

Board Meeting

Thursday, March 21, 2019

10:00 a.m.



**AGENDA
REGULAR SESSION**

Thursday, March 21, 2019 - 10:00 a.m.
Two DeKorte Park Plaza, Lyndhurst, NJ

I. **PLEDGE OF ALLEGIANCE**

II. **OPENING STATEMENT**

III. **ROLL CALL**

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

- Approval of Regular Session Meeting Minutes of January 17, 2019.

V. **PUBLIC PARTICIPATION ON RESOLUTIONS**

VI. **APPROVALS** – (Action)

Cash Disbursements Approval and/or Ratification of Cash Disbursements over \$100,000 for January and February 2019.

Resolution 2019-05 Consideration of a Resolution Authorizing Execution of an Administrative Consent Order between NJSEA and NJDEP to Pay Penalties Related to NJDEP's Findings of Violations at Keegan Landfill Including, Among Others, Emission of Hydrogen Sulfide Gas at Levels Above Established NJDEP Standards and Ordering NJSEA to Take Remedial Action to Achieve Compliance, Including the Control or Elimination of Emission Exceedances.

Resolution 2019-06 Consideration of a Resolution Issuing a Decision on the Suitability Recommendation as Required by the *NJSEA Interim Policies Governing Affordable Housing Development in the Meadowlands District* – File No. 18-442, 1099 Wall Street Venture, LLC/New Building (Hotel) & Variances – Block 228, Lots 1.01 & 1.02 in Lyndhurst.

Resolution 2019-07 Consideration of a Resolution Designating the Development of the Mori Tract – Block 227, Lot 9 in Secaucus as a Vital project Within the Hackensack Meadowlands District – File No. SP-733.

Resolution 2019-08 Consideration of a Resolution Issuing a Decision on the Suitability Recommendation as Required by the *NJSEA Interim Policies Governing Affordable Housing Development in the Meadowlands District* – File No. 19-081, HCIA/Morris Kearny Associates – New Buildings, Block 287, Lots 32.01, 32.02, 46, 47, 47.01, 54, 55, 56, 60, 61.02, 61.03, 62, 62.01, 63, 70, 70.01, 71, 71.01, 73, 79 and 80 in the Town of Kearny

Resolution 2019-09 Consideration of a Resolution Authorizing the NJSEA and its Staff to File a Notice of Proposal and Hold a Public Hearing for Proposed Changes to the Hackensack Meadowlands District Flood Plain Management Regulations and to Adopt FEMA's Effective Flood Insurance Study and Firm Mapping for the Hackensack Meadowlands District – File No. SP-721.

VII. **CONTRACTS/AWARDS**

Resolution 2019-10 Consideration of a Resolution Authorizing the Purchase of a 2019 Ford RP-90 ES MEDEX Type III Ambulance.

VIII. **PUBLIC PARTICIPATION**

IX. **EXECUTIVE SESSION**

Resolution 2019-11 Consideration of a Resolution Authorizing the New Jersey Sports and Exposition Authority to conduct a meeting, to which the general public shall not be admitted for the purposes of discussing legal matters, personnel matters and contract negotiations.

X. **PUBLIC PARTICIPATION ON RESOLUTION 2019-12**

XI. **APPROVAL**

Resolution 2019-12 Consideration of a Resolution Authorizing the Execution of a Settlement Agreement by and Between North Arlington-Lyndhurst Joint Sewer Meeting and NJSEA

XII. **MOTION TO ADJOURN**

MINUTES



REGULAR SESSION BOARD MEETING

DATE: January 17, 2019
TIME: 10:00 a.m.
PLACE: 2 DeKorte Park Plaza - Lyndhurst, NJ
RE: **REGULAR SESSION MEETING MINUTES**

Members in Attendance:

John Ballantyne, Chairman
Joseph Buckelew, Vice Chairman (via phone)
Vincent Prieto, President and CEO
Robert J. Dowd, Member
Armando Fontoura, Member
Michael H. Gluck, Esq., Member
Michael Griffin, NJ State Treasurer's Representative (via phone)
George Kolber, Member (via phone)
Steven Plofker, Member
Andrew Scala, Member
Anthony Scardino, Member
Robert Yudin, Member

Absent:

Michael Gonnelli, Member

Also Attending:

Frank Leanza, Senior Vice President/ Chief of Legal and Regulatory Affairs
Christine Sanz, Senior Vice President/COO
Adam Levy, Vice President of Legal & Regulatory Affairs
John Yarenis, Director of Finance/CFO
Sara Sundell, Director of Land Use Management and Chief Engineer
Steven Cattuna, Chief of Staff
Lisa LeBoeuf, Senior Legal Specialist
Lauren LaRusso, Assistant Counsel, Governor's Authorities Unit
Christine Ferrante, Executive Assistant/Paralegal

Chairman Ballantyne called the meeting to order.

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

IV. APPROVAL OF MINUTES

Chairman Ballantyne presented the minutes of the Regular Session Board Meeting held on December 13, 2018.

Upon motion made by Commissioner Plofker and seconded by Commissioner Fontoura, the minutes of the Regular Session Board Meeting held on December 13, 2018 were unanimously approved.

V. PUBLIC PARTICIPATING ON RESOLUTIONS - None

VI. APPROVALS

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

Chairman Ballantyne presented the report of cash disbursements over \$100,000 and Professional Invoices for the month of December 2018.

Upon motion by Commissioner Fontoura and seconded by Commissioner Gluck, the cash disbursements over \$100,000 for the month of December 2018 were unanimously approved.

Resolution 2019-01 Resolution Adopting the 2019 New Jersey Sports and Exposition Authority Budget.

Mr. Yarenis explained that before the board is a resolution to approve the NJSEA 2019 calendar year budget. He reported that with this budget, the agency is able to continue current operations, address necessary capital spending and remain within the \$15 million appropriation from the State of New Jersey. Mr. Yarenis noted that the budget package was reviewed by members of the Executive Committee earlier this week.

Chairman Ballantyne presented Resolution 2019-01. Upon motion made by Commissioner Kolber and seconded by Commissioner Scardino Resolution 2019-01 was unanimously approved by a vote of 12-0.

Resolution 2019-02 Resolution Certifying the Meadowlands Adjustment Payments for 2019

Mr. Yarenis explained that before the board is a resolution to certify the 2019 Meadowlands Adjustment Payment Calculation for the 2019 calendar year. He reported that the schedule has been prepared in accordance with NJ statute. Mr. Yarenis noted that the statute requires the calculations be certified by the board by February 1. Mr. Yarenis stated that the Tax Sharing package was reviewed by the accounting firm of Mercadien, LLC and certified accurate. He also stated that the package was reviewed with members of the Executive Committee. Mr. Yarenis stated that passage of this resolution will certify the calculations and that notices will be sent to the impacted towns with the calculations.

Chairman Ballantyne presented Resolution 2019-02. Upon motion made by Commissioner Gluck and seconded by Commissioner Scala Resolution 2019-02 was unanimously approved by a vote of 12-0.

Resolution 2019-03 Resolution Authorizing the Forgiveness of \$100,000 Advanced by the NJSEA to Fund the Former New Jersey Hall of Fame.

Mr. Leanza explained that the New Jersey Hall of Fame was part of the NJSEA until 2017 when it was dissolved and made an independent entity. Mr. Leanza further explained that the NJSEA previously advanced the New Jersey Hall of Fame \$100,000 so that it could commence its statutory functions. Mr. Leanza stated that this was on the books as a loan. He noted that NJSEA never anticipated this to be repaid nor was there any interest accrued. Mr. Leanza stated that this resolution would clear up the books for both the Hall of Fame and NJSEA.

Chairman Ballantyne presented Resolution 2019-03. Upon motion made by Commissioner Scala and seconded by Commissioner Scardino Resolution 2019-03 was approved by a vote of 10-0 with Commissioner Plofker and Vice Chairman Buckelew recused.

Roll Call – Resolution 2019-03

John Ballantyne - Yes
Joseph Buckelew - Recuse
Vincent Prieto – Yes
Robert J. Dowd - Yes
Armando Fontoura - Yes
Michael H. Gluck - Yes
Michael Griffin - Yes
George Kolber - Yes
Steven Plofker - Recuse
Andrew Scala - Yes
Anthony Scardino - Yes
Robert Yudin - Yes

VII. PUBLIC PARTICIPATION

- Don Evanson, Secaucus resident. – spoke about the tax sharing certification. Mr. Evanson asked about the shift from towns paying to payment coming from the hotel occupancy fee. President Prieto explained the calculation has not changed and that NJSEA is still the vehicle that distributes the funds. He also explained that towns are no longer payers and that funds do come from the hotel occupancy fee to Treasury. He also explained that the formula needs to be certified every year based on the formula as it is a moving amount. President Prieto noted that in August the original legislation was corrected to comprise all the hotels in each municipality in the District.

Chairman Ballantyne spoke of upcoming events at the NJSEA:

- NJSEA-Bergen Audubon Society Superbird Sunday Nature Walk – to be held on February 3 from 10:00 a.m. to noon at DeKorte Park.
- NJSEA Total Lunar Eclipse Viewing Event at the McDowell Observatory. The event is open to the public for free viewing on Sunday, January 20 beginning at 10:15 p.m. and ending at 1:00 a.m. The Chairman noted that in the event of inclement weather, a notice will be posted on the website and blog.

IX. EXECUTIVE SESSION

Chairman Ballantyne stated a need for the Board to enter into Executive Session to discuss contractual matters, personnel matters and litigation matters.

Resolution 2019-04 Resolution Authorizing the NJSEA to Conduct a Meeting to which the General Public Shall Not Be Admitted.

Chairman Ballantyne presented Resolution 2019-04. Upon motion made by Commissioner Scardino and seconded by Commissioner Fontoura Resolution 2019-04 was approved by a vote of 12-0.

Returned to open session at 10:20 a.m.

IX. MOTION TO ADJOURN

With no further business, motion to adjourn the meeting was made by Commissioner Plofker and second by Commissioner Scardino with all in favor.

Meeting adjourned at 10:25 a.m.

I certify that on information and belief this is a true and accurate transcript of the Minutes of the Regular Session of the New Jersey Sports and Exposition Authority Board Meeting held on January 17, 2019.



