



Board Meeting

Thursday, July 16, 2015

AGENDA

REVISED



We Bring the World to New Jersey

NEW JERSEY SPORTS AND EXPOSITION AUTHORITY

AGENDA REGULAR SESSION

Thursday, July 16, 2015 -10:00 a.m.

Two DeKorte Park Plaza, Lyndhurst, NJ

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

- Approval of Regular Session Meeting Minutes of June 18, 2015.

II. **PUBLIC PARTICIPATION ON RESOLUTIONS**

III. **APPROVALS** (Action)

- Approval and/or Ratification of Cash Disbursements over \$100,000 for the month of June 2015.

Resolution 2015-38 Consideration of a Resolution issuing a Decision on the Bulk Variance Application submitted as part of File No. 15-114 PSE&G/Homestead substation upgrade & variance – Block 442, Lot 1.01 in North Bergen.

Resolution 2015-39 Consideration of a Resolution issuing a Decision on the Variance Application submitted as part of File No. 15-085 PSE&G/Penhorn Substation Upgrade & Variances (Phase II) – Block 101, Lots 2 and 5 in Jersey City.

Resolution 2015-40 Consideration of a Resolution Regarding a Tidelands Application for Campbell Foundry/Site Improvement File No. 15-070 – Block 284, Lot 7 in Kearny.

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

Resolution 2015-41 Consideration of a resolution authorizing the Award of a Contract for Audit Services.

Resolution 2015-42 Consideration of a resolution authorizing the President and CEO of the New Jersey Sports and Exposition Authority to enter into a Memorandum of Understanding with Bergen Community College regarding the operation of the William D. McDowell Observatory.

Resolution 2015-43 Consideration of a resolution authorizing a partnership between Rutgers University-Newark and NJSEA regarding the operation of the Meadowlands Environmental Research Institute.

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

VI. **PUBLIC COMMENTS**

VII. **EXECUTIVE SESSION**

Resolution 2015-44 Resolution authorizing the New Jersey Sports and Exposition Authority to conduct a meeting, to which the general public shall not be admitted.

PLEASE CONTACT THE NJSEA OFFICE (201-460-1700) PRIOR TO MEETING IF SPECIAL REQUIREMENTS ARE NEEDED UNDER ADA

MINUTES



REGULAR SESSION BOARD MEETING
Thursday, June 18, 2015

DATE: June 18, 2015
TIME: 10:00 a.m.
PLACE: 2 DeKorte Park Plaza - Lyndhurst, NJ
RE: REGULAR SESSION MEETING MINUTES

Members in Attendance:

Michael Ferguson, Chairman
Joseph Buckelew, Vice Chairman
Wayne Hasenbalg, Esq., President and Chief Executive Officer
Robert Romano, NJ State Treasurer's Representative
Armando Fontoura, Member
Michael H. Gluck, Esq., Member
Anthony Scardino, Member
Robert Yudin, Member
John Ballantyne, Member
LeRoy Jones, Member
Steven Plofker, Member

Absent:

Andrew Scala, Member
George Kolber, Member

Also Attending:

Amy Herbold, Assistant Counsel, Governor's Authorities Unit
Ralph J. Marra, Jr., Esq. Sr. Vice President Legal and Governmental Affairs
Giuseppina Copa, Vice President IT
Adam Levy, Director of Legal Affairs
John Duffy, Vice President Engineering, Construction and Regulatory Affairs
Jim Minish, Executive Vice President Facilities
Helen Strus, Sr. Vice President Sales and Marketing
George Zahn, Vice President Purchasing and Risk Management
Thomas Marturano, Director
Sara Sundell, Director, Land Use Management
Francisco Artigas, Director of MERI
Dan Povia, Chief Financial Officer
Fred Dressel, HMMC

Chairman Ferguson called the meeting to order.

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

I. **APPROVAL OF MINUTES**

Chairman Ferguson presented the minutes of the Board Meeting held on May 14, 2015.

Upon motion made by Commissioner Ballantyne and seconded by Commissioner Romano, the minutes of the Board Meeting held on May 14, 2015, were unanimously approved by a vote of 11-0.

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

III. **SPECIAL PRESENTATION**

Chairman Ferguson offered the motion and read for the record a resolution honoring Commissioner Michael J. Neglia for his dedication and outstanding public service to the New Jersey Sports and Exposition Authority and the people of the State of New Jersey. Commissioner Buckelew seconded and was unanimously approved.

