILE # 14-705

NJSEA on Tuesday, January 26, 2016. All information submitted to the Division of Land Use Management relative to this application is made part of the record of this recommendation.

**I. INTRODUCTION**

An application for two bulk variances has been filed with the New Jersey Sports and Exposition Authority (NJSEA) by Frank Pestana, Executive Director, North Bergen Municipal Utilities Authority (NBMUA), for the premises identified as Block 452.04, Lot 6.04, in the Township of North Bergen, New Jersey. Said premises are located in the Hackensack Meadowlands District's (District) Public Utilities zone. The bulk variances are sought in connection with the applicant's proposal to subdivide existing Block 452.04, Lot 6.04 into proposed Lots 6.05 and 6.0401. In accordance with N.J.A.C. 19:5-5.3(a)4, the proposed subdivision is classified as a technical major subdivision, as bulk variances are requested from the District Zoning Regulators at N.J.A.C. 19:4.

Specifically, the applicant is requesting relief from the following:

1. N.J.A.C. 19:4-5.112(a)1, which provides for maximum lot coverage of 50 percent, whereas proposed Lot 6.0401, which includes the existing NBMUA sewage treatment plant building, proposes 53 percent lot coverage.
2. N.J.A.C. 19:4-5.112(a)3ii, which requires a minimum side yard of 20 feet, whereas a minimum side yard setback of five feet is proposed to the existing structures to remain from the northerly lot line of proposed Lot 6.05.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Jersey Journal newspaper. No written objections were received. A public hearing was held in the Office of the

**II. GENERAL INFORMATION**

**A. Existing and Proposed Use**

The applicant proposes to subdivide the subject 3.29-acre property, owned by the NBMUA and identified as 4300 West Side Avenue, Block 452.04, Lot 6.04, into proposed Lots 6.0401 and 6.05. The area of proposed Lot 6.0401 is 1.69 acres and the area of proposed Lot 6.05 is 1.61 acres.

Properties along West Side Avenue are primarily industrial in nature, and include a number of intermodal facilities due to the presence of the NYS&W freight rail line located to the east of the subject property. This freight rail line forms the District's easterly jurisdictional boundary line. Properties to the north and south are located in the District's Intermodal B zone, and properties to the west include FSE&G right-of-way (ROW) across West Side Avenue, with a large vacant tract of land zoned both Environmental Conservation and Regional Commercial to the west of the ROW.

The subject property is currently improved with structures and equipment associated with the NBMUA's sewerage facilities. Proposed Lot 6.0401 contains a structure formerly housing the NBMUA sewage treatment plant, which was decommissioned in 2010, and proposed Lot 6.05 contains various improvements related to the current day operations of the NBMUA, including a pump station, an electrical building housing pump station controls, and an electrical substation. An existing 483-square-foot lunch building on proposed Lot 6.0401 is proposed to be demolished.

The proposed subdivision is deemed a technical major subdivision, as defined in N.J.A.C. 19:5-3.1(b), as bulk variances are required from provisions of

the Hackensack Meadowlands District zoning regulations at N.J.A.C. 19:4 et seq. Specifically, a minimum side yard setback of five feet is proposed to existing structures on proposed Lot 6.05 from its proposed northerly lot line, whereas a minimum side yard setback of 20 feet is required. Additionally, maximum lot coverage of 50 percent is permitted in the zone, whereas proposed Lot 6.0401, which includes the existing NBMUA treatment plant building, will have lot coverage of 53 percent.

**B. Response to the Public Notice**

No written comments were submitted to this Office prior to the public hearing.

**III. PUBLIC HEARING (January 26, 2016)**

A public hearing was held on Tuesday, January 26, 2016. NJSEA staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; and Mia Petrou, P.P., AICP, Senior Planner.

**A. Exhibits**

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

Number	Description
A-1	"Boundary Survey, Tax Map Lot 6.04, Block 452.04," Sheet 1 of 1, prepared by Frank M. Kupinski, P.L.S., Boswell McClave Engineering, dated August 26, 2015, revised through November 23, 2015.

- A-2 "Technical Major Subdivision, Tax Map Lot 6.04, Block 452.04," Sheet 1 of 1, prepared by Frank M. Kupinski, P.L.S., Boswell McClave Engineering, dated August 25, 2015, revised through December 29, 2015.
- A-3 "Site Plan," Sheet 1 of 2, prepared by Jeffrey L. Morris, P.E., Boswell McClave Engineering, dated November 20, 2015, revised through January 11, 2016.
- A-4 "Lighting and Landscape Plan," Sheet 2 of 2, prepared by Jeffrey L. Morris, P.E., Boswell McClave Engineering, dated November 20, 2015, revised through January 11, 2016.
- A-5 Photo exhibit, seven photos, submitted by Jeffrey L. Morris, P.E., Boswell McClave Engineering, undated.
- A-6 "Hackensack Meadowlands District Zoning Map," Sheet 1 of 1, prepared by Jeffrey L. Morris, P.E., Boswell McClave Engineering, dated January 2016.

**B. Testimony**

Salvatore Alfieri, Esq. of the firm Cleary, Giacobbe, Alfieri, Jacobs, LLC represented the NBMUA at the hearing. The following witness testified in support of the application:

- 1. Jeffrey Morris, P.E., P.P., Boswell McClave Engineering.

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

**C. Public Comment**

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

IV. RECOMMENDATIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.112(a)1, which provides for maximum lot coverage of 50 percent, whereas proposed Lot 6.0401 proposes 53 percent lot coverage.

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 subject property to be subdivided is located in the Public Utilities zone of the Hackensack Meadowlands District. The subdivision is intended to separate the existing lot into two proposed lots. The NEMUA's utility improvements associated with its existing pump station will be located on proposed Lot 6.05 to the south and an existing vacant structure will be located on proposed Lot 6.0401 to the north. The existing vacant structure was formerly utilized by the NEMUA as a sewage treatment plant, which was decommissioned in 2010. The NEMUA is seeking to divest the land and structure located on proposed Lot 6.0401, as it does not intend to utilize the property in the future. The sewage formerly processed in the treatment plant is currently being pumped to Passaic Valley Sewerage Commission (PVSC) facilities via the pump station and associated improvements to remain on proposed Lot 6.05.

The proposed subdivision line is configured to separate the portion of the site proposed as Lot 6.05, which contains the operational NEMUA pump station improvements, from the vacated portion of the site proposed as Lot 6.0401. The requested variance to exceed the maximum permitted lot coverage is solely the result of the placement of the proposed subdivision line, and no building expansion or additional improvements are proposed that would increase the floor area currently existing on the site. Rather, an existing 483-square-foot lunch building on proposed Lot 6.0401 is to be demolished to maximize the ability of the proposed lot to conform to the lot coverage requirements of the Public Utilities zone.

The existing configuration of the improvements on the property is a unique circumstance that impacts the ability to position a subdivision line that would result in a compliant lot coverage calculation for the two proposed lots. Nonetheless, the location of the proposed subdivision line results in a reasonable division of the property in relation to the existing improvements, circulation, and access points on the site, and the resulting lot coverage of 53 percent on proposed Lot 6.0401 is not excessive.

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

The granting of the requested variance to permit an increase in the maximum permitted lot coverage will not adversely affect the rights of neighboring property owners or residents. The NEMUA

will continue to own the properties both to the north and to the south of proposed Lot 6.0401. The neighborhood in which the subject property is located is primarily industrial in nature, containing a number of intermodal facilities and waste transfer stations both inside and out of the District. The NYS&W rail line is located to the east adjacent to the property in question, and a PSE&G right-of-way is located to the west across West Side Avenue. No residential properties are located in the immediate vicinity. The character of the neighborhood will not be altered by the proposed subdivision, resulting in lot coverage larger than permitted on proposed Lot 6.0401, as there will be no physical expansion to the footprint of the existing building to remain on proposed Lot 6.0401.

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 will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.

The subject property, along with adjoining Lot 6.03 to the north, are currently owned by the NBMUA and are the only two properties located within the Public Utilities zone in this portion of the Hackensack Meadowlands District along West Side Avenue. The permitted uses in the Public Utilities zone include light and heavy public utility uses and intermodal facilities. Most of the permitted uses in this zone are intended to be operated by a public or quasi-

public entity. The application of the bulk regulation requiring a maximum lot coverage of 50 percent would result in an exceptional practical difficulty as it would require demolition of a 1,900-square-foot portion of the existing building on the site, which is not practicable. The proposed subdivision and resulting lot coverage remain reasonable in the context of the particular existing site conditions.

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.*

There will be no substantial detriment to the public good and no adverse effects to the public health, safety, morals, order, convenience, prosperity or general welfare by granting the requested variance from District lot coverage requirements. The physical configuration of structures on the proposed lots will continue as they currently exist, with the exception of the demolition of a 483-square-foot lunch building, which will bring the lot coverage of proposed Lot 6.0401 closer to compliance than would otherwise exist post-subdivision. There will be no detrimental impacts to light, air or open space by the resulting lot coverage in the proposed subdivision.