Christine Sanz
Assistant Secretary

January 17, 2019

Commissioner	Roll Call	2019-01	2019-02	2019-03	2019-04
Ballantyne, Chairman	P	Y	Y	R	Y
Buckelew, Vice Chairman	P (via phone)	Y	Y	Y	Y
Prieto	P	Y	Y	Y	Y
Dowd	P	Y	Y	Y	Y
Fontoura	P	Y	Y	Y	Y
Gluck	P	Y	Y	Y	Y
Gonnelli	--	--	--	--	--
Kolber	P (via phone)	Y	Y	Y	Y
Plofker	P	Y	Y	R	Y
Scala	P	Y	Y	Y	Y
Scardino	P	Y	Y	Y	Y
Yudin	P	Y	Y	Y	Y
Treasury Rep Griffin	P (via phone)	Y	Y	Y	Y

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

APPROVALS



CASH DISBURSEMENTS
\$100,000 OR MORE
JANUARY 2019

EAST RUTHERFORD - SPORTS COMPLEX

	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
BOROUGH OF EAST RUTHERFORD	1,964,656.73	I	PAYMENT IN LIEU OF TAXES: 1ST QUARTER 2019
NEW JERSEY STATE POLICE	776,366.15	A/L	OVERTIME & MISCELLANEOUS CHARGES: OCT 2018 - DEC 2018
GIBBONS	102,937.50	A	LEGAL SERVICES - AUTHORITY TRANSACTIONS COUNSEL: NOV 2018
NRG BUSINESS SOLUTIONS	433,506.72	J/L	ELECTRICITY CHARGES: DEC 2018
PUBLIC SERVICE ELECTRIC & GAS COMPANY	131,179.37	J/L	ELECTRIC TRANSMISSION: DEC 2018
SPORTS ARENA EMPLOYEES RETIREMENT FUND LOCAL 137	306,598.02	A	PENSION WITHDRAWAL LIABILITY PAYMENT: AUG 2018 - OCT 2018
STATE OF NEW JERSEY TREASURY DEPARTMENT	375,554.44	A	WORKERS' COMPENSATION CLAIMS: 2018 2ND QTR
EAST RUTHERFORD - SC TOTAL	<u>4,090,798.93</u>		

LYNDHURST

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
KEARNY, TOWN OF	303,819.94	I	KEEGAN LANDFILL HOST COMMUNITY: DEC 2018 AND 2017 TAX SHARING
PHILADELPHIA INSURANCE COMPANIES	271,082.00	A	ENTERTAINMENT INSURANCE PACKAGE - GL, AUTO, INLAND, AND MARINE POLICIES: JAN 2019 - DEC 2019
WASTE MANAGEMENT OF NEW JERSEY	459,903.95	A	OPERATIONS CONTRACT - KEEGAN LANDFILL: DEC 2018
WILLIS OF PENNSYLVANIA, INC.	743,023.12	A	COMMERCIAL PROPERTIES INSURANCE, TERRORISM POLICY, BROKERAGE FEES, CRIME & FIDUCIARY POLICIES: JAN 2019 - DEC 2019
LYNDHURST TOTAL	<u>1,777,829.01</u>		

MONMOUTH PARK RACETRACK

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
BOROUGH OF OCEANPORT	486,746.25	I	REAL ESTATE TAXES: 1ST QTR 2019
MONMOUTH PARK RACETRACK TOTAL	<u>486,746.25</u>		



CASH DISBURSEMENTS
\$100,000 OR MORE
FEBRUARY 2019

EAST RUTHERFORD - SPORTS COMPLEX

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
GIBBONS P.C.	128,420.50	A	LEGAL SERVICES - AUTHORITY TRANSACTIONS COUNSEL: DEC 2018 - JAN 2019
NEW JERSEY STATE POLICE	562,308.57	A/L	SALARIES, FRINGE, OVERTIME, AND MISCELLANEOUS CHARGES: DEC 2018 - JAN 2019
NRG BUSINESS SOLUTIONS	465,412.76	J/L	ELECTRICITY CHARGES: JAN 2019
PUBLIC SERVICE ELECTRIC & GAS COMPANY	160,495.30	J/L	ELECTRIC TRANSMISSION: JAN 2019
EAST RUTHERFORD - SC TOTAL	<u>1,316,637.13</u>		

LYNDHURST

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
LYNDHURST, TOWNSHIP OF	175,000.00	I	PAYMENT IN LIEU OF TAXES FOR 2019
PHILADELPHIA INSURANCE COMPANIES	134,803.00	A	ENTERTAINMENT INSURANCE PACKAGE - GL, AUTO, INLAND, AND MARINE POLICIES: JAN 2019 - DEC 2019
RAMAPO COLLEGE FOUNDATION	275,000.00	A	MEC PROGRAMS INITIAL FUNDING FOR 2019
WASTE MANAGEMENT OF NEW JERSEY	413,440.89	A	OPERATIONS CONTRACT - KEEGAN LANDFILL: JAN 2019
LYNDHURST TOTAL	<u>998,243.89</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	PRESIDENT/CEO APPROVAL
I	STATUTORY PAYMENT
J	UTILITIES
K	LOWEST PROPOSAL
L	REIMBURSABLE
M	OUTSTANDING PROFESSIONAL INVOICES APPROVED AT MONTHLY BOARD MEETING
N	PURCHASES ON BASIS OF EXIGENCY
*	PURCHASES DIRECT FROM SOURCE
	EXPENDITURE TO BE CHARGED TO MAINTENANCE RESERVE FUND

RESOLUTION 2019-05

**RESOLUTION AUTHORIZING THE PRESIDENT AND CEO TO EXECUTE
AN ADMINISTRATIVE CONSENT ORDER WITH THE NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION REGARDING
HYDROGEN SULFIDE EMISSIONS AT THE KEEGAN LANDFILL**

WHEREAS, the New Jersey Department of Environmental Protection (NJDEP) has performed a compliance investigation of the Keegan Landfill, which investigation determined that the New Jersey Sports and Exposition Authority (NJSEA), on March 1, 2019, emitted hydrogen sulfide from the Keegan Landfill in a concentration that was in violation of the regulations promulgated pursuant to the Air Pollution Control Act; and

WHEREAS, the New Jersey Sports and Exposition accepts the NJDEP's findings, has agreed to waive its right to request an administrative hearing, and agrees to be bound by the compliance schedule as set forth in the attached Administrative Consent Order (ACO) in an effort to aggressively monitor and resolve this issue.

NOW, THEREFORE, BE IT RESOLVED, that the NJSEA hereby authorizes the President and CEO to execute the attached ACO.

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 21, 2019.



Vincent Prieto
Secretary



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

COMPLIANCE & ENFORCEMENT

Office of the Assistant Commissioner

401 East State Street, 4th Floor, East Wing

Mail Code: 401-04B, PO Box 420

Trenton, New Jersey 08625-0420

Telephone: (609) 777-0122 Fax: (609) 984-9658

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

CATHERINE R. McCABE
Commissioner

CERTIFIED MAIL/RRR

(insert actual number from the stub for each certified recipient)

ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:

NEW JERSEY SPORTS AND EXPOSITION AUTHORITY
ONE DEKORTE PARK PLAZA
P.O. BOX 640
LYNDHURST, NJ 07071

EA ID # NEA190001 - 13317

This Administrative Consent Order (ACO) is entered into pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection ("Department") by N.J.S.A. 13:1D-1 *et seq.*, and the Air Pollution Control Act, N.J.S.A. 26:2C-1 *et seq.* (the "Act"), and the Solid Waste Management Act, N.J.S.A. 13:1E-1 *et seq.* and/or the Solid Waste Utility Control Act N.J.S.A. 48:13A-1 *et seq.*, duly delegated to the Assistant Commissioner of Compliance & Enforcement pursuant to N.J.S.A. 13:1B-4.

FINDINGS

1. NEW JERSEY SPORTS AND EXPOSITION AUTHORITY (NJSEA) owns the facility known as KEEGAN SANITARY LANDFILL (SLF) at 437 Bergen Ave Block(s) 205 and Lot(s) 18,19.02, 24, 27, 29, 30, 31 and 33 in Kearny Town, Hudson County, New Jersey (ID# 13317).
2. The Keegan SLF was re-opened in 2009 by the New Jersey Meadowlands Commission (NJMC). The NJMC was later merged with the NJSEA. The NJSEA is currently authorized to operate the solid waste landfill facility pursuant to a Certificate of Authority to Operate (Certificate No. CTO180001) issued by the Department on November 14, 2018.
3. As the result of a compliance investigation conducted March 1, 2019, the Department has determined that NJSEA failed to comply with applicable requirements as follows.

Requirement: Pursuant to N.J.A.C. 7:27- 7.3, no person shall cause, suffer, allow, or permit hydrogen sulfide to be emitted from a sanitary landfill, legacy landfill, or closed sanitary landfill facility as defined in the Solid Waste rules at N.J.A.C. 7:26-1.4 and 2A.9(b) in a concentration greater than 30 parts per billion by volume (ppbv) averaged over any 30-minute period at or beyond the property line of the sanitary landfill. [N.J.A.C. 7:27- 7.3]

Description of Noncompliance: NJSEA emitted hydrogen sulfide from the Keegan SLF in a concentration greater than 30 parts per billion by volume (ppbv) averaged over a 30 minute period beyond your property line on March 1, 2019 between 13:02 and 13:32 hours. The average of nine readings was 34.33 ppb, in violation of N.J.A.C. 7:27-7.3.

4. Based on the facts set forth in these FINDINGS, the Department has determined that NJSEA has violated Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and the regulations promulgated pursuant thereto, specifically, N.J.A.C. 7:27- 7.3.
5. NJSEA shall comply with all operation, maintenance and odor control requirements of the Solid Waste Management Act in order to prevent violations of the Air Pollution Control Act as noted in the above FINDINGS. In order to resolve this matter without trial or adjudication or admission of any fault or liability, NJSEA has agreed to entry of this ACO and to be bound by its terms and conditions.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

A. HEARING REQUEST

6. NJSEA hereby waives its right to request an administrative hearing with respect to the enforcement action which has been issued and which is described in paragraph 3, above.