IV. **APPROVALS**

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

Chairman Ferguson presented the report of cash disbursements over \$100,000 and Professional Invoices for the month of May 2015

Upon motion by Commissioner Ballantyne and seconded by Commissioner Romano, the cash disbursements over \$100,000 for the month of April 2015, were approved subject to the following recusals:

<u>Member</u>	<u>Recused as to</u>
Commissioner Fontoura	Connell Foley
Commissioner Jones	PSE&G
Chairman Ferguson	PSE&G

Resolution 2015-28 Resolution issuing a decision a decision on the Suitability Recommendation as required by the *NJSEA Interim Policies Governing Affordable Housing Development in the Meadowlands District* – File No. SP-719, North Bergen Motel Assoc. Petition for Rezoning Block 451, Lot 21 in the Township of North Bergen

Ms. Sundell explained Resolution 2015-28 to the commissioners.

Chairman Ferguson presented Resolution 2015-28. Upon motion by Commissioner Ballantyne and seconded by Commissioner Scardino, proposed resolution 2015-28 was approved by a vote of 11-0.

Resolution 2015-29 Resolution issuing a decision on the Variance application submitted as part of File No.14-588, 120 Chubb LLC/New Residential Development & Variance Block 231, Lot 2 in the Township of Lyndhurst.

Ms. Sundell explained Resolution 2015-29 to the commissioners. Commissioner Scardino asked if any public comments were received. Ms. Sundell responded that that were no public comments on this resolution.

Chairman Ferguson presented Resolution 2015-29. Upon motion by Commissioner Scardino and seconded by Commissioner Romano, proposed resolution 2015-29 was approved by a vote of 11-0.

Resolution 2015-30 Resolution issuing a decision on the Use Variance application submitted as part of File No. 09-772 Ditobarbi/ZLOR, Site Improvement & Use Variance Block 130, Lots 4, 14, 15, 16 & 18, in the Borough of Carlstadt.

Ms. Sundell explained Resolution 2015-30 to the commissioners. Commissioner Yudin asked about the parking spaces. Ms. Sundell explained that parking space sizes were modified slightly.

Chairman Ferguson presented Resolution 2015-30. Upon motion by Commissioner Buckelew and seconded by Commissioner Gluck, proposed resolution 2015-30 was approved by a vote of 11-0.

Resolution 2015-31 Resolution issuing a decision on the Bulk Variance application submitted as part of File No. 08-757 Impex/New Building Block 6201, Lot 12 in the City of Jersey City.

Ms. Sundell explained Resolution 2015-31 to the commissioners.

Chairman Ferguson presented Resolution 2015-31. Upon motion by Commissioner Romano and seconded by Commissioner Yudin, proposed resolution 2015-31 was approved by a vote of 11-0.

Resolution 2015-32 Resolution authorizing changes in existing bank accounts

Ms. Marra explained Resolution 2015-32 to the commissioners.

Chairman Ferguson presented Resolution 2015-32. Upon motion by Commissioner Buckelew and seconded by Commissioner Romano, proposed resolution 2015-32 was approved by a vote of 11-0.

V. Awards and Contracts

Resolution 2015-33 Resolution authorizing the President and CFO of the New Jersey Sports and Exposition Authority to enter into a lease for the NJSEA Vegetative Waste Transfer Facility.

Mr. Marturano explained Resolution 2015-33 to the commissioners.

Chairman Ferguson presented Resolution 2015-33. Upon motion by Commissioner Scardino and seconded by Commissioner Yudin, proposed resolution 2015-26 was approved by a vote of 13-0.

Resolution 2015-34 Resolution authorizing the placement of property insurance.

Mr. Zahn explained Resolution 2015-34 to the commissioners.

Chairman Ferguson presented Resolution 2015-34. Upon motion by Commissioner Buckelew and seconded by Commissioner Plofker, proposed resolution 2015-34 was approved by a vote of 11-0.

Resolution 2015-35 Resolution authorizing a Memorandum of Understanding between the New Jersey Sports and Exposition Authority and the State of New Jersey Department of Law and Public Safety.

Mr. Marra explained Resolution 2015-35 to the commissioners.

Chairman Ferguson presented Resolution 2015-35. Upon motion by Commissioner Buckelew and seconded by Commissioner Gluck, proposed resolution 2015-35 was approved by a vote of 11-0.