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

There will be no substantial adverse environmental impacts created by the granting of the requested variance to permit 53 percent lot coverage on proposed Lot 6.0401. As no physical expansions to the



building footprint are proposed, the subdivision will not affect drainage facilities or impact environmentally sensitive areas. The proposed lot coverage of 53 percent on proposed Lot 6.0401 is offset by the significantly smaller lot coverage of seven percent on proposed Lot 6.05 to the south. Furthermore, the requested variance will not cause the District'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 to provide a maximum lot coverage of 53 percent on proposed Lot 6.0401, whereas a maximum 50 percent is permitted, represents the minimum deviation from the regulations that will afford relief. There are currently two structures existing on proposed Lot 6.0401, consisting of a 38,662-square-foot decommissioned sewage treatment facility, currently vacant, and a detached 483-square-foot accessory structure utilized as a lunch building. The NBMUA proposes to demolish the lunch building in order to provide the maximum degree of compliance with the lot coverage requirements as can practicably be achieved for Lot 6.0401. Additional opportunities to reduce the proposed lot coverage are not reasonably available.

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

The proposed variance request to exceed the maximum permitted lot coverage will not substantially impair the intent and purpose of the District's lot coverage requirements. The exceedance of the maximum lot coverage is not caused by any physical expansions to any structures on the site. The proposed lot coverage is a result of the placement of the subdivision line, which is optimally positioned to separate the NBMUA's functioning facility improvements from the portion of the site it no longer utilizes. The proposed subdivision is consistent with sound planning practices and will promote the intent and purpose of these regulations by relating the type, design and layout of the proposed subdivision to both the particular site and surrounding environs.

**B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.112(a)3ii, which requires a minimum side yard of 20 feet, whereas a minimum side yard setback of five feet is proposed to the existing structures to remain from the northerly lot line of proposed Lot 6.05.**

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 subject property to be subdivided is located in the Public Utilities zone of the Hackensack Meadowlands District. The subdivision is intended to separate the NBMUA's functioning pump station improvements on proposed Lot 6.05 from the improvements on proposed Lot 6.0401 on the northerly portion of the site, which contains an existing vacant structure formerly utilized by the NBMUA as a sewage treatment plant prior to its decommissioning in 2010. The NBMUA is seeking to divest the land and structure on proposed Lot 6.0401, as it does not intend to utilize the property in the future. The sewage formerly processed in the treatment plant is currently being pumped to Passaic Valley Sewerage Commission (PVSC) facilities via the active pump station and associated improvements to remain on proposed Lot 6.05.

The proposed subdivision line is positioned to separate the portion of the site containing the operational NBMUA pump station improvements on proposed Lot 6.05 from the vacated portion of the site proposed as Lot 6.0401. The requested variance to provide a minimum side yard setback of five feet, whereas 20 feet is required in the Public Utilities zone, is the result of the proposed placement of the subdivision line. The existing location and configuration of the improvements on the property are unique circumstances that impact the ability to position a subdivision line that would result in a compliant side yard setback to existing improvements. Nonetheless, the proposed subdivision line results in a reasonable division of the property in relation to the existing improvements, circulation, and access points on the site.

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

The granting of the requested variance will not adversely affect the rights of neighboring property owners or residents. The proposed subdivision line is centrally located, evenly dividing the property to the extent possible, with a jog in the proposed lot line corresponding with the layout of existing improvements. The NBMUA will continue to own the properties both to the north and to the south of proposed Lot 6.0401. The neighborhood in which the subject property is located is primarily industrial in nature, containing a number of intermodal facilities and waste transfer stations. The NYS&W rail line is located to the east adjacent to the property in question, and a FSE&G right-of-way is located to the west across West Side Avenue. No residential properties are located in the immediate vicinity. The character of the neighborhood will not be altered by the proposed subdivision resulting in a side yard setback of five feet from existing improvements on proposed Lot 6.05 to the proposed subdivision line to the north.

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 requires a minimum side yard setback of 20 feet to the proposed northerly property line of Lot 6.05, whereas five feet is proposed from the existing electrical building and substation on the site. A conforming subdivision,

providing a minimum distance of 20 feet between structures and the interior subdivision line, would result in exceptional practical difficulties to the property owner. Such placement would result in the positioning of the subdivision line in the middle of an existing drive aisle, and also would result in parking spaces, allocated for use by the structure to remain on proposed Lot 6.0401, instead being located on proposed Lot 6.05. The proposed subdivision line is optimally positioned to ensure the functionality of the improvements on proposed Lot 6.05 and thus avoid conflicts with existing improvements on the site. A minimum distance of 45 feet would continue to exist between the structures on proposed Lots 6.0401 and 6.05.

Therefore, the strict application of the requirement to provide a minimum 20-foot setback between the existing structures on Lot proposed 6.05 and the proposed subdivision line would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.

*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.*

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 granting of the requested variance. There exists a minimum distance of 45 feet between existing structures on proposed Lot 6.05 and the former treatment plan on proposed Lot 6.0401. The placement of the

proposed subdivision line will have no adverse impact on public safety or health, as adequate light, air and open space will continue to be supplied.

*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 requested variance is solely related to the subdivision of developed property containing existing improvements. The location of the proposed subdivision line will not cause the NJSEA's performance standards regarding noise, vibrations, airborne emissions, hazardous materials, glare or water quality 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. The proposed subdivision line is positioned to avoid conflicts with existing access driveways and parking spaces. Alternative locations for the placement of the proposed subdivision line are limited due to the configuration of existing structures and site improvements.

The existing structures and utility improvements on the subject are constraints in providing a conforming location for the proposed subdivision line that meets the minimum required side yard setbacks. A conforming subdivision line would bisect the existing site driveway and reassign parking spaces serving the former treatment

plant building to proposed Lot 6.05, which includes the pump station improvements. If the line were drawn thus, the existing on-site circulation would be compromised and the District parking requirements for the existing structure would not be met

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

Specific purposes of the District zoning regulations include providing sufficient space in appropriate locations for a variety of uses, and ensuring that such uses are suitably sited and placed in order to relate buildings and uses to each other and to the environment so that the aesthetic and use values are maximized. The proposed side yard setback is consistent with this intent by allowing the site to continue to be utilized in a safe, orderly and efficient manner.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 17:24-5.112(a)1, which provides for maximum lot coverage of 50 percent, whereas proposed Lot 6.0401 proposes 53 percent lot coverage.

Based on the record in this matter, the bulk variance application to permit a maximum lot coverage of 53 percent for proposed Lot 6.0401, whereas a maximum lot coverage of 50 percent is permitted, is hereby recommended for APPROVAL.

APPROVAL

Recommendation on  
Bulk Variance Request

3/7/16

Date



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

Approval

Recommendation on  
Bulk Variance Request

3/7/16


Date




Ralph J. Matra, Jr.  
Senior Vice President  
Legal & Regulatory Affairs

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19-4.5.112(a)(3)ii, which requires a minimum side yard of 20 feet, whereas a minimum side yard setback of five feet is proposed to the existing structures to remain from the northerly lot line of proposed Lot 6.05.

Based on the record in this matter, the bulk variance application to permit a minimum setback of five feet along the northerly side yard of proposed Lot 6.05, whereas a minimum side yard setback of 20 feet is required, is hereby recommended for APPROVAL.

APPROVAL 3/7/16  
Recommendation on \_\_\_\_\_ Date  
Bulk Variance Request \_\_\_\_\_  
  
Sara J. Sundell, P.E., P.F.  
Director of Land Use Management

opp'd 3/7/16  
Recommendation on \_\_\_\_\_ Date  
Bulk Variance Request \_\_\_\_\_  
  
Ralph J. Marra, Jr.  
Senior Vice President  
Legal & Regulatory Affairs

**RESOLUTION 2016 -05**

**RESOLUTION ISSUING A DECISION ON THE  
VARIANCE APPLICATION SUBMITTED AS PART OF FILE NO. 15-296  
NORTH BERGEN MUA/W5 GROUP LLC - CO/VARIANCE  
4300 WEST SIDE AVENUE, BLOCK 452.04, LOT 6.04, IN THE TOWNSHIP  
OF NORTH BERGEN, NEW JERSEY**

**WHEREAS**, an application for one (1) use variance and two (2) bulk variances was filed with the New Jersey Sports and Exposition Authority (NJSEA) by Frank Pestana, Executive Director, North Bergen Municipal Utilities Authority (NBMUA), for the premises identified as 4300 West Side Avenue, Block 452.04, Lot 6.04, in the Township of North Bergen, New Jersey; and

**WHEREAS**, the premises is located within the Hackensack Meadowlands District's Public Utilities zone; and

**WHEREAS**, the applicant requested use variance relief from N.J.A.C. 19:4-5.108, which does not specifically list a contractor's yard or facility as a permitted use in the Public Utilities zone; and