B. COMPLIANCE SCHEDULE

7. NJSEA shall take all actions that may be necessary to achieve and maintain compliance with the Air Pollution Control Act, N.J.S.A. 26:2C-1.1 et seq. and its applicable rules, the Solid Waste Management Act, N.J.S.A. 13:1E-1.1 et seq. and its applicable rules, the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq. and its applicable rules, and the Certificate of Authority to Operate No: CTO180001 issued to Keegan SLF on November 14, 2018, including but not limited to the following:

- a. Submit a monitoring action plan to the Department no later than April 1, 2019. Said plan shall include the type and specifications for proposed monitoring devices, proposed locations of monitors, the data acquisition system proposed for use, and the method and frequency of data transmittal to the Department. The plan must also identify the specific actions that NJSEA will take to control and/or mitigate the emissions of hydrogen sulfide in order to achieve and maintain compliance with N.J.A.C. 7:27-5.2(a) and 7.3 and N.J.A.C. 7:26-2A.7(f)4 in response to hydrogen sulfide monitoring data that meets or exceeds the following Action/Criteria Level:

Ambient Air Concentration (30 minutes) \geq 30 ppb

- b. Within 30 days of monitoring action plan approval, install and operate a continuous hydrogen sulfide ambient air monitoring system. The monitoring system shall consist of at least eight continuous hydrogen sulfide ambient fence-line monitors, equally spaced around the boundary of the landfill. These monitors shall run twenty-four hours per day, seven days a week. The monitoring system shall be designed in accordance with 40 CFR Part 58, Appendix D and shall meet the requirements set forth in N.J.A.C. 7:26-2A.7(h)10ii and 2A.8(h)12.
- c. NJSEA shall immediately notify the Department at 1-877-WARNDEP if monitoring at the property's fence line indicates H₂S concentrations equal to or greater than 30 ppbv (see N.J.A.C. 7:27-7.3), and/or if other information demonstrates the presence of an air contaminant concentration that has the potential to cause an odor complaint or air pollution as defined in N.J.A.C. 7:27-5. NJSEA shall take all reasonable measures to control or eliminate any such emissions.
- d. Reasonable measures shall include, but need not be limited to, providing additional cover, and excavation and removal of malodorous waste.
- e. Perform and submit to the Department an analysis to estimate the generation of emission rates for hydrogen sulfide and any other air contaminants from the landfill for calendar years 2019 through 2024 by May 30, 2019.
- f. Immediately implement measures in order to return to compliance with N.J.A.C. 7:27-5.2(a) and 7.3, and N.J.A.C. 7:26-2A.7(f)4 and 2A.8(b)30, including but not limited to the following:

1. Minimize or eliminate the acceptance of C&D waste which contains gypsum wallboard, especially gypsum fines;
 2. Evaluate the use of additional or alternative cover material and/or cover products;
 3. Properly compact daily cover material;
 4. Minimize the surface area of the working face of the landfill.
- g. If compliance with N.J.A.C 7:27-5.2(a) and 7.3, and N.J.A.C 7:26-2A.7(f)4 is not achieved to the Department's satisfaction by September 1, 2019, NJSEA shall, within 30 days of Department notification, submit a proposal for the design, installation, operation and maintenance of a gas collection system to prevent and control the migration of landfill gasses off-site in accordance with N.J.A.C 7:26-2A.7 and 2A.8 and apply for required air pollution permits in accordance with N.J.A.C. 7:27-8 and/or 22.
8. If NJSEA is not able to achieve compliance by taking the above actions, NJSEA is responsible for taking whatever additional actions are necessary in order to comply with all applicable federal, state and local permits as well as all applicable statutes, codes, rules, regulations and orders, including but not limited to the statutes and regulations cited herein.

C. PROGRESS REPORTS

9. NJSEA shall submit progress reports on compliance measures as outlined above to the Department by the first day of each month following execution of this ACO. Each report shall explain the status of NJSEA's compliance with this ACO and shall include, but not be limited to, the following:
- A. Identification of site and reference to this ACO;
 - B. Status of permitting and planning approvals and any work at the site and progress to date;
 - C. Difficulties or problems encountered during reporting period and actions taken to rectify;
 - D. Activities planned for the next reporting period;
 - E. Required and actual completion date for each item required by this ACO;
 - F. An explanation of any non-compliance with the compliance schedule; and
 - G. Evaluation of all corrective measures implemented to date.

D. PENALTY

10. In settlement of the Air Pollution Control Act violations cited in the above findings, NJSEA shall pay a penalty of \$2,000.00. Payment shall be made by check made payable to the Treasurer, State of New Jersey and remitted to the Division of Revenue at the address stated on the enclosed invoice within 30 days of execution of this ACO.

E. STIPULATED PENALTIES

11. NJSEA shall pay stipulated penalties to the Department, as set forth below, for failure to comply with any of the provisions of this ACO unless the Department has notified NJSEA in writing that a stipulated penalty will not be assessed pursuant to the force majeure provisions of this ACO or in the Department's sole discretion.

<u>Calendar Days After Due Date</u>	<u>Per Calendar Day</u>
1-7	\$500
8-14	\$1000
15 or more	\$2500

12. Within 30 calendar days after NJSEA's receipt of a written demand from the Department for stipulated penalties, NJSEA shall submit a check to the Department as outlined in paragraph 10 above.
13. If NJSEA fails to pay stipulated penalties pursuant to the preceding paragraphs, the Department may take action to collect same, including, but not limited to, instituting civil proceedings to collect such penalties pursuant to R. 4:67 and R. 4:70. In any such action, the Department reserves the right to seek additional penalties as may be appropriate for violations of this ACO.
14. The payment of stipulated penalties does not alter NJSEA's responsibility to complete all requirements of this ACO.

F. FORCE MAJEURE

15. If any event occurs which is beyond the control of NJSEA and which NJSEA believes will or may cause delay in the achievement of the compliance schedule provisions of this ACO, NJSEA shall notify the Department in writing within 7 calendar days of becoming aware of the delay or anticipated delay, as appropriate. In the notification, NJSEA shall reference this paragraph, describe the anticipated length of the delay, the precise cause or causes of the delay, and any measures taken or to be taken to minimize the delay. NJSEA shall take all necessary action to prevent or minimize any such delay.

16. The Department may adjust the deadlines in the compliance schedule of this ACO for a period no longer than the delay if the Department finds that:
 - A. NJSEA has complied with the notice requirements of paragraph 15;
 - B. any delay or anticipated delay has been or will be caused by fire, flood, riot, strike, or other circumstances beyond the control of NJSEA; and
 - C. NJSEA has taken all necessary actions to prevent or minimize the delay.
17. If the Department denies NJSEA's force majeure request, NJSEA may be subject to stipulated penalties. The burden of proving that any delay is caused by circumstances beyond the control of NJSEA and the length of any such delay attributable to those circumstances shall rest with NJSEA. Increases in the cost or expenses incurred by NJSEA in fulfilling the requirements of this ACO shall not be a basis for an extension of time. Delay in an interim requirement shall not automatically justify or excuse delay in the attainment of subsequent requirements. Contractor's breach shall not automatically constitute force majeure.

G. GENERAL PROVISIONS

18. Nothing contained in this ACO restricts the ability of the Department to raise the above Findings in any other proceeding, specifically including, but not limited to, proceedings pursuant to N.J.S.A. 13:1E-126 et seq., (commonly referred to as A-901).
19. This ACO shall be binding on NJSEA, its respective agents, successors, assigns, and any trustee in bankruptcy or receiver appointed pursuant to a proceeding in law or equity.
20. This ACO shall be fully enforceable as a final Administrative Order in the New Jersey Superior Court.
21. NJSEA agrees not to contest the terms or conditions of this ACO except that NJSEA may contest the Department's interpretation or application of such terms or conditions in any action brought by the Department to enforce this ACO's provisions.
22. This ACO shall not relieve NJSEA from obtaining and complying with all applicable federal, state and local permits as well as all applicable statutes, codes, rule, regulations and orders, including but not limited to the statutes and regulations cited herein.
23. No modification or waiver of this ACO shall be valid except by written amendment duly executed by NJSEA and the Department or by the Department's written modification pursuant to the force majeure provisions herein.

24. Unless otherwise specifically provided herein, NJSEA shall submit all documents required by this ACO, except penalty payments, to the Department by certified mail, return receipt requested or by hand delivery with an acknowledgment of receipt form for the Department's signature to:

Tom Farrell Manager
Division of Solid Waste Enforcement
Mail Code 09-01
PO Box 420
9 Ewing Street
Trenton NJ 08625-0420

Jeffrey Meyer, Manager
Division of Air Enforcement
Bureau of Air Compliance & Enforcement-Northern
7 Ridgedale Avenue
Cedar Knolls, NJ 07927

The date the Department receives the certified mail or executes the acknowledgment will be the date the Department uses to determine NJSEA's compliance with this ACO.

25. Unless otherwise specifically provided herein, any communication made by the Department to NJSEA pursuant to this ACO shall be sent to:

New Jersey Sports and Exposition Authority
1 Dekorte Park Plaza
Lyndhurst, NJ 07071
ATTN: Thomas Marturano and Office of the President & CEO

26. NJSEA shall not construe any unwritten or informal advice, guidance, suggestions, or comments by the Department, or by persons acting on behalf of the Department, as relieving NJSEA of its obligations under its Certificate of Authorization to Operate, any permits issued to NJSEA, this ACO, the Air Pollution Control Act and/or its regulations, the Solid Waste Management Act and/or its regulations, and/or the Solid Waste Utility Control Act and/or its regulations.

27. In addition to the Department's statutory and regulatory rights to enter and inspect, NJSEA shall allow the Department and its authorized representatives access to the site at all times for the purpose of determining compliance with this ACO.

28. Nothing in this ACO shall preclude the Department from taking enforcement action against NJSEA for matters not set forth in the findings of this ACO.
29. No obligations or penalties imposed by this ACO are intended to constitute debt(s) which may be limited or discharged in a bankruptcy proceeding. All obligations and penalties are imposed pursuant to the police powers of the State of New Jersey for the enforcement of the law and the protection of public health, safety, welfare and the environment.
30. NJSEA shall give written notice of this ACO to any successor in interest thirty (30) calendar days prior to transfer of ownership or control of the facility or facilities which are the subject of this ACO and shall simultaneously notify the Department that such notice has been given. This requirement shall be in addition to any other statutory or regulatory requirements arising from the transfer of ownership or control of NJSEA's facility. In addition, the parties agree that any contract, lease, deed or any other agreement that NJSEA enters into to convey the property/facility that is the subject of this ACO shall include a provision which states that the successor, assignee, tenant or purchaser has agreed to assume the obligations imposed by this ACO.
31. The Department reserves all statutory and common law rights to require NJSEA to take additional action(s) if the Department determines that such actions are necessary to protect public health, safety, welfare and the environment. Nothing in this ACO shall constitute a waiver of any statutory or common law right of the Department to require such additional measures should the Department determine that such measures are necessary.
32. This ACO shall be governed and interpreted under the laws of the State of New Jersey.
33. If any provision of this ACO is found invalid or unenforceable, the remainder of this ACO shall not be affected thereby and each provision shall be valid and enforced to the fullest extent permitted by law. The Department does, however, retain the right to terminate the remainder of this ACO if, after such finding, it determines that the remaining ACO does not serve the purpose for which it was intended.
34. This ACO represents the entire integrated agreement between the Department and NJSEA on the matters contained herein.
35. The Department reserves the right to unilaterally terminate this ACO in the event NJSEA violates its terms and to take any additional enforcement action it deems necessary.
36. This ACO shall terminate upon receipt by NJSEA of written notice from the Department that all the requirements of this ACO have been satisfied.

37. This ACO shall become effective upon the execution hereof by all parties, subject to completion of any required public participation process.

NEW JERSEY SPORTS AND EXPOSITION
AUTHORITY
DATED: _____ BY: _____
NAME: _____
TITLE: _____

By this signature, I certify that I have full authority to execute this document on behalf of NEW JERSEY SPORTS AND EXPOSITION AUTHORITY.