VI. CEO REPORT

- President Hasenbalg was pleased to announce that the two agencies have been physically merged under one roof.
- President Hasenbalg explained that there are ongoing conversations with MCT regarding the transfer of some of NJSEA properties to the Trust.
- President Hasenbalg welcomed the new NJSEA CFO, Dan Povia.
- President Hasenbalg recognized two NJSEA retiring staff members, George Zahn and Jim Minish, for their hard work and dedication.

VII. PUBLIC COMMENTS

- Donald Smith, MCT consultant and former NJMC employee
- Marvin Donaic, resident of Cliffside Park.
- Captain Bill Sheehan, Riverkeeper

Commissioners Buckelew and Ferguson stated that the public is always welcome to contact staff members or members of Board if they have any questions.

VIII. EXECUTIVE SESSION

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

Resolution 2015-36 Resolution authorizing the NJSEA to enter into a meeting to which the general public shall not be admitted.

Upon motion made by Commissioner Romano, and seconded by Commissioner Scardino, Resolution 2015-36 was approved by a vote of 11-0.

Executive Session commenced at 10:50 a.m.
Public Session resumed at 11:30 a.m.

Resolution 2015-37 Resolution authorizing the award of a contract for sale of former golf course redevelopment properties within the Meadowlands District.

Mr. Levy explained Resolution 2015-37 to the commissioners.

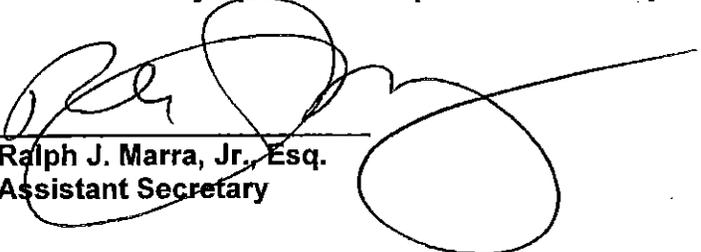
Chairman Ferguson explained that this has been a long process. He stated that it is a big win for the communities involved, the county and the tax payers. It is a major step in a continuing process of moving forward.

Commissioner Yudin stated that he is conceptually in favor of the resolution. He questioned whether BCIA would share in funds from the sale. Chairman Ferguson stated that this resolution does not decide who gets what. That would be subject to a later negotiation.

Chairman Ferguson presented Resolution 2015-37. Upon motion by Commissioner Plofker and seconded by Commissioner Romano, proposed resolution 2015-37 was approved by a vote of 11-0.

Chairman Ferguson requested a motion to conclude the meeting. Upon motion made by Commissioner Fontoura and seconded by Commissioner Scardino, the public meeting was adjourned by a vote of 11-0.

I certify that this is a true and accurate transcript of the Regular Session Minutes of the New Jersey Sports and Exposition Authority Board meeting of June 18, 2015.



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

APPROVALS



CASH DISBURSEMENTS
\$100,000 OR MORE
JUNE 2015

RACETRACK

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
NEW JERSEY RACING COMMISSION	1,254,055.47	A	FISCAL YEAR 2015 BUDGET
NEW JERSEY RACING COMMISSION	120,000.00	A	2015 GENERAL FUND APPROPRIATION FOR COMPULSIVE GAMBLING
RACETRACK TOTAL	1,374,055.47		

SPORTS COMPLEX

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
NRG BUSINESS SOLUTIONS	366,760.85	A	ELECTRICITY CHARGES: APR 2015
PUBLIC SERVICE ELECTRIC & GAS	126,187.98	A	ELECTRIC TRANSMISSION: MAY 2015
SPORTS COMPLEX TOTAL	492,948.83		

MONMOUTH PARK RACETRACK MAINTENANCE RESERVE/CAPITAL

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
BOROUGH OF OCEANPORT	535,494.72	A	CAFO SPECIAL ASSESSMENT AGREEMENT: 3rd QUARTER 2015
McCAULEY CONSTRUCTION CO., INC.	129,989.35	A	FIRE CODE RETROFIT PHASE III PROJECT
TWO RIVERS WATER RECLAMATION AUTHORITY	200,000.00	A	2015 STABLE WASTE WATER SERVICE AGREEMENT
MPR MAINTNANCE TOTAL	865,484.07		