**WHEREAS**, the applicant requested bulk variance relief from N.J.A.C. 19:4-5.112(a)3i, which requires a front yard of 35 feet, whereas a minimum front yard setback of 0 feet is proposed to a new vehicular use area in the front yard along West Side Avenue; and

**WHEREAS**, the applicant requested bulk variance relief from N.J.A.C. 19:4-8.2(c)1, which requires that a minimum six feet of landscaped open space shall be maintained as a buffer between buildings and vehicular use areas, whereas a four-foot-wide buffer is proposed; and

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

**WHEREAS**, a public hearing was held in the Office of the NJSEA on January 26, 2016, before Sara Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer, Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer, and Mia Petrou, P.P., AICP, Senior Planner; and

**WHEREAS**, no comments were received regarding this matter; and

**WHEREAS**, a comprehensive report dated March 7, 2016, has been prepared indicating the recommendations of the Director of Land Use

Management and the Senior Vice President, Legal & Regulatory Affairs, in this matter; and

**WHEREAS**, a copy of the recommendation and comprehensive report was provided to the applicant on March 8, 2016; and

**WHEREAS**, the report recommends the conditional approval of the requested use variance from N.J.A.C. 19:4-5.108, to operate a contractor's facility at the subject premises; and

**WHEREAS**, the report recommends the conditional approval of the requested bulk variance from N.J.A.C. 19:4-5.112(a)3i to provide vehicular use areas within the required front yard setback; and

**WHEREAS**, the report recommends the approval of the requested bulk variance from N.J.A.C. 19:4-8.2(c)1 to provide a four-foot-wide landscaped buffer between the building and vehicular use areas; and

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

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

**WHEREAS**, the Board of Commissioners hereby determines that the requested use variance to operate a contractor's facility at the subject premises does conditionally conform with the standards for approving applications of variances as set forth in N.J.A.C. 19:4-4.14(e); and

**WHEREAS**, the Board of Commissioners hereby determines that the requested bulk variance to provide vehicular use areas within the required front yard setback at the subject premises does conditionally conform with the standards for approving applications of variances as set forth in N.J.A.C. 19:4-4.14(e); and

**WHEREAS**, the Board of Commissioners hereby determines that the requested bulk variance to provide a four-foot-wide landscaped buffer between the building and vehicular use area at the subject premises does conform with the standards for approving applications of 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 North Bergen MUA/W5 Group LLC - CO/Variance application for one use variance to operate a contractor's facility at the subject premises is hereby **APPROVED WITH THE FOLLOWING CONDITION** for the reasons set forth in the recommendation dated March 7, 2016:

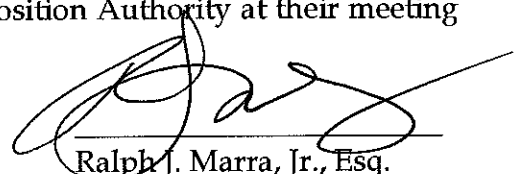
1. No zoning certificate shall be issued until the subdivision creating proposed Lot 6.0401 is approved, and proof of recording of the subdivision with the Hudson County Register is submitted to the NJSEA; and
2. Any equipment, vehicles other than passenger vehicles, and materials associated with the contractor's facility use shall be stored within the existing structure and shall not be stored outdoors.

**BE IT FURTHER RESOLVED**, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the North Bergen MUA/W5 Group LLC - CO/Variance application for one bulk variance to provide vehicular use areas within the required front yard setback at the subject premises is hereby **APPROVED WITH THE FOLLOWING CONDITIONS** for the reasons set forth in the recommendation dated March 7, 2016:

1. The applicant shall obtain all required approvals from the Township of North Bergen for the construction of the proposed concrete curb islands within the West Side Avenue right-of-way; and
2. The proposed concrete curb islands shall be aligned, where necessary, to match the existing curb line of West Side Avenue, subject to the approval of the Township of North Bergen.

**BE IT FURTHER RESOLVED**, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the North Bergen MUA/W5 Group LLC - CO/Variance application for one bulk variance to provide a four-foot-wide landscaped buffer between the building and vehicular use areas at the subject premises is hereby **APPROVED** for the reasons set forth in the recommendation dated March 7, 2016.

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 March 17, 2016.

  
Ralph J. Marra, Jr., Esq.  
Assistant Secretary





## MEMORANDUM

*To:* NJSEA Board Member and Wayne Hasenbalg, President/CEO

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*From:* Sara J. Sundell *Date:* March 17, 2016

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*Subject:* Variance Recommendation: North Bergen MUA/W5 Group LLC – CO/Variance (File No. 15-296)

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An application for one use variance and two bulk variances was filed with the New Jersey Sports and Exposition Authority (NJSEA) by Frank Pestana, Executive Director, North Bergen Municipal Utilities Authority (NBMUA), for the premises identified as 4300 West Side Avenue, Block 452.04, Lot 6.04, in the Township of North Bergen, New Jersey. The subject premises are located in the Hackensack Meadowlands District's Public Utilities zone. The variances are sought in connection with the applicant's proposal to utilize the existing NBMUA treatment plant as a contractor's yard or facility at the subject premises.

The applicant requested variance relief from the following:

1. N.J.A.C. 19:4-5.108, which does not specifically list a contractor's yard or facility as a permitted use in the Public Utilities zone.
2. N.J.A.C. 19:4-5.112(a)3i, which requires a front yard of 35 feet, whereas a minimum front yard setback of 0 feet to a new vehicular use area is proposed in the front yard along West Side Avenue.
3. N.J.A.C. 19:4-8.2(c)1, which requires that a minimum six feet of landscaped open space shall be maintained as a buffer between buildings and vehicular use areas, whereas a four-foot-wide buffer is proposed.

A public hearing on this matter was held in the Office of the NJSEA on January 26, 2016.

In a comprehensive report dated March 7, 2016, the Director of Land Use Management and the Executive Director recommended the conditional approval of the variances in Items 1 and 2, above, and approval of the bulk variance requested in Item 3 above. A copy of the comprehensive report and variance recommendation was provided to the applicant on March 8, 2016.

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

**RECOMMENDATION ON THE VARIANCE APPLICATION OF**

North Bergen MUA/W5 Group LLC - CO/Variance

FILE # 15-296

**I. INTRODUCTION**

An application for one use variance and two bulk variances has been filed with the New Jersey Sports and Exposition Authority (NJSEA) by Frank Pestana, Executive Director, North Bergen Municipal Utilities Authority (NBMUA), for the premises identified as Block 452.04, Lot 6.04, in the Township of North Bergen, New Jersey. Said premises are located in the Hackensack Meadowslands District's (District) Public Utilities zone. The variances are sought in connection with a zoning certificate application proposing to utilize the existing decommissioned NBMUA sewerage treatment plant building as a contractor's yard or facility at the subject premises.

Specifically, the applicant is requesting relief from:

1. N.J.A.C. 19:4-5.108, which does not specifically list a contractor's yard or facility as a permitted use in the Public Utilities zone.
2. N.J.A.C. 19:4-5.112(a)3i, which requires a front yard of 35 feet, whereas a minimum front yard setback of 0 feet to a new vehicular use area is proposed in the front yard along West Side Avenue.
3. N.J.A.C. 19:4-8.2(c)1, which requires that a minimum six feet of landscaped open space shall be maintained as a buffer between buildings and vehicular use areas, whereas a four-foot-wide buffer is proposed.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Jersey Journal newspaper. No written objections were received. A public hearing was held in the Office of the

NJSEA on Tuesday, January 26, 2016. All information submitted to the Division of Land Use Management relative to this application is made part of the record of this recommendation.

**II. GENERAL INFORMATION**

**A. Existing and Proposed Use**

In a related application (NJSEA File #14-705 North Bergen MUA/Minor Subdivision), the applicant proposes to subdivide the subject 3.29-acre property, owned by the NBMUA and identified as 4300 West Side Avenue, Block 452.04, Lot 6.04, into proposed Lots 6.0401 and 6.05. The area of proposed Lot 6.0401 is 1.69 acres and the area of proposed Lot 6.05 is 1.61 acres.

Properties along West Side Avenue are primarily industrial in nature, and include a number of intermodal facilities due to the presence of the NYS&W freight rail line located to the east of the subject property. This freight rail line forms the District's easterly jurisdictional boundary line. Properties to the north and south are located in the District's Intermodal B zone, and properties to the west include PSE&G right-of-way (ROW) across West Side Avenue, with a large vacant tract of land zoned both Environmental Conservation and Regional Commercial to the west of the ROW.