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION
DATED: _____ BY: _____
NAME: _____
TITLE: _____

By this signature, I certify that I have full authority to execute this document on behalf of NJDEP.

RESOLUTION 2019-06

**RESOLUTION ISSUING A DECISION ON THE
SUITABILITY RECOMMENDATION AS REQUIRED BY THE
NJSEA INTERIM POLICIES GOVERNING AFFORDABLE HOUSING
DEVELOPMENT IN THE MEADOWLANDS DISTRICT
FILE No. 18-442, 1099 Wall Street Venture, LLC/New Building (Hotel)
& Variances
BLOCK 228, LOTS 1.01 & 1.02
IN THE TOWNSHIP OF LYNDHURST**

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

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

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

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

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

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

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

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

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

WHEREAS, a zoning certificate application was submitted to the NJSEA on November 13, 2018, by Richard Bhojani, of BDG Hotels at Lyndhurst, LLC, on behalf of 1099 Wall Street Venture, LLC, for the premises identified as 1099 Wall Street West, Block 228, Lot 1.01, and on behalf of Denholtz 1201, LLC, for the premises identified as 1201 Wall Street West, Block 228, Lot 1.02, in Lyndhurst, New Jersey, which are located in the District's Commercial Park zone; and

WHEREAS, the subject application proposes the construction of a 128-room hotel, of approximately 69,300 square feet, and, as such, is not exempt from the *Interim Policies*; and

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

WHEREAS, the Review Team evaluated the suitability of the subject property taking into consideration the specific application submitted for construction of a hotel; and

WHEREAS, a suitability review, dated February 11, 2019, and attached hereto, has been prepared, indicating the recommendation of the Review Team in this matter; and

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority that the property located at 1099 and 1201 Wall Street West, Block 228, Lots 1.01 and 1.02, in the Township of Lyndhurst, New Jersey, is deemed to be unsuitable for residential use.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting of March 21, 2019.

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

Vincent Prieto
Secretary



MEMORANDUM

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

From: Sara J. Sundell *Date:* March 21, 2019

Subject: Site Suitability Recommendation for Block 228, Lots 1.01 and 1.02, in the Township of Lyndhurst (File No. 18-442)

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

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

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

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

The NJSEA received an application for the construction of a 128-room hotel, of approximately 69,300 square feet, on the premises identified as 1099 and 1201 Wall Street West, Block 228, Lots 1.01 and 1.02, in Lyndhurst, New Jersey. The subject property is located within the District's Commercial Park zone and currently contains an existing office building, which is proposed to remain, a large parking lot, which is the location of the proposed hotel, and a small bank building which is proposed to be demolished.

The matter was forwarded to the Review Team for review of the proposed site in accordance with the *Interim Policies*. A suitability review, dated February 11, 2019, has been prepared, indicating that the Review Team recommends that the subject property is not suitable for residential use.

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

Suitability Review – Summary

File No. 18-442

1099 Wall Street Venture, LLC/New Building (Hotel) & Variances
Block 228, Lot 1.01 and 1.02, in the Township of Lyndhurst
February 11, 2019

The NJSEA received a zoning certificate application for the proposed construction of a 128-room hotel, of approximately 69,300 square feet, on the premises identified as 1099 and 1201 Wall Street West, Block 228, Lots 1.01 and 1.02, in the Township of Lyndhurst, New Jersey. The hotel is proposed to be constructed on a portion of the premises currently improved with an existing parking lot and a vacant bank building. The existing office building located on Lot 1.01 is proposed to remain and the existing bank building located on Lot 1.02 is proposed to be demolished. The subject property is located in the District's Commercial Park zone and, as such, is not exempt from the site suitability review process. In keeping with the review process, the site characteristics of the property have been evaluated in accordance with the "Interim Policies Governing Affordable Housing Development in the Meadowlands District," adopted by the NJMC on July 24, 2008, and last revised on July 27, 2011.

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

- i. The site is adjacent to compatible land uses and has access to appropriate streets.
 - The subject property, which is comprised of two lots with a total area of 8.212 acres, is located within the Commercial Park zone.
 - An existing three-story, 128,472-square-foot office building is located on the western end of the Lot 1.01. The remainder of Lot 1.01 is improved with an approximately 380 space-car parking lot for use by employees and visitors to the office building. A vacant 2,252-square-foot bank building is located on Lot 1.02, to the east of the office building on the main lot, and is proposed to be demolished.
 - The subject property is almost completely surrounded by rights-of-way, including local streets Wall Street West and Garland Way, and an NJDOT-owned property that includes a portion of the State Route 17 highway ramp and a wooded lot. The highway ramp on the north side of the subject property is elevated, affording no vehicular access to the subject property.
 - Uses on neighboring properties include office and institutions, with warehouse and industrial uses located further into the Lyndhurst Corporate Park.

- While there are three existing residential developments in the area, all of these developments are located along the edges of the Lyndhurst Corporate Park and have some type of buffer along the majority of sides, including open space, creeks and ditches, and highway ramps, where they are not located directly adjacent to industrial and commercial uses.
- The existing office building on the subject property along with its associated parking lot are both proposed to remain.
- The residential facility located to the east of Lot 1.02 is separated from the subject property by a wooded property owned by the NJDOT for right-of-way improvements. There is no physical connection that would promote pedestrian movements between the properties.
- While there are existing office buildings in the vicinity, including on the subject property, two existing vacant and underutilized office buildings are proposed for demolition and redevelopment with modern warehouse and industrial facilities, thereby increasing the industrial nature of the area.
- The surrounding development pattern, with industrial, warehouse and distribution uses, is heavily reliant on trucking services to move products. As a result, there is a significant amount of truck traffic, including the inherent noise and pollution associated with heavy vehicle usage. The site is located adjacent to a three-way intersection of Wall Street West and Clay Avenue, which is heavily utilized by large trucks. There are no significant areas of open space surrounding the subject property that could buffer potential residents from the intensity of the uses of the surrounding land use pattern.
- The nearby active industrial and warehouse uses in the area would present challenges with respect to circulation and safety of residents.
- ii. The site has access to water and sewer infrastructure with sufficient capacity.
 - This criterion is met by the subject property.
- iii. The site can be developed consistent with the rules of the NJSEA.
 - This criterion is met by the subject property.
- iv. Former and existing land uses, either on the site or in the vicinity, may not expose residents to environmental hazard. Alternatively, the site shall be remediated to NJDEP residential standards as a condition of the Board's approval.
 - Based upon the NJDEP's NJ-GeoWeb database, Lot 1.02 is subject to a

deed restriction related to groundwater contamination on the site. In addition, the NJDEP's Site Remediation Program lists both lots on their "Closed Sites with Remediated Contamination" list. No further information is presently available that would suggest that the properties could be or have been remediated to NJDEP residential standards.

- As such, it is unclear as to whether this criterion is or could be met by the subject property.
- v. The size, shape, or layout of any existing structure that shall remain, or other physical limitation(s) not listed previously, do not preclude residential use.
- The existing three-story office building, located on the western end of Lot 1.01, is intended to remain on the subject property along with a portion of the existing surface parking lot. The existing bank structure on Lot 1.02 is proposed to be demolished.
 - Physically, the office and parking could remain on the property along with the construction of a structure for residential units. However, it would be necessary to separate the office and residential uses, due to privacy, noise and light concerns. As such, the mass of the property available for new residential construction would be limited. The office building requires a considerable number of parking spaces in order to operate. A residential structure would require separate parking, driveways and circulation, along with buffer zones to appropriately separate the residential and office uses.
 - While this criterion could be met by the subject property, the practicalities of positioning a residential structure on the same site of an existing office building are problematic.

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

- Elements of the warehouse and distribution businesses in the vicinity of the subject site are potentially detrimental to residents. Noise generated from open loading docks, trucks travelling along Wall Street West and Clay Avenue and maneuvering on nearby sites, lack of sidewalks and safety concerns for pedestrians render this site unfavorable to residential uses.
- The site is remote from public schools, local retail stores, and other public amenities. Pedestrian access to the rest of the community requires traveling a considerable distance through an active industrial area. Most of the municipality's public services are located outside of the immediate area and require motorized transportation to access

them.

- The existing warehouse and industrial uses in the area generate truck traffic, noise and associated pollution both day and night, which would be detrimental to the quality of life and long-term safety of residents on the subject property.
- Two other properties in the vicinity, both within the Lyndhurst Corporate Park, have been designated by the NJSEA as unsuitable for residential use. The existing underutilized office buildings on both of those properties are slated for demolition to allow for the construction of new industrial buildings. The addition of more industrial facilities in the neighborhood will only serve to increase the amount of truck traffic traveling along Wall Street West and Clay Avenue, which are major connector streets to the rest of the corporate park.

In summary, only two (2) of the above criteria, as per Section IV(c)1 of the Interim Policies, apply to the subject property.

Conclusion

The subject property, located at 1099 Wall Street West, Block 228, Lots 1.01 and 1.02, in the Township of Lyndhurst, is recommended to be deemed unsuitable for housing.

Contingent upon the approval of this recommendation by the NJSEA Board of Commissioners, the review of the submitted zoning certificate application for the proposed 128-room hotel may proceed for this site. As a condition of zoning certificate approval, the applicant shall be required to satisfy the project's affordable housing requirements as per Section VII(a) of the Interim Policies or as required by law.

RESOLUTION 2019-07

RESOLUTION DESIGNATING THE DEVELOPMENT OF
THE MORI TRACT
BLOCK 227, LOT 9, IN THE TOWN OF SECAUCUS
AS A VITAL PROJECT WITHIN THE
HACKENSACK MEADOWLANDS DISTRICT
FILE NO. SP-733

WHEREAS, the Hackensack Meadowlands Agency Consolidation Act ("Act") at N.J.S.A. 5:10A-11(a), and Resolution 2015-54, adopted by the NJSEA Board of Commissioners on October 22, 2015, state that a constituent municipality within the Hackensack Meadowlands District ("District") that adopts and maintains the District master plan, zoning regulations, codes, and standards shall review and approve or reject applications for development within the District; and

WHEREAS, the Town of Secaucus adopted such an ordinance to assume certain zoning jurisdiction within the in-District portion of the municipality; and

WHEREAS, the Act at N.J.S.A. 5:10A-11(f) also provides that the "commission may maintain sole jurisdiction over any project it deems, in its sole discretion, to be vital to the public safety, general welfare, development, or redevelopment of the District," and Resolution 2015-59, adopted by the NJSEA Board of Commissioners on November 19, 2015, establishes guidelines by which "Vital Projects" may be designated within the District; and

WHEREAS, the Mori Tract, located at Block 227, Lot 9, within the Town of Secaucus, is one of the largest undeveloped parcels within the District; and

WHEREAS, the NJSEA has acknowledged the need to evaluate whether development of the Mori Tract should be deemed to be a Vital Project in order for the NJSEA to maintain zoning jurisdiction on the property; and

WHEREAS, the NJSEA has undertaken an assessment in accordance with the guidelines to consider the impacts of the site's development with respect to public safety, general welfare, the environment, solid waste, the regional economy, critical stormwater infrastructure, and the regional transportation network on the Mori Tract and within the surrounding region; and

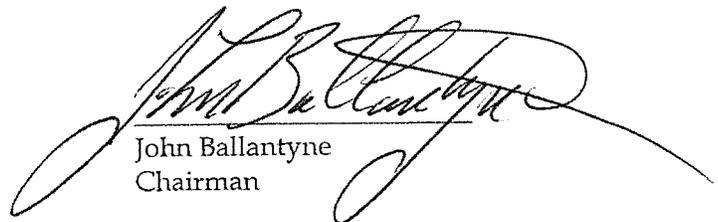
WHEREAS, a Vital Project Assessment for Development of the Mori Tract, dated February 21, 2019, has been prepared in accordance with the guiding criteria included in Resolution 2015-59; and

WHEREAS, the assessment indicates that development of the Mori Tract has the potential to have a substantial impact on the regional economy, transportation network, and the environment; and

WHEREAS, the Board of Commissioners of the NJSEA has reviewed the Vital Project Assessment and has determined that the Development of the Mori Tract satisfies the criteria established in Resolution 2015-59 for designation as a "Vital Project" under the provisions of N.J.S.A. 5:10A-11(f).