OUTSTANDING PROFESSIONAL SERVICES
JUNE 2015

SPORTS COMPLEX

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>DESCRIPTION</u>
LAW OFFICE OF PAUL J. SODERMAN, LLC	12,984.35	LEGAL SERVICES: SPECIAL COUNSEL - APR 2015 - JUN 2015
GIBBONS P.C.	138,432.32	LEGAL SERVICES: GENERAL COUNSEL - JUN 2015
SPORTS COMPLEX TOTAL	<u>151,416.67</u>	



CASH DISBURSEMENTS
 \$100,000 OR MORE
 JUNE 2015

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
NJ STATE HEALTH BENEFITS	\$164,769.90	D	JUNE 2015 HEALTH & PRESCRIPTION COVERAGE (EMPLOYEES)
	<u>\$ 35,681.40</u>	D	JUNE 2015 HEALTH & PRESCRIPTION COVERAGE (RETIREEES)
	\$200,451.30		
KEARNY MUNICIPAL UTILITIES AUTH.	\$543,456.62	A	2015 1 ST QUARTER SEWAGE – 1A, 1E AND KEEGAN LANDFILLS
ALLAN BRITWAY ELECTRICAL	\$122,925.32	G / L	RES #11-55 MASSTR PHASE 1 CONSTRUCTION – RELEASE OF RETAINAGE AND FINAL CLOSE OUT (\$86,957.45) EMERGENCY REPAIR WORK (\$35,967.87) – FULLY REIMBURSEABLE
ORCHARD HOLDINGS, LLC	\$423,239.14	G	RES #14-56 MASSTR FIBER OPTIC CONNECTION MARCH & APRIL INVOICES
TOWNSHIP OF NORTH BERGEN	\$100,648.08	A	SEMI-ANNUAL SUPPLEMENTAL PAYMENT PURSUANT TO REAL ESTATE PURCHASE AGREEMENT DATED 9/7/2006
WASTE MANAGEMENT OF NJ	\$406,689.29	A	OPERATIONS CONTRACT – KEEGAN LANDFILL – MAY 2015



CASH DISBURSEMENTS
\$100,000 OR MORE

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

RESOLUTION 2015-38

**RESOLUTION ISSUING A DECISION ON THE
BULK VARIANCE APPLICATION
SUBMITTED AS PART OF FILE NO. 15-114
PSE&G/HOMESTEAD SUBSTATION UPGRADE & VARIANCE
BLOCK 442, LOT 1.01, IN THE TOWNSHIP OF NORTH BERGEN**

WHEREAS, an application for a bulk variance was filed with the New Jersey Sports & Exposition Authority (NJSEA) by Raymond A. Tripodi, P.E., P.P., P.M.P. of PSE&G, for the premises identified as Block 442, Lot 1.01, in the Township of North Bergen, New Jersey; and

WHEREAS, the premises is located within a utility right-of-way, and thus are deemed to be within the Hackensack Meadowlands District's Intermodal A zone, pursuant to N.J.A.C. 19:4-3.6(a); and

WHEREAS, the variance is sought in connection with the applicant's proposal to install electrical equipment to upgrade service at the existing PSE&G Homestead Substation on the subject property; and

WHEREAS, the applicant requested relief from N.J.A.C. 19:4-5.91(a)3ii, which requires a minimum side yard setback of 25 feet, whereas the applicant is proposing a concrete structure with a minimum setback of 20.3 feet from the westerly side lot line; and

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

WHEREAS, a public hearing was held in the Office of the NJSEA on May 19, 2015, before Sara Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer, Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer, Mia Petrou, P.P., AICP, Senior Planner, and Ronald Seelogy, P.E., P.P., Senior Engineer; and

WHEREAS, a comprehensive report dated June 23, 2015, has been prepared indicating the recommendations of the Director of Land Use

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

WHEREAS, a copy of the recommendation and comprehensive report was provided to the applicant on June 26, 2015; and

WHEREAS, the report recommends the approval of the requested bulk variance from N.J.A.C. 19:4-5.91(a)3ii, to permit a concrete structure at a minimum setback of 20.3 feet from the westerly side lot line; and

WHEREAS, effective February 5, 2015, the New Jersey Meadowlands Commission has become part of the NJSEA; and

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

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

WHEREAS, the Board of Commissioners hereby determines that the requested bulk variance to permit a concrete structure at a minimum setback of 20.3 feet from the westerly side lot line, conforms with the standards for approving applications of variances as set forth in N.J.A.C. 19:4-4.14(e).