The NBMUA intends to sell proposed Lot 6.0401 to W5 Group, LLC/Waldorf Demolition (W5 Group). Proposed Lot 6.0401 contains a 38,662-square-foot structure formerly housing the NBMUA sewage treatment plant, which was decommissioned in 2010. An existing 483-square-foot lunch building on proposed Lot 6.0401 is proposed to be demolished as part of the subdivision application. In the subject zoning certificate application, W5 Group has requested to utilize the existing structure as a contractor's facility. The prospective purchaser also proposes site improvements to install additional parking at the subject premises. As part of this site improvement, bulk variances

are required to install the proposed parking in the required front yard along West Side Avenue and within the required six-foot-wide building buffer.

**B. Response to the Public Notice**

No written comments were submitted to this Office prior to the public hearing.

**III. PUBLIC HEARING (January 26, 2016)**

A public hearing was held on Tuesday, January 26, 2016. NJSEA staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; and Mia Petrou, P.P., AICP, Senior Planner.

**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	"Boundary Survey, Tax Map Lot 6.04, Block 452.04," Sheet 1 of 1, prepared by Frank M. Kupinski, P.L.S., Boswell McClave Engineering, dated August 26, 2015, revised through November 23, 2015.
A-2	"Technical Major Subdivision, Tax Map Lot 6.04, Block 452.04," Sheet 1 of 1, prepared by Frank M. Kupinski, P.L.S., Boswell McClave Engineering, dated August 25, 2015, revised through December 29, 2015.

A-3 "Site Plan," Sheet 1 of 2, prepared by Jeffrey L. Morris, P.E., Boswell McClave Engineering, dated November 20, 2015, revised through January 11, 2016.

A-4 "Lighting and Landscape Plan," Sheet 2 of 2, prepared by Jeffrey L. Morris, P.E., Boswell McClave Engineering, dated November 20, 2015, revised through January 11, 2016.

A-5 Photo exhibit, seven photos, submitted by Jeffrey L. Morris, P.E., Boswell McClave Engineering, undated.

A-6 "Hackensack Meadowlands District Zoning Map," Sheet 1 of 1, prepared by Jeffrey L. Morris, P.E., Boswell McClave Engineering, dated January 2016.

**B. Testimony**

Salvatore Alfieri, Esq. of the firm Cleary, Giacobbe, Alfieri, Jacobs, LLC represented the NBMUA at the hearing. The following witness testified in support of the application:

1. Diego Dantillo, Waldorf Demolition;
2. James Marrone, Waldorf Demolition;
3. Jeffrey Morris, P.E., P.P., Boswell McClave Engineering; and
4. Frank Pestana, North Bergen Municipal Utilities Authority.

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. RECOMMENDATIONS

A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-5.108, which does not specifically list a contractor's yard or facility as a permitted use in the Public Utilities zone. The applicant is requesting a use variance to permit a contractor's facility on proposed Lot 6.0401.

The District Zoning Regulations at N.J.A.C. Section 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 use variances:
  - i. The strict application of these regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.

The NBMUA, the owner of the subject property, proposes to subdivide existing Lot 6.04 to sell the portion of the property containing the former treatment plant structure (decommissioned in 2010), designated as proposed Lot 6.0401, to W5 Group. W5 Group proposes to utilize the structure to store the vehicles and equipment that it utilizes in off-site locations as part of its business as a demolition contractor. A contractor's facility is not a permitted use in the Public Utilities zone in which the subject property is located.

Lot 6.04, along with adjoining Lot 6.03 to the north, are owned by the NBMUA, and are the only two properties located in the Public Utilities zone along West Side Avenue. The permitted uses in the Public Utilities zone include light and heavy public utility uses and

intermodal facilities. Most of the permitted uses in this zone are intended to be operated by a public or quasi-public entity, thereby limiting the potential future use of the site for a non-public owner. Therefore, the strict application of the regulations result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the current and prospective property owners due to the application of the regulations of the Public Utilities zone to a private party.

- ii. *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 prospective purchaser, W5 Group, intends to utilize the decommissioned treatment plant structure on proposed Lot 6.0401 to store the vehicles and equipment utilized in its demolition business. The majority of properties located to the north and south of the subject property along the east side of West Side Avenue are located in the Intermodal B zone, where contractor's yards and facilities are permitted uses. The proposed use will result in the reoccupancy of a vacant site in a manner consistent with the zoning of other properties in the vicinity. Additionally, no outdoor storage is proposed; all storage will occur within the structure on the property. Therefore, the granting of the requested 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.

iii. *Adequate infrastructure, including storm and sanitary sewers, utilities, access roads, will be provided and shall be so designed to prevent and/or minimize negative impacts upon the existing infrastructure. In addition, the proposed use will not decrease the ability of said infrastructure to perform in a safe and efficient manner.*

The granting of the requested variance will not result in negative impacts to the existing utility infrastructure. The proposed use will be located within an existing, vacant structure that was formerly utilized as a public utility use. The public utility use will continue to operate on the adjacent portion of the property to the south designated as proposed Lot 6.05. While W5 Group proposes an expansion of parking areas on the site, the removal of open space in the front yard to accommodate parking will be offset by the restoration of existing paved area to open space in the rear of the building.

Additionally, a representative of W5 Group testified that the company currently owns and operates a solid waste transfer facility on West Side Avenue in the vicinity of the subject property. The subject site would be a convenient location to store the vehicles and equipment utilized at its offsite locations, and would not contribute to additional traffic on area roadways, as the vehicles to be stored within the building on the site are already utilizing the area roadway network.

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

The granting of the requested variance will not result in any substantial adverse environmental impacts. The site is completely developed, and no environmentally sensitive areas, such as wetlands, are located on the site. No physical expansion to the building footprint is proposed. Additional parking will be provided on the site, and all drainage requirements will be required to be met by the proposed parking expansion. The proposed use will not cause District performance standards for noise, glare, vibrations, airborne emissions, or hazardous materials to be exceeded.

*v. The variance will not substantially impair the intent and purpose of these regulations.*

The applicant proposes a contractor's facility in the Public Utilities zone along West Side Avenue in North Bergen. The intent of the Public Utilities zone is to accommodate heavy public utility and intermodal uses. There are a total of two properties, including the subject property, located within the Public Utilities zone along West Side Avenue in North Bergen, and they are both owned by the NBMUA. In 2004, upon adoption of the new District Master Plan and District Zoning Regulations, the zoning of the subject property was changed from the former Light Industrial and Distribution B zone, which permitted warehouses "and other storage facilities," to the Public Utilities zone, in recognition of the use and ownership of the site at that time by a public utility.

An analysis of other properties along West Side Avenue indicates that the majority of properties along the east side of the roadway

are located in the Intermodal B zone, where contractor's yards and facilities are permitted uses. The proposed use at the specified location will be consistent with the types of uses permitted elsewhere in the vicinity of the subject property. The proposed use, involving the storage of vehicles and equipment within an enclosed structure, will promote the intent and purpose of the District Zoning Regulations to provide sufficient space in appropriate locations for a variety of uses, and to provide that such uses are suitably sited so that aesthetic and use values are maximized.

Therefore, the requested use variance to operate a contractor's facility within the existing building on proposed Lot 6.0401 will not substantially impair the intent and purpose of these regulations.

*vi. The variance at the specified location will contribute to and promote the intent of the NJMC Master Plan.*

The District Zoning Regulations reflect the spirit and intent of the District Master Plan and are the mechanism by which the policies and principles of the Master Plan are implemented and enforced, in accordance with smart growth policies. The subject property is located within the "Logistics/Intermodal/Industrial" designation of the Land Use Plan of the District's Master Plan, which is characterized as areas traditionally associated with heavy industry in the Meadowlands, including heavy industry, public service uses, and intermodal rail and truck facilities. The inclusion of the proposed contractor's facility along West Side Avenue would be consistent with the envisioned development for this area, and therefore promotes the intent of the Land Use Plan.

Another planning goal of the Master Plan includes the promotion of a suitable array of land uses which encourage economic vitality with job creation. Accordingly, the proposed use will contribute to and promote the intent of the Master Plan by returning a currently vacant and unproductive parcel of land to active use.

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.112(a)3i, which requires a front yard of 35 feet whereas a minimum front yard setback of 0 feet to a new vehicular use area is proposed in the front yard along West Side 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 permit parking and circulation areas within the required front yard along West Side Avenue arises from conditions that are unique to the site. The subject property is a developed site with a building formerly utilized as a sewage treatment facility and proposed to be used as a contractor's facility. Both public utility uses and contractor's facility uses require a parking ratio of one parking space per 1,000 square feet of building floor area. The existing 38,662-square-foot building, therefore, requires a total of 39 parking spaces for either of these uses, and a

pre-existing nonconforming total of eight parking spaces currently exists on the site. The applicant proposes to add additional parking spaces at the site to bring the property into compliance with the District parking requirements and to accommodate employee parking.

The location and configuration of the existing improvements on the site result in a unique situation where, despite maximizing the utilization of existing impervious areas, the only remaining area where a functional parking area can be configured is within the required front yard along West Side Avenue.