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the development of the Mori Tract, located at Block 227, Lot 9, in the Town of Secaucus, New Jersey, is deemed to be a Vital Project, in accordance with N.J.S.A. 5:10A-11(f) and Resolution 2015-59.

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 21, 2019.



John Ballantyne
Chairman



MEMORANDUM

To: NJSEA Board Members

From: Sara J. Sundell

Date: March 21, 2019

Subject: Vital Project Designation for the Development of the Mori Tract, Block 227, Lot 9, in the Town of Secaucus (File No. SP-733)

The Hackensack Meadowlands Agency Consolidation Act ("Act") at N.J.S.A. 5:10A-11(a), and Resolution 2015-54, adopted by the NJSEA Board of Commissioners on October 22, 2015, states that a constituent municipality within the Hackensack Meadowlands District ("District") that adopts and maintains the District master plan, zoning regulations, codes, and standards shall review and approve or reject applications for development within the District. Accordingly, the Town of Secaucus adopted an ordinance entitled, "Ordinance Adopting Meadowlands Regional Commission Master Plan, Zoning Regulations, Codes and Standards," as a means to assume certain zoning jurisdiction within the in-District portion of the municipality.

The Act at N.J.S.A. 5:10A-11(f) also provides that the "commission may maintain sole jurisdiction over any project it deems, in its sole discretion, to be vital to the public safety, general welfare, development, or redevelopment of the District." Additionally, Resolution 2015-59, adopted by the NJSEA Board of Commissioners on November 19, 2015, establishes guidelines by which "Vital Projects" may be designated within the District.

The NJSEA recognizes that the 138-acre Mori Tract, located in the Town of Secaucus, is one of the largest undeveloped upland parcels within the District and, as such, has acknowledged the need to evaluate whether its development should be deemed to be a "Vital Project" in order for the NJSEA to maintain zoning jurisdiction with respect to improvements on the property. Accordingly, NJSEA staff prepared a "Vital Project Assessment for Development of the Mori Tract", dated February 21, 2019, in accordance with the guiding criteria included in Resolution 2015-59. The assessment indicates that development of the Mori Tract has the potential to have a substantial impact on the regional economy, transportation network, and the environment and therefore satisfies the criteria to be deemed a "Vital Project."

VITAL PROJECT ASSESSMENT
for Development of the Mori Tract
Block 227, Lot 9, in the Town of Secaucus

February 21, 2019

The Hackensack Meadowlands Agency Consolidation Act ("Act") at N.J.S.A. 5:10A-11(a), and Resolution 2015-54, adopted by the NJSEA Board of Commissioners on October 22, 2015, states that a constituent municipality within the Hackensack Meadowlands District ("District") that adopts and maintains the District master plan, zoning regulations, codes, and standards shall review and approve or reject applications for development within the District. Accordingly, the Town of Secaucus adopted an ordinance entitled, "Ordinance Adopting Meadowlands Regional Commission Master Plan, Zoning Regulations, Codes and Standards," as a means to assume certain zoning jurisdiction within the in-District portion of the municipality.

The Act at N.J.S.A. 5:10A-11(f) also provides that the "commission may maintain sole jurisdiction over any project it deems, in its sole discretion, to be vital to the public safety, general welfare, development, or redevelopment of the District." Additionally, Resolution 2015-59, adopted by the NJSEA Board of Commissioners on November 19, 2015, establishes guidelines by which the President/CEO of the NJSEA or his designee may designate "Vital Projects" within the District or, alternatively, the NJSEA Board may, at its discretion, adopt a resolution to retain jurisdiction over any project it deems to be vital to the public safety, general welfare, development, or redevelopment of the District.

Vital Project Consideration

The NJSEA recognizes that the Mori Tract is one of the largest undeveloped upland parcels within the District and, as such, has acknowledged the need to evaluate whether its development may be deemed to be a "Vital Project" in order for the NJSEA to maintain jurisdiction with respect to planning and permitting improvements on the property. The NJSEA has undertaken this assessment to consider the impacts of the site's development with respect to land, water, air, solid waste, aquatic and terrestrial wildlife, social and economic conditions, and aesthetics at the Mori Tract and surrounding region.

Background

The Mori Tract, a 138-acre parcel comprised of Block 227, Lot 9, in the Town of Secaucus, is located within the District. Surrounding land uses include the

Harmon Meadow mixed-use commercial development to the west, a PSE&G transmission line right of way and warehouse/industrial properties to the east, wetlands areas and warehouse/industrial properties to the north, and a self-storage facility to the south. The site is located along a heavily utilized roadway network, which includes Park Plaza Drive to the west, Paterson Plank Road to the South and West Side Avenue to the east. Paterson Plank Road is a major transportation corridor connector between Route 1 & 9/Tonnele Avenue and Route 3.

The property is owned by Mori Revocable Trust, which recently entered into a 98-year long term lease with Dredge Management Associates, LLC. The parcel is an undeveloped lot comprised of large areas of both uplands and tidal wetlands, which have resulted in a split zoning designation on the District's Official Zoning Map. The majority of the upland areas are located within the Regional Commercial zone and the majority of the wetland areas are located within the Environmental Conservation zone. Cromakill Creek, a tidal tributary to the Hackensack River, meanders through the site from its northern boundary until it reaches the upland area, where it then runs south along its eastern boundary.

The Mori Tract is the subject of two unresolved NJSEA zoning violations involving illegally-placed contaminated fill. One area of illegal fill is located on the upland portion of the site within the Regional Commercial zone. The second area of the illegal fill is located further northeast of the first and was placed within the Environmental Conservation zone in an area containing tidal wetlands. It is noted that both the NJDEP and the US Army Corps of Engineers (USACE) have issued separate violations for illegally placed fill at this site. Additionally, there is an unresolved NJDEP violation from the 1980's relating to a large volume of illegally-placed asbestos waste on the site, estimated to be in excess of 2,000 cubic yards.

The site contains unclaimed areas that are subject to the State of New Jersey's riparian interest. A license or grant must be obtained from the Tidelands Resource Council prior to the issuance of any zoning certificate approval from the NJSEA.

Proposed Development

Dredge Management Associates, LLC, the lessor, has indicated their intent to undertake a development project on the 138-acre parcel that is split-zoned within the District's Regional Commercial and Environmental Conservation zones. Dredge Management Associates, LLC has also submitted a Remedial Action

Work Plan to the NJDEP Site Remediation Program to address the historic fill on a 34-acre upland portion located at the southern end of the Mori Tract.

The development of the Mori Tract has the potential to result in substantial economic growth and job creation within the region and, additionally, has the potential to produce a beneficial environmental impact by facilitating the resolution of the unresolved violations and the placement of a cap to address the contamination related to other historic fill located on the site.

Criteria for Designation of Vital Projects within the District

In accordance with Resolution 2015-59, the Board of Commissioners established the following criteria to be applied when exercising the authority granted under N.J.S.A. 5:10A-11(f) to designate "Vital Projects" within those District municipalities that have opted to take over zoning approvals within the in-District portion of that municipality in accordance with N.J.S.A. 5:10A-11(a):

1. *The NJSEA shall maintain sole jurisdiction over certain public projects as follows:*
 - A. *Public projects proposed by federal, state, and county governmental/quasi-governmental agencies including, but not limited to, NJDOT, NJTA, NJ Transit, County authorities and agencies, NJDEP, BCUA, MCT, USACE, PANYNJ, Amtrak, and other railroad entities. (Existing exemptions from NJSEA regulations under N.J.A.C. 19:4-3.2 and N.J.S.A. 5:10A-11(c) are unaffected.)*

Both the present owner, Mori Revocable Trust, and the lessor, Dredge Management, LLC, of the subject property are private entities.

2. *The NJSEA may maintain sole jurisdiction over certain vital projects, per N.J.S.A. 5:10A-11(f), which meet one or more of the following criteria:*
 - A. *Projects that enhance public safety.*
 - B. *Projects that promote the general welfare.*
 - C. *Projects that have a substantial impact on the environment.*
 - D. *Development projects of regional economic importance.*
 - E. *Development projects with regional impacts on flood control, stormwater infrastructure and/or other critical infrastructure.*
 - F. *Development projects with significant regional traffic/transportation impacts.*
 - G. *Redevelopment projects within a District redevelopment area.*

The future development of the Mori Tract satisfies criteria A, B, C, D, E, and F for the following reasons:

- A. The Mori Tract contains a significant area of tidal wetlands, open water and other environmentally sensitive areas, including a portion of Cromakill Creek, which is a tributary of the Hackensack River. The development of the Mori Tract will promote public safety by facilitating the resolution of long-standing NJSEA, NJDEP and USACE violations through the removal of illegally placed fill, and the capping/remediation of historic fill in accordance with a Remedial Action Work Plan (RAWP), which will be subject to NJDEP approval under the Site Remediation Program.
- B. The development of the Mori Tract will promote the general welfare of the public by cleaning up an environmentally compromised site and promoting economic development in the region in a coordinated manner.
- C. The development of the Mori Tract has the potential to have a beneficial environmental impact, as it will facilitate the resolution of long-standing NJSEA, NJDEP and USACE violations through the removal of illegally placed fill on the site, including contaminated fill placed in environmentally sensitive tidal wetland areas. In addition, areas of historic fill on the site will be addressed.
- D. Development of the Mori Tract, specifically where permitted on the vacant upland portion within the Regional Commercial zone, has the potential to provide a major positive economic benefit to the region by establishing significant taxables for the Town of Secaucus, creating both permanent jobs and temporary construction jobs, and generating overall economic value for the region.
- E. The development of the Mori Tract will have an impact on stormwater infrastructure in the region due to the large size of the property in question and its proximity to the Cromakill Creek. Development of the subject property will also facilitate the resolution of long-standing NJSEA, NJDEP and USACE violations through the removal of illegally-placed fill on the site, including contaminated fill placed in environmentally sensitive wetland areas, which will facilitate the restoration of the impacted wetlands area.