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the PSE&G/Homestead Substation Upgrade & Variance application for one bulk variance to permit a concrete structure at a minimum setback of 20.3 feet from the westerly side lot line, is hereby **APPROVED** for the reasons set forth in the recommendation dated June 23, 2015.

ADOPTED: July 16, 2015

MEMORANDUM

To: NJSEA Board Members and President Wayne Hasenbalg
From: Sara J. Sundell *Date:* July 16, 2015
Subject: Variance Recommendation: PSE&G/Homestead Substation Upgrade & Variance (File No. 15-114)

An application for one bulk variance was filed with the New Jersey Sports & Exposition Authority (NJSEA) by Raymond A. Tripodi, P.E., P.P., P.M.P. of PSE&G, for the premises identified as Block 442, Lot 1.01, in the Township of North Bergen, New Jersey. The subject premises are located within a utility right-of-way, and thus are deemed to be within the Hackensack Meadowlands District's Intermodal A zone, pursuant to N.J.A.C. 19:4-3.6(a). The bulk variance is sought in connection with the applicant's proposal to install electrical equipment to upgrade service at the existing PSE&G Homestead Substation on the subject property.

The applicant requested variance relief from the following:

1. N.J.A.C. 19:4-5.91(a)3ii, which requires a minimum side yard setback of 25 feet. The applicant is proposing a concrete structure with a minimum setback of 20.3 feet from the westerly side lot line.

A public hearing on this matter was held in the Office of the NJSEA on May 19, 2015.

In a comprehensive report dated June 23, 2015, the Director of Land Use Management and the Senior Vice President of Legal & Regulatory Affairs recommended the approval of the bulk variance requested above.

A copy of the comprehensive report and variance recommendation was provided to the applicant on June 26, 2015.

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

**RECOMMENDATION ON THE VARIANCE APPLICATION OF
PSE&G/Homestead Substation Upgrade & Variance
FILE #15-114**

I. INTRODUCTION

An application for one bulk variance has been filed with the New Jersey Sports & Exposition Authority (NJSEA) by Raymond A. Tripodi, P.E., P.P., P.M.P. of PSE&G, for the premises identified as Block 442, Lot 1.01, in the Township of North Bergen, Hudson County, New Jersey. The subject premises are located within a utility right-of-way, and thus are deemed to be within the Hackensack Meadowlands District's (District) Intermodal A zone pursuant to N.J.A.C. 19:4-3.6(a). The bulk variance is sought in connection with the applicant's proposal to install electrical equipment to upgrade service at the existing PSE&G Homestead Station on the subject property.

Specifically, the applicant is requesting relief as follows:

1. N.J.A.C. 19:4-5.91(a)3ii, which requires a minimum side yard setback of 25 feet. The applicant is proposing a concrete structure with a minimum setback of 20.3 feet from the westerly side lot line.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Jersey Journal. No written objections were received. A public hearing was held in the Office of the NJSEA on Tuesday, May 19, 2015. All information submitted to the Division of Land Use Management relative to this application is made part of the record of this recommendation.

II. GENERAL INFORMATION

A. Existing and Proposed Use

The property in question, Block 442, Lot 1.01, contains approximately 2.076 acres. The property is designated as Right-of-Way (ROW) on the Official Zoning Map for the Hackensack Meadowlands District. Pursuant to N.J.A.C. 19:4-3.6(a), the property is deemed to be within the District's Intermodal A zone.

The subject property is rectangular in shape and contains frontage along West Side Avenue to the north. The site is bordered to the south by another property within the PSE&G ROW, to the west by an NJ Transit bus garage and park and ride facility with a commuter parking area, and to the east by an NJ Transit bus storage lot. The surrounding properties are principally developed with industrial uses. West Side Avenue is a heavily-travelled roadway with significant trucking activity.

The proposed project involves utility improvements required by PJM Interconnection LLC (PJM), the regional transmission authority for the northeastern United States that evaluates systems to ensure that the power demands and power capacity within the transmission system are sufficient. The proposed substation upgrade project is part of an overall transmission corridor upgrade between the PSE&G Bergen Switching Station in Ridgewood and the PSE&G Linden Switching Station in Linden. The existing substation was built in 1966 and currently serves approximately 32,000 customers. The upgrades are required to be in service by June 2016. The agencies that govern electric transmission requirements, including the Federal Energy Regulatory Commission (FERC) and PJM, may issue violations if the upgrades are not completed.