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

The granting of the requested variance to provide parking and circulation areas in the required front yard will not adversely affect the rights of neighboring property owners. The subject property is currently improved with a building that contains two existing roll-up loading doors fronting West Side Avenue, and 16 parking spaces are proposed to be located in the front yard along West Side Avenue. An adequate drive aisle width will be provided adjacent to the 16 parking spaces to accommodate vehicular movements on-site without impacting traffic on West Side Avenue. The property to the west across West Side Avenue is a FSE&G ROW containing electrical transmission towers and associated utility equipment, but is otherwise vacant. NBMUA facilities located to the north and south of proposed Lot 6.0401 will not be negatively impacted by the proposed parking in the required front yard. The proposed

parking area expansion will benefit neighboring property owners by allowing all parking required by the regulations to be accommodated on the site, and will prevent any potential spillover of parking demand onto neighboring properties.

Therefore, the granting of the variance will not adversely affect the rights of neighboring property owners.

*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 will result in practical difficulties and undue hardship upon the property owner and prospective purchaser. The site does not currently contain sufficient parking to accommodate the parking requirements for the 38,662-square-foot building. An additional 15 parking spaces are proposed in a compliant location within the southerly side yard. The existing physical characteristics of the site, primarily the way in which the existing building is situated on the property, creates practical difficulties in the attempt to provide additional functional and compliant parking and circulation areas on the site.

The subject site is currently improved with a building that contains two roll-up loading doors along West Side Avenue. Sixteen parking spaces are proposed to be located four feet from the westerly building facade fronting West Side Avenue, on either side of the loading doors. An adjacent 24-foot-wide back-up aisle is proposed at a zero-foot setback from the property line. No

practicable alternatives to the proposed location of the parking areas are available on the site.

Although the existing rear yard is currently comprised of impervious surface, the distance between the rear building line and the easterly property line is a pre-existing nonconforming dimension of 19.71 feet, leaving insufficient space to accommodate a functional parking layout. District site improvement standards require that parking spaces have a minimum depth of 18 feet and that two-way drive aisles have a minimum dimension of 24 feet, for a total dimension of 42 feet. There would also be insufficient area to accommodate parallel parking spaces in the rear yard.

The northerly side yard is 30 feet wide and, while it adjoins an easement on Lot 6.03 to access an existing loading space at the northwest building corner, the location of parking spaces in this alternative location would not be a viable alternative. The principal building entrance is located at the southwesterly portion of the building façade, fronting West Side Avenue. The location of parking along the northerly side yard would be too distant from the building entrance, and access to the building in the northerly side yard is only available via an overhead door used for loading.

Therefore, no viable alternative exists that could accommodate the remaining number of required parking spaces on the property, beyond the 15 additional parking spaces proposed in the southerly side yard. The lack of available parking on the site, which currently contains only eight parking spaces, is an exceptional

practical difficulty that results in undue hardship to the property owner.

*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.*

There will be no substantial detriment to the public good and no adverse effects on the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance. The placement of parking and vehicular use areas within the required front yard setback will not adversely impact the adjacent utility properties located to the north, south and west of the site. The proposed location of the parking in the required front yard is required to accommodate a functional parking configuration on the site. A sufficient drive aisle width is provided and concrete islands are proposed along West Side Avenue to ensure the public safety by preventing vehicles from backing out of the site into the roadway.

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

The granting of the requested variance to locate vehicular use areas within the required front yard will not result in substantial adverse environmental impacts. The site is completely developed, and no environmentally sensitive areas, such as wetlands, are located on the site. No physical expansion to the building footprint is proposed. Additional parking will be provided on the site, and all drainage requirements will be required to be met by the proposed



parking expansion. The removal of open space to accommodate the parking expansion will be offset by the restoration of existing impervious surfaces to open space in the rear of the building. Furthermore, District performance standards will be met for noise, vibration, airborne emissions, glare, hazardous and radioactive materials, and wastewater.

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

The requested variance balances the regulations governing front yard setback requirements with the specific site conditions. The project site currently contains only eight parking spaces, whereas a total of 39 parking spaces are required to serve the existing and proposed use of the property. An additional 15 parking spaces are proposed in a compliant location within the southerly side yard, resulting in a total of 23 parking spaces. Sixteen additional spaces are proposed in the front yard due to the lack of practicable alternative locations to achieve a conforming parking layout. 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.*

Specific purposes of the NJMC regulations include providing sufficient space in appropriate locations for a variety of uses and ensuring that such uses are suitably sited and placed in order to relate buildings and uses to each other and to the environment so that aesthetics and use values are maximized. The proposal for the location of vehicular use areas within the required front yard setback will not substantially impair the intent and purpose of the regulations. Public safety will not be compromised, as adequate drive aisle width is provided to accommodate vehicle movements and concrete islands are proposed along West Side Avenue as a physical barrier to prevent vehicles from backing up into the roadway. The principal intent and purpose of setback regulations include the provision of sufficient light, air and open space to the subject property and adjoining properties. The intrusion into the front yard setback is due to proposed site improvements, and not due to the placement of structures. Therefore, the intent and purpose of the regulations will not be significantly impaired by the requested variance.

C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19A-8.2(c)1, which requires that a minimum six feet of landscaped open space shall be maintained as a buffer between buildings and vehicular use areas, whereas a four-foot-wide buffer is proposed.

The District Zoning Regulations at N.J.A.C. 19A-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 variance arises from conditions that are unique to the property in question and which are not ordinarily found in the same zone and were not created by actions of the property owner or the applicant.

The requested variance to permit a reduced landscaped building buffer arises from conditions that are unique to the site. The subject property is a developed site containing a building formerly utilized as a sewage treatment facility, and proposed to be used as a contractor's facility. The existing 38,662-square-foot building is set back 46.75 feet from West Side Avenue, whereas a minimum front yard setback of 35 feet is required within the Public Utilities zone. The applicant proposes to add additional parking spaces at the site to bring the property into compliance with the District parking requirements and to accommodate employee parking.

The location and configuration of the existing improvements on the site result in a unique situation where, in order to supply the number of required parking spaces on the site, parking is proposed within the required front yard along West Side Avenue. The proposed width of the landscaped building buffer results from the net difference between the distance between the existing building and the property line and the width of vehicular use area required to create a functional parking and circulation layout on the site given the particular site conditions in this location.

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

The granting of the requested variance to provide a four-foot-wide buffer will not adversely affect the rights of neighboring property owners. The property to the west across West Side Avenue is a PSE&G ROW containing electrical transmission towers and associated utility equipment, but is otherwise vacant. NBMUA facilities located to the north and south of proposed Lot 6.0401 will not be negatively impacted by the proposed reduction in the required building buffer. There are no residences located in the vicinity of the subject property.

iii. *The strict application of the provisions of the regulations from which a variance is requested will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner represented in the application.*

The strict application of the provisions of the regulation from which the variance is requested would result in peculiar and exceptional practical difficulties and undue hardship upon the property owner represented in the application.

The existing building on the site is set back 46.75 feet from West Side Avenue. District site improvement standards require that parking spaces have a minimum depth of 18 feet and drive aisles have a minimum dimension of 24 feet, for a total width of 42 feet. The remaining area between the proposed parking and the

northerly face of the building is occupied with curbing and a landscaped buffer with a minimum dimension of four feet.

iv. *The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.*

The requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. A reduced building buffer will allow the accommodation of a vehicular use area accommodating required parking on the site, which will promote the general welfare. The four-foot-wide building buffer proposed will continue to provide protection between parked vehicles and the adjacent building facade. Additionally, a reduced building buffer allows the configuration of parking spaces and circulation aisles to conform to the required dimensions, which promotes the public safety. Finally, the buffer area will be landscaped, which will promote area aesthetics.

v. *The variance desired will not have an adverse environmental impact.*

The granting of the requested variance to reduce the required building buffer from six feet to four feet will not result in substantial adverse environmental impacts. The site is completely developed, and no environmentally sensitive areas, such as wetlands, are located on the site. No physical expansion to the building footprint is proposed. The buffer area will be landscaped and will enhance area aesthetics, and existing impervious surfaces in the rear of the building will be restored to open space. Furthermore, District performance standards will be met for noise,

vibration, airborne emissions, glare, hazardous and radioactive materials, and wastewater.