F. The development of the Mori Tract, one of the largest vacant upland parcels within the District, will have a significant impact on the surrounding and regional transportation network along critical corridors. Any negative impacts on the regional transportation system resulting from development of the property will be evaluated during the zoning certificate application review process and will require mitigation.

G. The Mori Tract is located within the Hackensack Meadowlands District's Regional Commercial zone and is not located within a District redevelopment area.

Conclusion

Based upon the assessment above, the development of the Mori Tract satisfies the criteria established in Resolution 2015-59 for designation as a "Vital Project" under the provisions of N.J.S.A. 5:10A-11(f), thereby allowing the NJSEA to maintain sole jurisdiction in the review of development applications submitted for this property.



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



Christine A. Sanz
Sr. Vice President / COO

RESOLUTION 2019-08

RESOLUTION ISSUING A DECISION ON THE
SUITABILITY RECOMMENDATION AS REQUIRED BY THE
NJSEA INTERIM POLICIES GOVERNING AFFORDABLE HOUSING
DEVELOPMENT IN THE MEADOWLANDS DISTRICT

FILE No. 19-081, HCIA/Morris Kearny Associates - New Buildings
BLOCK 287,
LOTS 32.01, 32.02, 46, 47, 47.01, 54, 55, 56, 60, 61.02, 61.03, 62, 62.01, 63, 70, 70.01,
71, 71.01, 73 and 80
IN THE TOWN OF KEARNY

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

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

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

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

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

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

WHEREAS, the *Interim Policies*, last revised by Resolution No. 11-29 on July 27, 2011, govern all zoning certificate applications, petitions to amend the

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

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

WHEREAS, a zoning certificate application was submitted to the NJSEA on February 15, 2019, by William C. Sullivan, Jr., Esq. of Scarinci & Hollenbeck, LLC, on behalf of Morris Kearny Associates, LLC, for the property commonly known as Koppers Coke, which is located along Fish House Road and adjacent to the NJ Transit Morris and Essex Line right-of-way; and

WHEREAS, the subject application proposes the construction of four warehouse/distribution buildings, with an area of approximately 2.1 million square feet, and, as such, is not exempt from the *Interim Policies*; and

WHEREAS, the subject application proposes development on properties owned by the Hudson County Improvement Authority (HCIA) with the exception of portions of the driveways for the development which are proposed to be located on property owned by James M Salerno Enterprises, Inc. and Mariana Properties, Inc., care of Glenn Springs Holdings, Inc.; and

WHEREAS, the properties associated with the proposed development are located in the District's Koppers Coke Peninsula Redevelopment Area and are designated as Block 287, Lots 32.01, 32.02, 46, 47, 47.01, 54, 55, 56, 60, 61.02, 61.03, 62, 62.01, 63, 70, 70.01, 71, 71.01, 73 and 80, in the Town of Kearny, New Jersey; and

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

WHEREAS, the Review Team evaluated the suitability of the subject properties taking into consideration the specific application submitted; and

WHEREAS, a suitability review, dated March 11, 2019, and attached hereto, has been prepared, indicating the recommendation of the Review Team in this matter; and

WHEREAS, the suitability review recommends that the subject properties are unsuitable for residential use; and

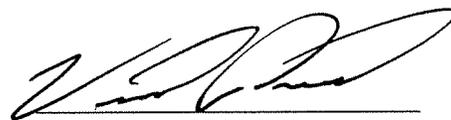
WHEREAS, the Board of Commissioners of the NJSEA has reviewed the suitability review and recommendation prepared by the Review Team, regarding the subject properties; and

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

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

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority that the properties located at Block 287, Lots 32.01, 32.02, 46, 47, 47.01, 54, 55, 56, 60, 61.02, 61.03, 62, 62.01, 63, 70, 70.01, 71, 71.01, 73 and 80, in the Town of Kearny, New Jersey, are deemed to be unsuitable for residential use.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting of March 21, 2019.

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

Vincent Prieto
Secretary



MEMORANDUM

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

From: Sara J. Sundell *Date:* March 21, 2019

Subject: Site Suitability Recommendation for Block 287, Lots 32.01, 32.02, 46,47, 47.01, 54, 55, 56, 60, 61.02, 61.03, 62, 62.01, 63, 70, 70.01, 71, 71.01, 73 and 80, in the Town of Kearny (File No. 19-081)

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

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

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

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

The NJSEA received an application for the construction of four (4) warehouse/distribution buildings, with an area of approximately 2.1 million square feet, and associated driveways on the premises located along Fish House Road and adjacent to the NJ Transit Morris and Essex Line right-of-way, on the property designated as Block 287, Lots 32.01, 32.02, 46, 47, 47.01, 54, 55, 56, 60, 61.02, 61.03, 62, 62.01, 63, 70, 70.01, 71, 71.01, 73 and 80, in the Town of Kearny, New Jersey. The subject properties are located within the District's Koppers Coke Peninsula Redevelopment Area.

The matter was forwarded to the Review Team for review of the proposed site in accordance with the *Interim Policies*. A suitability review, dated March 11, 2019, has been prepared, indicating that the Review Team recommends that the subject properties are not suitable for residential use.

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

Suitability Review – Summary

File No. 19-081

HClA/Morris Kearny Associates - New Buildings

Block 287, Lots 32.01, 32.02, 46, 47, 47.01, 54, 55, 56, 60, 61.02, 61.03, 62, 62.01, 63, 70, 70.01, 71, 71.01, 73, 79 and 80,

in the Town of Kearny

March 11, 2019

The NJSEA received a zoning certificate application for the proposed construction of four (4) warehouse/distribution buildings with an area of approximately 2.1 million square feet, and access driveways on the property commonly known as Koppers Coke, which is located along Fish House Road and adjacent to the NJ Transit Morris and Essex Line right-of-way, in the Town of Kearny, New Jersey. The proposed development is located on the property designated as Block 287, Lots 32.01, 46, 54, 55, 56, 60, 61.02, 61.03, 62, 62.01, 63, 70, 70.01, 71, 71.01, 73, 79 and 80. The majority of the properties listed are owned by the Hudson County Improvement Authority (HClA) with the following exceptions. Portions of the driveways for the development are proposed to be located on property owned by James M Salerno Enterprises, Inc. (Block 287, Lot 79), and Mariana Properties, Inc., care of Glenn Springs Holdings, Inc. (Block 287, Lot 46) (also known as the Diamond Shamrock site). For the purposes of this site suitability analysis, the entirety of the property owned by Mariana Properties, Inc. (Block 287, Lots 32.02, 46, 47, and 47.01) will be included in the analysis.

The subject properties are all presently vacant and are located in the District's Koppers Coke Peninsula Redevelopment Area and, as such, are not exempt from the site suitability review process.

Of note, the property owned by the Town of Kearny (also known as the Standard Chlorine site) is also proposed to be traversed by the access driveways for the development. However, as the Standard Chlorine site is an EPA-designated Superfund site, this property is exempt from the Interim Policies.

In keeping with the review process, the site characteristics of the property have been evaluated in accordance with the "Interim Policies Governing Affordable Housing Development in the Meadowlands District," adopted by the NJMC on July 24, 2008, and last revised on July 27, 2011.

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

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

- The Koppers Coke property, which is comprised of multiple lots with a total area of approximately 174 acres, including 44 acres of riparian lands, is located within the Koppers Coke Peninsula Redevelopment Area. The Mariana property is comprised of approximately 28.65 acres, also including at least 1.25 acres of riparian lands. The Salerno property is comprised of approximately 2.9 acres.
- The Koppers Coke property is currently vacant; however, from approximately 1917 to 1979, the site was used as a coal tar processing plant, coke plant and coke storage area. The Mariana property is also currently vacant but was utilized by the Martin Dennis Company for chromate chemical manufacturing beginning in 1916. The industrial use of the property continued until the early 1980's when most of the buildings on site were demolished. Later uses of the site included truck and trailer parking. The Salerno property is currently being utilized for truck and equipment parking.
- Prior to the adoption of the Koppers Coke Peninsula Redevelopment Plan, the subject property was zoned Intermodal B, which is one of 12 zones and/or redevelopment areas that are deemed unsuitable for housing in the "Interim Policies Governing Affordable Housing Development in the Meadowlands District."
- There are no existing residential developments in the Hackensack Meadowlands District portion of the Town of Kearny.
- The property located between Koppers Coke and the Mariana property is the Standard Chlorine site that is owned by the Town of Kearny. Standard Chlorine was designated as a Superfund site in 2007 by the U.S. Environmental Protection Agency (EPA), however, releases of hazardous substances to the soil, surface water and groundwater have been documented since at least the early 1980s. Generally, close proximity to a property designated in the National Priorities List precludes it from supporting residential use. Other properties in the immediate vicinity contain heavy industrial uses, such as Owens Corning, which manufactures roofing shingles, and transportation uses, such as Meadowlands Maintenance Complex, a vast rail yard operated by NJ Transit.
- The primary means of vehicular access to the Koppers Coke site is via a narrow two-lane underpass with low clearance under the NJ Transit Morris and Essex Rail Line. The underpass is accessed from Fish House Road through Block 287, Lot 73, which is owned by HClA. Future access is proposed off of Route 7 but requires traversing the Mariana and Standard Chlorine Superfund properties. An additional future access point from Fish House Road is proposed under the Morris and Essex Line bridge adjacent to the Hackensack River and requires crossing the Salerno property. Without the use of property

owned by others, including both private and public entities, the site's existing access utilizing the low clearance two-lane underpass is insufficient to provide multiple access points to Koppers Coke, which would be necessary for a residential development.

- A portion of the Koppers Coke property that is adjacent to Route 7 is in a location where the highway is elevated to cross over the Morris and Essex Rail Line. The elevation difference and existing infrastructure do not afford the opportunity to obtain direct access from Route 7 to Koppers Coke. In order to access the Koppers Coke from Route 7, an access driveway would have to traverse the Mariana property and the Standard Chlorine Superfund site.
- The remainder of the southern border of the Koppers Coke property is adjacent to the Morris and Essex Rail Line, which is elevated above the subject property and the Owens Corning plant located to the south. There are no opportunities to provide access across the rail line due to the elevation of the tracks and location of privately owned property.
- This criterion is not met by the subject properties.

ii. The site has access to water and sewer infrastructure with sufficient capacity.