The subject property is currently developed with a one-story masonry building, electric substation, transmission wires and associated site improvements. The site is accessed from the Park & Ride Access Roadway by a road access easement. This application proposes to upgrade the existing

substation with the construction of a new control house, installation of electrical equipment, and associated site improvements. The new building and equipment will be raised a minimum of one foot above the base flood elevation, as indicated on the FEMA Flood Insurance Rate Maps, to make it more resilient to flooding conditions. The substation is not manned in its existing or proposed condition. The transformers have both containment walls and basins to capture any potential leakage of oil. The applicant requires a variance from the minimum side yard setback requirement of 25 feet, as a concrete structure to be used as a containment measure is proposed at a minimum setback of 20.3 feet from the westerly side lot line.

B. Response to the Public Notice

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

III. PUBLIC HEARING (May 19, 2015)

A public hearing was held on Tuesday, May 19, 2015. NJMC staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, P.P., AICP, Senior Planner; Ronald Seelogy, P.E., P.P., Senior Engineer; and Brandon Alviano, Senior Planner.

A. Exhibits

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

<u>Number</u>	<u>Description</u>
A-1	"Site Plan," prepared by Bradley M. Johnson, P.E., of Black & Veatch, and Shehzad C. Khan, P.L.S., of PSEG Services Corporation, dated March 2, 2015, revised May 6, 2015.
A-2	"Homestead Substation Plan and Profile," Drawing Number 97561A-15P, prepared by Black & Veatch, dated August 8, 1966, revised through February 18, 2015.

B. Testimony

James Rhatican, Esq., of the firm, Chiesa Shahinian & Giantomasi, P.C., represented PSE&G, at the hearing. The following witness testified in support of the application:

1. Michael Percarpio, Senior Project Manager, PSE&G;
2. Bradley Johnson, P.E., Black and Veatch; and
3. Raymond Tripodi, P.E., P.P., P.M.P., PSE&G.

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

C. Public Comment

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

IV. RECOMMENDATION

- A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.91(a)3ii, which requires a minimum side yard setback of 25 feet. The applicant is proposing a concrete structure with a minimum setback of 20.3 feet from the westerly side lot line.

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

1. *Concerning bulk variances:*

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

The subject property is within a ROW owned by PSE&G, and consists of approximately 2.076 acres. Pursuant to N.J.A.C. 19:4-3.6(a), the property is deemed to be within the District's Intermodal A zone. The site is uniquely configured, having a lot depth of 589 feet, approximately 4 times longer than its lot width of 150 feet. The subject property is currently improved with an existing electric substation, including a control house and electrical equipment. The site is accessed via the Park & Ride Access Roadway by a 25-foot-wide access road easement from NJ Transit to PSE&G. The location and configuration of these existing improvements on the lot include a pre-existing nonconforming setback of 19.2 feet along the westerly side yard to an existing masonry structure, whereas a minimum side yard setback of 25 feet is required.

The upgrade project is required as part of a regional resiliency initiative to upgrade existing energy infrastructure. As part of the

upgrade, the applicant proposes a concrete containment structure at a minimum setback of 20.3 feet measured from the westerly side property line. The concrete containment structure is a secondary containment measure for oil that may leak from the transformer and will prevent contamination on the site, which is located within a floodplain. The placement and configuration of the proposed equipment and control house on the site is dictated by the location of the existing equipment and regulatory requirements to maintain certain clearances between equipment structures. Therefore, the variance requested arises from conditions that are unique to the property in question and are not ordinarily found in the same zone.

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

The concrete containment structure is proposed to be located 20.3 feet from the westerly side property line. The proposed location is more distant from the westerly side property line than the existing nonconforming masonry structure on the northerly portion of the site. No adverse visual impacts are anticipated for the portion of the adjoining property to the west immediately adjacent to the substation, which is a paved vehicular use area utilized as an NJ Transit parking lot. Existing site and maintenance operations will be maintained at their present levels. The site is an unmanned electric substation that requires only occasional visits by PSE&G personnel.

The proposed variance will not impact the ability of neighboring properties to function as intended. Rather, the proposed

improvements will promote energy resiliency, which will benefit area energy customers. In addition, there are no residences in the general vicinity of the site. Therefore, the granting of the requested variance will not adversely affect the rights of neighboring property owners or residents.