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

In accordance with N.L.A.C. 19:4-8.2(c)1, a minimum of six feet of landscaped open space needs to be maintained as a buffer between buildings and vehicular use areas. The proposed buffer dimension of four feet is the result of the particular site conditions and the existing distance available between the building and the westerly property line where parking is proposed to be added. In balancing the regulations governing site improvement standards and the configuration of vehicular use areas, a reduced building buffer is a preferred planning alternative to a reduction in the dimension of parking spaces or circulation aisles. Therefore, the variance represents the minimum deviation from the regulations that will afford relief.

vii. *Granting the variance desired will not substantially impair the intent and purpose of these regulations and will not result in substantial detriment to the public good.*

The granting of the requested variance will not substantially impair the intent and purpose of these regulations and will not result in substantial detriment to the public good. The purpose of the required six-foot landscaped buffer is to provide a safe distance between vehicles and a structure, and to increase the aesthetics of a building. The full depth of the buffer cannot be accommodated

based upon the layout of the existing building and site improvements on the site. The proposed four-foot-wide buffer will continue to provide for vehicular protection at the site. However, the aesthetics of the property will not be compromised as the site will be landscaped in accordance with District regulations.

V. SUMMARY OF CONCLUSIONS


A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-5.108, which does not specifically list a contractor's yard or facility as a permitted use in the Public Utilities zone. The applicant is requesting a use variance to permit a contractor's yard or facility on proposed Lot 6.0401.

Based on the record in this matter, the use variance application to permit a contractor's yard or facility on proposed Lot 6.0401 is hereby recommended for


APPROVAL SUBJECT TO THE FOLLOWING CONDITIONS:

1. No zoning certificate shall be issued until the subdivision creating proposed Lot 6.0401 is approved, and proof of recording of the subdivision with the Hudson County Register is submitted to the NJSEA.
2. Any equipment, vehicles other than passenger vehicles, and materials associated with the contractor's facility use shall be stored within the existing structure and shall not be stored outdoors.

Conditional Approval 3/1/16  
Recommendation on Date  
Use Variance Request

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

Conditional Approval 3/1/16  
Recommendation on Date  
Use Variance Request

  
Ralph J. Marfa, Jr.  
Senior Vice President  
Legal & Regulatory Affairs

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.112(a)3i, which requires a front yard of 35 feet, whereas a minimum front yard setback of 0 feet to a new vehicular use area is proposed in the front yard along West Side Avenue.

Based on the record in this matter, the bulk variance application to permit a minimum front yard setback of 0 feet to a new vehicular use area in the front yard along West Side Avenue, is hereby recommended for APPROVAL SUBJECT TO THE FOLLOWING CONDITIONS:

1. The applicant shall obtain all required approvals from the Township of North Bergen for the construction of the proposed concrete curb islands within the West Side Avenue right-of-way.
2. The proposed concrete curb islands shall be aligned, where necessary, to match the existing curb line of West Side Avenue, subject to the approval of the Township of North Bergen.

CONDITIONAL APPROVAL 3/17/16  
Recommendation on \_\_\_\_\_ Date  
Bulk Variance Request Sara J. Sundell, P.E., P.F.P.  
Director of Land Use Management

Conditional Approval 3/17/16  
Recommendation on \_\_\_\_\_ Date  
Bulk Variance Request Ralph J. Marra, Jr.  
Senior Vice President  
Legal & Regulatory Affairs

C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.2(c)1, which requires that a minimum six feet of landscaped open space shall be maintained as a buffer between buildings and vehicular use areas, whereas a four-foot-wide buffer is proposed.

Based on the record in this matter, the bulk variance application to permit a four-foot-wide landscaped building buffer adjacent to the westerly building facade along West Side Avenue is hereby recommended for APPROVAL.

APPROVAL 3/17/16  
Recommendation on \_\_\_\_\_ Date  
Bulk Variance Request Sara J. Sundell, P.E., P.F.P.  
Director of Land Use Management

Approval 3/17/16  
Recommendation on \_\_\_\_\_ Date  
Bulk Variance Request Ralph J. Marra, Jr.  
Senior Vice President  
Legal & Regulatory Affairs

RESOLUTION 2016 - 06

**RESOLUTION AUTHORIZING THE ACQUISITION OF LAND ADJACENT TO  
THE JETS TRAINING FACILITY; AMENDMENT OF THE JETS TRAINING  
FACILITY GROUND LEASE AND DETERMINING OTHER MATTERS IN  
CONNECTION THEREWITH**

**WHEREAS**, pursuant to Public Law 1971, Chapter 137, codified at N.J.S.A. 5:10-1 *et seq.*, as thereafter amended and modified, the New Jersey Sports and Exposition Authority Law (the "**Sports Authority Law**"), the Legislature of the State of New Jersey established the Sports Authority to, inter alia, promote athletic contests, spectator sporting events, trade shows and other expositions and to carry out projects as set forth in the Sports Authority Law, including, but not limited to, the undertaking of projects as described herein; and

**WHEREAS**, the Sports Authority owns fee title to certain real property known as Block 1401, Lot 1.01 on the tax maps of Florham Park, Morris County, New Jersey (the "**Premises**"); and

**WHEREAS**, on February 9, 2007, the Sports Authority entered into a Lease and Development Agreement (the "**Lease**") with Florham Park Development LLC (the "**Tenant**"), an affiliate of the New York Jets sports team (the "**Team**"), pursuant to which Tenant would develop and use the Premises as a National Football League franchise practice facility (the "**Facility**") for the Team; and

**WHEREAS**, Tenant states that in order to accommodate the Team's training camp practices and other events at the existing Premises, the Team requires an expansion of the site in particular, to add additional parking and buffer areas; and

**WHEREAS**, pursuant to Section 10.17 of the Lease, the Sports Authority agreed to cooperate in good faith with Tenant in all reasonable requests relating to the zoning, use, development, occupancy, ownership and operation of certain land adjacent to the Premises that Tenant currently leases from Rock-GW, LLC (the "**Contiguous Parcel**"); and

**WHEREAS**, in order to meet the increased needs of the Team for additional parking and buffer areas, Tenant desires to add the Contiguous Parcel together with other land surrounding the Premises owned by Rock-GW, LLC (in total approximating 75 acres) (as more fully described on Exhibit A attached hereto, the "**Additional Land**") to the area demised to Tenant and used by the Team in accordance with the Lease; and

**WHEREAS**, any proposal to enlarge the Facility is considered a major modification of the Approved Facility Plan and requires the Sports Authority's approval under the Lease; and

**WHEREAS**, Tenant has requested that the Sports Authority approve the expansion of the Premises by adding the Additional Land (the "**Major Modification**"); and

**WHEREAS**, Tenant and Rock-GW, LLC have requested that the Sports Authority acquire the Additional Land by way of condemnation;

**WHEREAS**, the Sports Authority is authorized by N.J.S.A. 5:10-1 et seq. to acquire real property, whether a fee simple absolute or lesser interest, as it determines is required for public use, by condemnation in the manner provided by the Eminent Domain Act of 1971, N.J.S.A. 20:3-1, et seq.; and

**WHEREAS**, the Sports Authority has determined that it is desirable to acquire the Additional Land by way of condemnation, subject to existing easements and restrictions of record; and

**WHEREAS**, the Sports Authority desires to revise and amend the Lease to, amongst other things, reflect the no cost/no risk arrangements regarding the Additional Land agreed to by Tenant, and, simultaneously with the Sports Authority's acquisition of the Additional Land, to add the Additional Land to the area demised to Tenant under the Lease; and

**WHEREAS**, Landlord wishes to approve the Major Modification to the Approved Facility Plan, acquire the Additional Land, and lease the Additional Land to Tenant.

**NOW, THEREFORE, BE IT:**

**RESOLVED**, that the Major Modification to the Approved Facility Plan to expand the Facility to include the Additional Land be, and hereby is, approved; and be it further

**RESOLVED**, that the Sports Authority is hereby authorized, instructed, and directed to amend the Lease to reflect the no cost/no risk arrangements regarding the Additional Land agreed to by Tenant, and on acquiring the Additional Land, as is necessary to include the Additional Land as part of the Premises demised to Tenant; and be it further

**RESOLVED**, that the acquisition by the Sports Authority of the Additional Land is found and determined to be in the public interest and for a public purpose; and be it further

**RESOLVED**, that the Sports Authority is hereby authorized, instructed, and directed to acquire all right title and interest of the current owner of the Additional Land subject to all existing easements and restrictions of record, including the authority to negotiate the acquisition, and to institute or cause to be instituted eminent domain

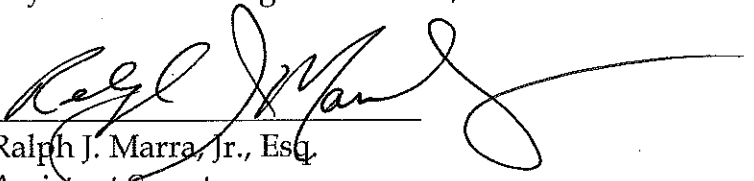
proceedings as may be necessary or desirable to accomplish the acquisition described herein; and be it further

**RESOLVED**, that the documents, instruments, court pleadings and certificates contemplated as necessary and/or advisable in order to confirm, effectuate, implement, memorialize, consummate, amend and/or perfect the transactions contemplated in connection with the acquisition of the Additional Land, including, but not limited to, the draft First Amendment to Ground Lease the form of which is attached hereto as Exhibit A (the "**Amendment**"), and all other contracts, agreements, certificates, instruments, permits and other documents which are to be entered into pursuant to the Additional Land acquisition and the Lease (the "**Related Agreements**") be and hereby are authorized and approved; and be it further

**RESOLVED**, that the President of the Sports Authority or any other officer authorized by the President of the Sports Authority be, and hereby are, authorized to enter into the Amendment and the Related Agreements with such reasonable or necessary changes thereto as such officer shall approve in their sole discretion, such approval to be conclusively evidenced by the execution and delivery thereof; and be it further

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

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 March 17, 2016.