- The applicant has indicated that water will be provided by the Town of Kearny Water Department and sanitary sewer service by the Kearny Municipal Utilities Authority.
- This criterion is met by the subject properties.

iii. The site can be developed consistent with the rules of the NJSEA.

- The subject properties could be developed utilizing the bulk regulations of the Koppers Coke Peninsula Redevelopment Plan and the design and performance standards of the Redevelopment Plan and the District Zoning Regulations.
- This criterion is met by the subject properties.

iv. Former and existing land uses, either on the site or in the vicinity, may not expose residents to environmental hazard. Alternatively, the site shall be remediated to NJDEP residential standards as a condition of the Board's approval.

- The Koppers Coke property was used as a coal tar processing plant, coke plant and coke storage area from approximately 1917 to 1979, and as a result, contains evidence of soil, groundwater and/or surface water contamination. Contaminants on the site include by-products of the former industrial uses, such as total petroleum hydrocarbons

(TPH), polycyclic aromatic hydrocarbons (PAHs), arsenic, lead, zinc and cadmium.

- The property is undergoing remediation through a Remedial Action Work Plan (RAWP) approved by the NJDEP. An Interim Remedial Measures (IRM) System pumps groundwater to remove coal tar-related dense non-aqueous phase liquids (DNAPL) from the property through a number of product recovery wells. The recovered product is shipped off-site to an approved disposal facility. A slurry wall was installed along the northern and eastern boundary to prevent migration of the DNAPL into the Hackensack River. Engineering controls including a controlled-fill cap, and institutional controls including deed notices are required for the site. The RAWP does not contemplate remediating the site to NJDEP residential standards.

- The Mariana property is also the subject of an NJDEP investigation regarding site contamination. The majority of the site contains elevated levels of total and hexavalent chromium above the meadow mat as a result of the massive chromite ore processing residue (COPR) filling that occurred at the site. Additionally, volatile organic compounds (VOCs) were detected in soil and groundwater along the southeastern edge of the property, near the Standard Chlorine Superfund site.

- This criterion is not met by the subject properties.

v. The size, shape, or layout of any existing structure that shall remain, or other physical limitation(s) not listed previously, do not preclude residential use.

- As a vacant site, there are no structures on the subject property that would limit the placement and layout of a residential development.
- This criterion could be met by the subject properties.

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

- The subject properties are located several miles from the Town of Kearny's core residential community and local business district, and is remote from public schools, local retail stores, and other public amenities. All of the municipality's public services are located outside of the immediate area and require motorized transportation to access them.
- The properties are separated from the non-industrial portions of the municipality by multiple highways, rail lines and expanses of industrial development interspersed among large tracts of marshland.
- There are no sidewalks and little to no pedestrian opportunities in the

vicinity of the subject properties. Supportive uses that could be safely accessed via pedestrian means from this site do not exist. Route 7 is a major transportation corridor for buses, trucks, and tractor trailers serving the region, and walking along a state highway is generally discouraged.

- Existing development in the vicinity of the subject properties and areas adjoining Route 7 is primarily industrial, including some warehouse and distribution uses, and as such, is heavily reliant on trucking services to move products. As a result, there is a significant amount of truck traffic, including the inherent noise and pollution associated with heavy vehicle usage, which would be detrimental to the quality of life and long-term safety of residents on the subject property.
- As a major transportation corridor, Route 7 is subject to constant use, not only during standard daytime working hours, but during nights and weekends as well. The subject properties are in a location that is subject to significant noise generators, not only from highway noise, but also from trains on the Morris and Essex Rail Line, which is not conducive to a residential use at this site.
- The proximity of the subject properties to the Standard Chlorine Superfund site is not conducive to the construction of a residential development.
- Ultimately, in light of the particular site characteristics and location, the suitability of the properties in question to support a residential use is subject to an insurmountable combination of factors related to environmental, public health and safety, and land use concerns that prove the site unsuitable for residential use.

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

Conclusion

The subject properties, designated as Block 287, Lots 32.01, 32.02, 46, 47, 47.01, 54, 55, 56, 60, 61.02, 61.03, 62, 62.01, 63, 70, 70.01, 71, 71.01, 73, 79 and 80, in the Town of Kearny, New Jersey, are recommended to be deemed unsuitable for housing.

Contingent upon the approval of this recommendation by the NJSEA Board of Commissioners, the review of the submitted zoning certificate application for the proposed four (4) warehouse/distribution buildings may proceed for this site. As a condition of zoning certificate approval, the applicant shall be required to satisfy the project's affordable housing requirements as per Section VII(a) of the Interim Policies or as required by law.

RESOLUTION 2019-09

**RESOLUTION AUTHORIZING THE
NEW JERSEY SPORTS AND EXPOSITION AUTHORITY AND ITS STAFF
TO FILE A NOTICE OF PROPOSAL AND HOLD A PUBLIC HEARING
FOR PROPOSED CHANGES TO THE
HACKENSACK MEADOWLANDS DISTRICT
FLOOD PLAIN MANAGEMENT REGULATIONS AND TO ADOPT
FEMA'S EFFECTIVE FLOOD INSURANCE STUDY AND FIRM MAPPING
FOR THE HACKENSACK MEADOWLANDS DISTRICT (FILE No. SP-721)**

WHEREAS, the New Jersey Sports and Exposition Authority (NJSEA) is authorized by N.J.S.A. 5:10A-1, *et seq.*, to adopt codes and standards regarding the zoning and rezoning of lands within the Hackensack Meadowlands District; and

WHEREAS, in a letter dated February 28, 2019, the Federal Emergency Management Agency (FEMA) notified the NJSEA that, as part of its federal regulatory process, it has finalized modified Flood Hazard Determinations (FHDs) affecting the Flood Insurance Rate Maps (FIRM) and a Flood Insurance Study (FIS) report for the area that encompasses the Hackensack Meadowlands District (HMD);

WHEREAS, the NJSEA is a participating community in FEMA's National Flood Insurance Program (NFIP) and, as such, is required to ensure that its Flood Plain Management regulations meet or exceed the minimum requirements of the NFIP; and

WHEREAS, upon completion of FEMA's regulatory process for the final FHDs and the revised FIRM and FIS report, which will become effective as of August 28, 2019, all NFIP participating communities will be required to adopt or amend their flood plain management regulations to reference the new effective FIRM and FIS report; and

WHEREAS, as a condition of continued eligibility in the NFIP, all participating communities are also required to adopt or show evidence of adoption of flood plain management regulations that meet the standards of Paragraph 60.3(d) of the NFIP regulations; and

WHEREAS, NJSEA zoning regulations at N.J.A.C. 19:4-5.2(a)3, require that the minimum lowest floor elevations for structures within designated 100-

year flood zones shall be established one foot above the applicable 100-year base flood elevations determined by the FIRM; and

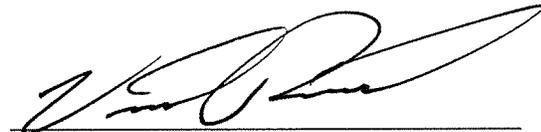
WHEREAS, NJSEA Flood Plain Management regulations at N.J.A.C. 19:4-9.5 identify specific effective FIRM panels to be used as a basis for establishing the areas of special flood hazard within the District; and

WHEREAS, the NJSEA staff proposes to amend its Flood Plain Management regulations at N.J.A.C. 19:4-9.5 to adopt FEMA's revised FIS and FIRM panels for the Hackensack Meadowlands District, which will have an effective date of August 28, 2019; and

WHEREAS, the NJSEA staff proposes to amend its Flood Plain Management regulations at N.J.A.C. 19:4-9 *et seq* as required to be consistent with the New Jersey Department of Environmental Protection's model Flood Damage Prevention Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the New Jersey Sports and Exposition Authority hereby authorizes the staff to prepare and submit a Notice of Proposal to the Office of Administrative Law for publication in the New Jersey Register and to hold a public hearing to receive input from interested parties regarding the proposed amendments to the District Flood Plain Management regulations.

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 21, 2019.



Vincent Prieto
Secretary



MEMORANDUM

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

From: Sara J. Sundell

Date: March 21, 2019

Subject: Rulemaking - Flood Plain Management Regulations - New FEMA FIRMs (File #SP-721)

The NJSEA is a participating community in Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP) and, as such, is required to ensure that its Flood Plain Management Regulations meet or exceed the minimum requirements of the NFIP. In a letter dated February 28, 2019, FEMA notified the NJSEA that it has recently finalized modified Flood Hazard Determinations (FHDs) affecting the Flood Insurance Rate Maps (FIRM) and a Flood Insurance Study (FIS) report for the area that encompasses the Hackensack Meadowlands District.

FEMA's federal regulatory process allows for only a limited amount of time for participating communities to adopt or amend their floodplain management ordinances/regulations after the final flood hazard data and the effective date of the new FIRM and FIS report have been established. In order to meet the federal timeline, along with the Office of Administrative Law's (OAL) requirements for New Jersey Administrative Code rulemaking, the NJSEA needs to begin the rulemaking process in advance of FEMA's publication of the final FHDs.

As a participating community in the NFIP, the NJSEA will be required to amend its Flood Plain Management regulations at N.J.A.C. 19:4-9 *et seq* to reference the revised FIRM and FIS report, which will become effective as of August 28, 2019. In addition, the NJSEA staff proposes to amend its existing Flood Plain Management regulations at N.J.A.C. 19:4-9 *et seq* as required to be consistent with the New Jersey Department of Environmental Protection's model Flood Damage Prevention Ordinance.

Accordingly, NJSEA staff is requesting authorization to file a Notice of Proposal with the Office of Administrative Law for publication in the New Jersey Register and to hold a public hearing in order to obtain public input on the proposed amendments to the Flood Plain Management Regulations. A resolution requesting the same is attached for your consideration.

AWARDS/ CONTRACTS

RESOLUTION 2019-10

**RESOLUTION AUTHORIZING THE PURCHASE OF A
2019 FORD RP-90 ES MEDEX TYPE III AMBULANCE**

WHEREAS, the NJSEA Medical Department's existing 2001 E350 ambulance is at the end of its useful life; and

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

WHEREAS, upon advice of the Division of Purchase and Property, NJSEA staff reached out to the Houston-Galveston Area Council's ("H-GAC") "HGACBuy" program, a nationwide Government-to-Government cooperative purchasing program as allowed by N.J. PL2011.c.139. Since the NJSEA is currently a member of this program, the staff was able to obtain competitive pricing and immediate availability for a replacement ambulance, which meets our requirements; and

WHEREAS, staff is recommending the award of a purchase agreement to Defender Emergency Products in the amount of \$113,593.00 through the NJSEA's Interlocal Contract #13-3649 via HGAC.