  
\_\_\_\_\_  
Ralph J. Marra, Jr., Esq.  
Assistant Secretary



## FIRST AMENDMENT TO LEASE AND DEVELOPMENT AGREEMENT

This First Amendment ("Amendment") to Lease and Development Agreement, dated as of \_\_\_\_\_, 2016, is made and entered into between NEW JERSEY SPORTS AND EXPOSITION AUTHORITY, a public body corporate and politic with corporate succession ("Landlord"), having an address at One DeKorte Park Plaza, P.O. Box 640, Lyndhurst, New Jersey 07071, as landlord, and FLORHAM PARK DEVELOPMENT LLC, a New Jersey limited liability company (together with its successors and assigns, "Tenant"), having office at 1 Jets Drive, Florham Park, New Jersey 07932, as tenant.

WHEREAS, on February 9, 2007, Landlord and Tenant entered into the Lease and Development Agreement (the "Lease") for premises known as Block 1401, Lot 1.01 on the tax maps of Florham Park, Morris County, New Jersey ("Existing Leased Premises") for the development and use of a professional National Football League franchise practice facility for the New York Jets ("Team"); and

WHEREAS, Tenant states that in order to accommodate the Team's training camp practices and other events at the Existing Leased Premises, the Team requires an expansion of the site, in particular to add additional parking and buffer areas; and

WHEREAS, pursuant to Section 10.17 of the Lease, Landlord agreed to cooperate in good faith with Tenant in all reasonable requests of Tenant relating to the zoning, use, development, occupancy, ownership and operation of the Contiguous Parcel which Tenant currently leases from Rock-GW, LLC ("Rock-GW"); and

WHEREAS, Tenant desires to add the Contiguous Parcel together with other land surrounding the Premises owned by Rock-GW (in total approximating 75 acres) (as more fully described on Exhibit A attached hereto, the "Additional Parcel") to the area demised to Tenant and used by the Team in accordance with the Lease; and

WHEREAS, any proposal to "enlarge the Facility" constitutes a "Major Modification" under the Lease and requires Landlord's approval; and

WHEREAS, Tenant has requested that Landlord approve a Major Modification of the Approved Facility Plan to permit the expansion of the existing Premises by adding the Additional Parcel (the "Major Modification"); and

WHEREAS, Landlord is authorized by N.J.S.A. 5:10-1 et seq. to acquire real property, whether a fee simple absolute or lesser interest, as it determines is required for public use, by condemnation in the manner provided by the Eminent Domain Act of 1971, N.J.S.A. 20:3-1, et seq.; and

WHEREAS, pursuant to Resolution 2016-XX Landlord approved the Major Modification and the acquisition of the Additional Parcel by way of condemnation; and

WHEREAS, Landlord and Tenant have agreed to amend the Lease upon the terms set forth in this Amendment.

NOW, THEREFORE, it is agreed as follows:

1. Effective Date. This Amendment shall take effect on the date hereof save that Section 5 below shall only be effective on and from the date that Landlord acquires the fee simple estate in the Additional Parcel ("Effective Date").

2. Definitions; Effect of Amendment.

(a) Capitalized terms used but not otherwise defined herein shall have the meaning given to such terms in the Lease.

(b) This First Amendment is an amendment to the Lease. Unless the context of this First Amendment otherwise requires, the Lease and this First Amendment shall be read together and shall have effect as if the provisions of the Lease and this First Amendment were contained in one agreement. In the event of a conflict between the Lease and this First Amendment, this First Amendment shall control. All references in the Lease to "this Lease", "hereto", "hereof", "hereunder" or words of like import referring to the Lease shall mean the Lease as amended by this First Amendment.

3. Acquisition of Additional Parcel.

(a) Landlord agrees to use its commercially reasonable efforts, and to cooperate in good faith with Tenant in all reasonable requests of Tenant, to acquire the Additional Parcel by way of condemnation.

(b) No later than two (2) business days prior to the scheduled acquisition of the Additional Parcel by Landlord, Tenant shall provide Landlord with evidence that all amounts necessary to effectuate the transfer of the Additional Parcel to Landlord have been paid or will be paid upon the Landlord's acquisition of the Additional Parcel.

4. No Cost/No Risk to Landlord.

(a) The Lease is hereby amended by adding a new Section 10.18 as follows:

"10.18 Acquisition of Additional Parcel. In consideration of Landlord agreeing to use its commercially reasonable efforts to acquire the Additional Parcel, Tenant:

(a) covenants and agrees to pay any and all Landlord costs, fees and expenses (including reasonable attorneys' fees and disbursements) related to the Additional Parcel, including, but not limited to (i) any incurred by Landlord in connection with Landlord's acquisition, subdivision or lease of the Additional Parcel, (ii) additional Property Taxes or Impositions in excess of those set forth in the PILOT Agreement requested or asserted by the Borough or otherwise as a result of Landlord's acquisition of the Additional Parcel and/or the incorporation of the Additional

Parcel into the Premises, (iii) any arising from Tenant's use or planned use of the Additional Parcel. Any costs, fees and expenses incurred by Landlord under this Section 10.18 shall constitute Additional Rent under the Lease;

(b) covenants and agrees, at its sole cost and expense, to pay, protect, indemnify, defend and hold harmless the Indemnified Parties from and against any and all liabilities, losses, damages, costs, expenses (including attorneys' fees and court costs), causes of action, suits, claims, demands or judgments of any nature, suffered, sustained, or required to be paid by any Indemnified Party, arising out of, resulting from, or in any way connected with the Additional Parcel, including without limitation, any claim for additional Property Taxes or Impositions for or relating to the Additional Parcel, any claim that Hazardous Materials are present on the Additional Parcel or there has been a violation of any Environmental Law on or relating to the Additional Parcel, and any claim arising from Tenant's use or planned use of the Additional Parcel, except in each case to the extent any of the foregoing arise out of the gross negligence or willful misconduct of any Indemnified Party (as proven by a final, non-appealable judgment of a court of competent jurisdiction);

(c) acknowledges, agrees and accepts the Additional Parcel in "as-is" condition, without any representations or warranties as to the condition of the Additional Parcel, its suitability for Tenant's intended purpose or any other subject;

(d) agrees that upon a Tenant Event of Default of this Section 10.18 only, Tenant's use and possession of the Additional Parcel shall cease until the Tenant Event of Default under this Section 10.18 is cured, and Landlord shall be entitled to injunctive relief to enjoin such use and possession without any requirement that Landlord post a bond or other security in connection with such injunctive relief;

(e) confirms that the Team intends to relocate the 2016 summer Team training camp and practice sessions to the Premises and Tenant shall assist and cooperate with the Team in conducting the training camp and practice sessions at the Premises for the 2016 season;

(f) shall assist and cooperate with the Team in the evaluation of the location of training camp and practice sessions for future seasons and shall assist and cooperate with the Team in the implementation of training camp and practice sessions for future

seasons at the Premises if Team selects the Premises as the location for such future activities;

(g) agrees that the limitations on liability contained in Section 10.7(a) of the Lease shall not apply to this Section 10.18; provided however, for purposes of clarification, it is acknowledged that Section 10.7(b) and (c) apply to this Section 10.18 and accordingly, there shall absolutely be no personal liability on the part of any members or partners of the Tenant;

(h) agrees that nothing in the Lease limits a judgment creditor's rights, including pursuant to *N.J.S.A. 2A:16 et seq.* and/or *N.J.S.A. 2A:17 et seq.*;

(i) agrees that the Arbitration process set forth in Article 9 of the Lease shall not apply to, and the term Arbitration Claim shall exclude, any claim arising out of a breach or alleged breach of this Section 10.18; and

(j) agrees that in the event of a conflict between any provision of the Lease and this Section 10.18, this Section 10.18 shall control."

5. Further Amendments to the Lease. From and after the Effective Date, the Additional Parcel, as more particularly described on Exhibit A attached hereto and made a part hereof, is hereby added to, included as a part of and incorporated into the Premises and the Land Parcel. From and after the Effective Date, the term "Land Parcel" and "Premises" as used in the Lease shall be deemed to include the Additional Parcel.

6. Representations and Warranties. The parties hereby represent and warrant to the other that the execution and delivery of this First Amendment is within its organizational powers and has been duly authorized by all necessary organization action on its part.