NOW, THEREFORE, BE IT RESOLVED that the President and Chief Executive Officer is hereby authorized to enter into a purchase agreement with Defender Emergency Products in the amount not to exceed \$113,593.00.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting of March 21, 2019.



Vincent Prieto.
Secretary

EXECUTIVE SESSION

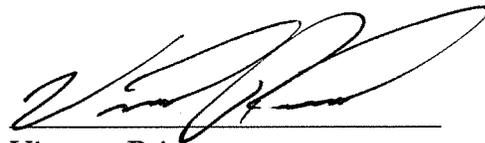
RESOLUTION 2019-11

**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 21, 2019.



Vincent Prieto
Secretary

RESOLUTION 2019-12

**RESOLUTION AUTHORIZING THE EXECUTION OF A
SETTLEMENT AGREEMENT BY AND BETWEEN
THE NORTH ARLINGTON-LYNDHURST JOINT SEWER MEETING AND
THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY**

WHEREAS, the North Arlington-Lyndhurst Joint Sewer Meeting ("NALJSM") operates a sewer treatment plant for the Borough of North Arlington and the Township of Lyndhurst; and

WHEREAS, the NALJSM and the NJSEA are parties to an agreement dated December 20, 2012, concerning leachate collection and disposal for landfills located within the Kingsland Redevelopment Area, which are currently owned by the NJSEA (the "Agreement"); and

WHEREAS, a billing dispute arose between the parties and could not be resolved, resulting in the filing of a Complaint by the NALJSM in New Jersey Superior Court on January 22, 2018, captioned *North Arlington-Lyndhurst Joint Sewer Meeting v. The New Jersey Meadowlands Commission and The New Jersey Sports and Exposition Authority*, Civil Action No. BER-L-487-18 (the "Action"); and

WHEREAS, the parties subsequently pursued settlement negotiations and an agreement in principle was reached; and

WHEREAS, the NALJSM and the NJSEA, rather than proceeding with the expense and time of additional litigation, and for purposes of preventing future disputes, desire to settle the within matters amicably.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority that the execution of a Settlement Agreement with the North Arlington-Lyndhurst Joint Sewer Meeting, in substantially similar form as the document attached hereto, and the disbursement of a settlement payment as set forth therein, is hereby authorized, and that this matter currently pending before the Court shall be concluded.

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 21, 2019.



Vincent Prieto
Secretary

SETTLEMENT AGREEMENT

This Settlement Agreement (the “Agreement”) is made and entered into this ___ day of January, 2019 (the “Effective Date”), by and between the North Arlington-Lyndhurst Joint Sewer Meeting (“NALJSM”) and the New Jersey Sports and Exposition Authority (“NJSEA”) into which the New Jersey Meadowlands Commission (“NJMC”) merged in 2015. Each of NALJSM and NJSEA is a “Party,” and they are collectively referred to herein as the “Settling Parties.”

WHEREAS, on or about January 22, 2018, NALJSM filed a Complaint in the Superior Court of New Jersey, Law Division - Bergen County, captioned *North Arlington-Lyndhurst Joint Sewer Meeting v. The New Jersey Meadowlands Commission and The New Jersey Sports and Exposition Authority*, Civil Action No. BER-L-487-18 (the “Action”); and

WHEREAS, on or about April 27, 2018, the Court dismissed the two claims for fraud asserted in the Complaint and ordered NALJSM to provide a more definitive statement of the remaining breach of contract claim, which NALJSM provided on or about May 31, 2018, and NJSEA answered on or about June 11, 2018; and

WHEREAS, the Settling Parties, denying any fault, wrongdoing, or liability to each other, wish to forever settle, compromise, and resolve the differences, disagreements, and disputes which exist between them, including, but not limited to, those disputes that are the subject matter of the Action;

NOW, THEREFORE, in consideration of the covenants and promises hereinafter set forth, the Settling Parties agree as follows:

1. **Settlement Payment.** Subject to the agreements set forth herein and in full satisfaction of the claims asserted in the Action, NJSEA agrees to pay to NALJSM the sum of

Seventy-Five Thousand U.S. Dollars (\$75,000.00) (the “Settlement Payment”). The Settlement Payment shall be paid by check made payable to North Arlington-Lyndhurst Joint Sewer Meeting not later than thirty (30) days after this Agreement has been fully executed. NALJSM agrees that the Settlement Payment is adequate and sufficient consideration for the provisions set forth below.

2. **Dismissal With Prejudice.** On the Effective Date, the Settling Parties shall execute a Stipulation of Dismissal dismissing the Action in its entirety with prejudice, in the form annexed hereto as Exhibit A. The fully-executed Stipulation of Dismissal will be held in escrow by counsel for NJSEA until the Settlement Payment has been made, at which time counsel for NJSEA shall file with the Court the fully-executed Stipulation of Dismissal within three (3) business days.

3. **Releases.**

a. **Release of NJSEA.** NALJSM hereby releases and forever discharges NJSEA and any elected or appointed official, commissioner, member of a Board, officer or employee of NJSEA and/or its predecessors and successors, and their advisors, attorneys, consultants, representatives and agents, including the successors and assigns of same, and all persons acting by, through, under, or in concert with NJSEA (collectively the “NJSEA Released Parties”), of and from any and all actions, causes of action, suits, defenses, sums of money, trespasses, liability, damages, losses, costs, expenses, attorneys’ fees, and all other claims and demands whatsoever, in law or in equity, known or unknown, fixed or contingent, which NALJSM ever had, now has, or may hereafter have against NJSEA relating to or arising from matters alleged in the Action, the subject matter of the Action, and which could have been brought in the Action, including those that NALJSM may not be aware of and notwithstanding the discovery or existence of any additional different claims or facts. In addition, the release herein given shall be

and remain in effect as a full and complete release of any and all claims and demands not related to the Action that NALJSM has or may have against NJSEA with respect to the period on or prior to the Effective Date. For avoidance of doubt, NJMC is intended to, and shall, be included among the NJSEA Released Parties.

b. **Release of NALJSM.** NJSEA does hereby release and forever discharge NALJSM and any elected or appointed official, commissioner, member of a Board, officer or employee of NALJSM and their advisors, attorneys, consultants, representatives and agents, including the successors and assigns of same, and all persons acting by, through, under, or in concert with NALJSM, of and from any and all actions, causes of action, suits, defenses, sums of money, trespasses, liability, damages, losses, costs, expenses, attorneys' fees, and all other claims and demands whatsoever, in law or in equity, known or unknown, fixed or contingent, which NJSEA ever had, now has, or may hereafter have against NALJSM relating to or arising from matters alleged in the Action, the subject matter of the Action, and which could have been brought in the Action, including those that NJSEA may not be aware of and notwithstanding the discovery or existence of any additional different claims or facts. In addition, the release herein given shall be and remain in effect as a full and complete release of any and all claims and demands not related to the Action that NJSEA has or may have against NALJSM with respect to the period on or prior to the Effective Date.

4. **No Admission of Liability.** The Settling Parties understand and hereby agree that this Agreement constitutes the compromise of the claims that are the subject of the Releases in Paragraph 3 (the "Released Claims") and cannot be construed as, nor is it, an admission of liability by any Party, nor can it be used for any purpose against a Party other than to settle and compromise the Released Claims.

5. **Voluntary Agreement.** The Settling Parties represent and declare that they have carefully read this Agreement and know the contents thereof and that they sign the same freely and voluntarily.

6. **Independent Advice of Counsel.** The Settling Parties represent and declare that in executing this Agreement, they relied solely upon their own judgment, belief, and knowledge, and the advice and recommendations of their own independently selected counsel, concerning the nature, extent, and duration of their rights and claims, and that they have not been influenced to any extent whatsoever in executing the same by any representations or statements governing any matter made by the other Party or by any person representing the other Party.

7. **Authority to Execute.** The Settling Parties represent and declare that they have full competence, authority, and power to execute and be bound by this Agreement and that the person signing the Agreement on behalf of each Party has the authority to bind that Party to this Agreement.

8. **Binding Effect.** This Agreement shall be binding upon, and inure to the benefit of, the Settling Parties hereto and their respective representatives, successors, and assigns.

9. **Integrated Agreement.** This Agreement supersedes any previous agreements between the Settling Parties, whether oral or written. No other agreement, statement, or promise made by or to any of the Settling Parties will be binding on the Settling Parties unless (a) it is made in writing and signed by them, and (b) it specifically refers to this Agreement.

10. **Waiver and Amendment.** No breach of any provision hereof can be waived unless in writing. Waiver of any one breach shall not be deemed to be a waiver of any other breach of the same or any other provision hereof. This Agreement may be amended only by a written agreement executed by the Settling Parties in interest at the time of the modification.

11. **December 2012 Agreement.** The Agreement entered into by NALJSM and NJMC on December 20, 2012, is not modified by this Agreement and remains in full force and effect.

12. **Governing Law.** This Agreement and any other documents referred to herein shall be governed by, construed, and enforced in accordance with the laws of the State of New Jersey, without regard to conflict of law principles.

13. **Counterparts.** This Agreement may be executed in one or more counterparts, and then transmitted via facsimile or electronic means, each of which shall be deemed an original, and will become effective and binding upon the Settling Parties at such time as all of the signatories hereto have signed a counterpart of this Agreement. All counterparts so executed shall constitute one Agreement binding on the Settling Parties, notwithstanding that the Settling Parties are not signatory to the same counterpart.

DATED: January ___, 2019

**NORTH ARLINGTON-LYNDHURST JOINT
SEWER MEETING**

By:
Title:

DATED: January ___, 2019

**NEW JERSEY SPORTS AND EXPOSITION
AUTHORITY (into which the New Jersey
Meadowlands Commission merged in 2015)**

By:
Title:

Exhibit A

NORTH ARLINGTON-LYNDHURST
JOINT SEWER MEETING,

Plaintiff,

vs.

THE NEW JERSEY MEADOWLANDS
COMMISSION and THE NEW JERSEY
SPORTS AND EXPOSITION AUTHORITY,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY
DOCKET NO. BER-L-000487-18

Civil Action

**STIPULATION OF DISMISSAL
WITH PREJUDICE**

IT IS HEREBY STIPULATED and agreed by and between plaintiff North Arlington-Lyndhurst Joint Sewer Meeting (“Plaintiff”) and defendant New Jersey Sports and Exposition Authority (into which defendant New Jersey Meadowlands Commission merged in 2015) (“Defendants”), by and through their respective undersigned counsel of record, that this matter brought by Plaintiff against Defendants is hereby dismissed with prejudice in its entirety, with each party to bear its own costs and attorneys’ fees.

**EASTWOOD, SCANDARIATO &
STEINBERG**
Attorneys for Plaintiff

GIBBONS P.C.
Attorneys for Defendants

By: _____
Peter A. Scandariato, Esq.

By: _____
Kevin R. Reich, Esq.

Dated: January ____, 2019

Dated: January ____, 2019