7. Full Force and Effect. Except as expressly modified by this First Amendment, all of the terms and conditions of the Lease shall continue in full force and effect, and all parties hereto shall be entitled to the benefits thereof.

8. Counterparts. This First Amendment may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and all of which when taken together shall constitute one and the same agreement.

9. Governing Law. This First Amendment, including the validity thereof and the rights and obligations of the parties hereunder, shall be construed in accordance with and governed by the laws of the State of New Jersey.

*[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE TO FOLLOW]*

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to Lease and Development Agreement to be executed as of the date first above written.

Landlord: NEW JERSEY SPORTS AND EXPOSITION  
AUTHORITY

By: \_\_\_\_\_  
Name:  
Title:

Tenant: FLORHAM PARK DEVELOPMENT LLC

By: \_\_\_\_\_  
Name:  
Title:

Acknowledgments

STATE OF \_\_\_\_\_

:

COUNTY OF \_\_\_\_\_

I CERTIFY that on \_\_\_\_\_, 2016, \_\_\_\_\_, \_\_\_\_\_ of a public body corporate and politic with corporate succession, personally came before me and acknowledged under oath, to my satisfaction that this person (or if more than one (1) person, each person):

- (a) was the maker of this instrument;
- (b) was authorized to and did execute this instrument as the Chairman of a public body corporate and politic with corporate succession, the entity named in this instrument; and
- (c) execute this instrument as the act of the entity.

\_\_\_\_\_  
 Notary Public  
 My commission expires:

STATE OF \_\_\_\_\_

:

COUNTY OF \_\_\_\_\_

I CERTIFY that on \_\_\_\_\_, 2016, \_\_\_\_\_, \_\_\_\_\_ of a New Jersey limited liability company, personally came before me and acknowledged under oath, to my satisfaction that this person (or if more than one (1) person, each person):

- (a) was the maker of this instrument;
- (b) was authorized to and did execute this instrument as the Chairman of a public body corporate and politic with corporate succession, the entity named in this instrument; and
- (c) execute this instrument as the act of the entity.

\_\_\_\_\_  
 Notary Public  
 My commission expires:

**Exhibit A**

Legal Description of Additional Parcel

[Attached]

**RESOLUTION 2016-07**

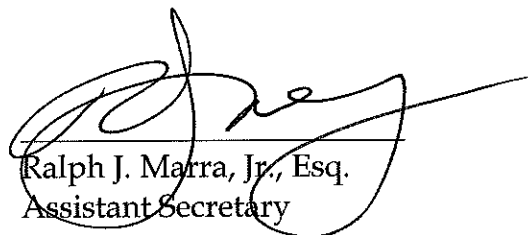
**RESOLUTION REGARDING ACCEPTANCE OF 2014 AUDIT**

**WHEREAS**, on July 16, 2015, the New Jersey Sports and Exposition Authority ("Authority") Board of Commissioners (the "Board") approved a three-year contract for Audit Services to be provided by PFK O'Connor Davies; and

**WHEREAS**, PFK O'Connor Davies provided to the Board's Audit Committee a final 2014 Audit report, dated March 10, 2016, which is unmodified; the Audit Committee, after review of the Audit and discussions with PFK O'Connor Davies, accepted the 2014 Audit; and the Audit Committee then referred the Audit to the full Board.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board hereby accepts the 2014 Audit as prepared by PFK O'Connor Davies and accepted by the Audit Committee.

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 March 17, 2016.

  
Ralph J. Marra, Jr., Esq.  
Assistant Secretary



**RESOLUTION 2016-08**

**RESOLUTION AUTHORIZING THE PRESIDENT  
AND CHIEF EXECUTIVE OFFICER  
TO ENTER INTO A CONTRACT FOR  
PARTIAL RE-ROOFING AND HVAC REPLACEMENT FOR THE  
ADMINISTRATION BUILDING AND ENVIRONMENT CENTER**

**WHEREAS**, the New Jersey Sports and Exposition Authority requires Partial Re-Roofing and HVAC Replacement for the Administration Building and Environment Center at the Lyndhurst campus; and

**WHEREAS**, this work was publicly bid, with six (6) bids being received on March 8, 2016; and

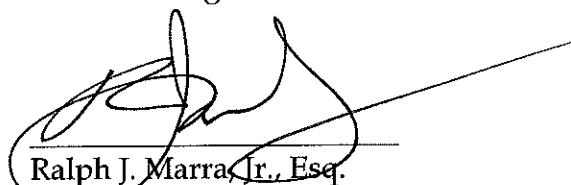
**WHEREAS**, after staff review, five (5) bids were deemed responsive; and

**WHEREAS**, Chris Andersen Roofing was the lowest qualified bidder, with a bid in the amount of \$261,000; and

**WHEREAS**, staff review of the bid indicates that the bid is reasonable and proper and in the best interest of the NJSEA, as outlined in the attached memorandum.

**NOW, THEREFORE, BE IT RESOLVED** by the New Jersey Sports and Exposition Authority that the President and Chief Executive Officer is hereby authorized to enter into a contract with Chris Andersen Roofing at a price not to exceed \$261,000.

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 March 17, 2016.

  
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Ralph J. Marra, Jr., Esq.  
Assistant Secretary



*MEMORANDUM*

To: NJSEA Commissioners and Wayne Hasenbalg, President and CEO  
From: John J. Duffy Date: March 17, 2016  
RE: Contract: BG-0316 - Partial Re-Roofing and HVAC Replacement for the Administration Building and Environment Center

This resolution authorizes the President and Chief Executive Officer to enter into a contract as described in the bid documents issued March 2016. Under the contract, the work shall include all labor, equipment, materials, tools, and services needed to Re-Roof the Administration and Environment Center buildings and the installation of an HVAC unit. All the work is located within Richard W. DeKorte Park in Lyndhurst.

During the bid period, ten contract documents were purchased. The NJSEA received a total of six bid responses. After review by staff, five bidders were deemed qualified.

The lowest qualified bidder was Chris Andersen Roofing with a bid of \$261,000. Review of the bid indicates it is complete and in order.

Therefore, we submit for your consideration and approval, a resolution authorizing the President and Chief Executive Officer to enter into a contract with Chris Andersen Roofing for the Partial Re-Roofing and HVAC Replacement for the Administration Building and Environment Center Project at a cost not to exceed \$261,000.

RESOLUTION 2016-09

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

**BE IT RESOLVED** by the New Jersey Sports and Exposition authority ("Authority") that it shall conduct a meeting to which the general public shall not be admitted to discuss personnel matters, the status of pending and anticipated litigation and other matters within the attorney client privilege, contract negotiations, and, if necessary, to act upon pending contracts.

**BE IT FURTHER RESOLVED** that the time when such discussions may be disclosed to the public shall be when and as such disclosure may be made without adversely affecting the Authority's pending and/or anticipated legal, personnel, contractual matters and other matters within the exceptions provided for by the statute.

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 March 17, 2016.

  
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Ralph J. Marra, Jr., Esq.  
Assistant Secretary

**RESOLUTION 2016-10**

**RESOLUTION AUTHORIZING ACTION  
REGARDING THE KEEGAN LANDFILL**

**WHEREAS**, the New Jersey Sports and Exposition Authority (the "Authority"), acting as the New Jersey Meadowlands Commission ("NJMC") in 2005 entered into a lease with the Town of Kearny ("Kearny") for the remediation and operation of a Kearny Landfill known as the Keegan Landfill (as amended in 2006, "the Lease"); and

**WHEREAS**, the Authority has successfully operated Keegan since 2009, providing the region with economical disposal of waste and further providing a vital service in the aftermath of Superstorm Sandy by serving as the sole North Jersey disposal site for storm-damaged debris; and

**WHEREAS**, the Authority and Kearny entered into extensive negotiations to extend the Lease for approximately four years, which negotiations were unilaterally terminated by Kearny and thereafter Kearny rejected repeated requests from the Authority to extend the landfill lease; and

**WHEREAS**, the Authority is authorized to use the Eminent Domain Act of 1971 to acquire property for any of its authorized purposes; and

**WHEREAS**, among the Authority's authorized purposes is the power to provide solid waste disposal and recycling facilities for the treatment of solid waste and to provide for extension of landfills or other facilities for the disposal of solid wastes.

**NOW, THEREFORE, BE IT:**

**RESOLVED** that the Board of Commissioners finds that continued operation of the Keegan Landfill serves a vital public function and is wholly within the public interest; and be it further

**RESOLVED** that the President and Chief Executive Officer is authorized to take any and all actions to assure continued operation of the Keegan Landfill, including condemnation of the landfill site; and be it further

**RESOLVED** that, should a condemnation action be commenced, the President and Chief Executive Officer is authorized to make any and all expenditures necessary to effectuate such action.

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 March 17, 2016.

  
Ralph J. Marra, Jr., Esq.  
Assistant Secretary