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

The strict application of the minimum side yard setback requirement of 25 feet on the subject property will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. The shape of the property is exceptionally long and narrow, and the location of new equipment on the site is constrained by the presence of existing improvements whose function must be maintained as they are upgraded.

The subject property has a width of 150 feet with an existing nonconforming setback of 19.2 feet provided to an existing structure within the westerly side yard. The installation of the concrete containment structure at a setback of 20.3 feet from the westerly side property line will not increase the current degree of nonconformity. The placement of the equipment and concrete containment structure is dictated by the location and configuration of the existing equipment on the site and regulatory requirements to maintain certain clearances between equipment structures, which represent exceptional practical difficulties in the ability to comply with the side yard setback requirements. The proposed

setback is required to accommodate the proposed concrete containment structure, the footprint of which is based upon the size of the transformer it serves. Therefore, the existing site conditions present exceptional practical difficulties in the ability to comply with the side yard setback requirements. Without the ability to install the new equipment within the designated westerly side yard setback, PSE&G would be hindered in its effort to provide safe, adequate, and reliable energy from this site to the region it serves.

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

Approval of the requested variance to permit a 20.3-foot side yard setback, whereas a minimum side yard setback of 25 feet is required, will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The proposed substation upgrades will promote the general welfare through the improvement of power capacity to the public customers of PSE&G that are served by this substation. The installation of the concrete containment structure around the new transformer will act as a secondary measure to capture any potential leakage, which will prevent contamination on the site and, in turn, will promote the public health, safety, and general welfare, particularly since the site is located in a floodplain.

The electric substation is an unmanned facility and requires only periodic maintenance by PSE&G personnel. Therefore, it is

anticipated that traffic levels will not differ from the existing operations at the site. Due to the transmission line design requirements, the shape of the parcel and the location of the existing equipment, it is not possible to maintain a 25-foot side yard setback.

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

The granting of the requested variance to permit a minimum side yard setback of 20.3 feet, whereas a minimum setback of 25 feet is required, will not have a substantial adverse environmental impact. The property contains a preexisting nonconforming side yard setback of 19.2 feet along the westerly property line. Minimum open space requirements will be maintained. The installation of the concrete containment structure will serve to contain any adverse environmental impacts from a potential oil leak. The NJSEA's environmental performance standards for noise, glare, vibrations, airborne emissions, hazardous materials and water quality will not be exceeded.

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

The proposed project involves the replacement and reconstruction of existing electric transmission equipment as part of a regional energy infrastructure initiative. The particular characteristics of the subject property, including the shape of the parcel and the location of existing improvements, constrain the ability of the proposed equipment upgrades to comply with the side yard setback

requirements of the Intermodal A zone. These conditions represent exceptional practical difficulties in the accommodation of the required upgrades to the substation. The proposed concrete containment structure, which extends approximately four feet into the required westerly side yard for a distance of approximately 35 feet, occupies only a small portion of the property's westerly side yard. Adequate light, air and open space will continue to be provided. Therefore, the requested variance represents the minimum deviation from the regulations that will afford relief.

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

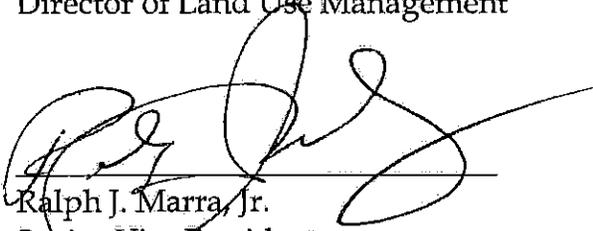
The granting of the requested variance to permit a 20.3-foot side yard setback, whereas a minimum side yard setback of 25 feet is required, will not substantially impair the intent and purpose of these regulations. The District Zoning Regulations are intended to provide for infrastructure and utility improvements and to promote the efficient use of the land, and the requested variance will not substantially impair these purposes. The proposed equipment upgrades are required to be located within the side yard setback as proposed due to the existing configuration of the property and the location of the existing improvements on site. The equipment upgrades will increase the reliability in the supply of electricity in the area, thus promoting the orderly development of the District.

IV. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.91(a)3ii, which requires a minimum side yard setback of 25 feet. The applicant is proposing a concrete structure with a minimum setback of 20.3 feet from the westerly side lot line.

Based on the record in this matter, the bulk variance application to construct a concrete containment structure within the required westerly side yard at a minimum setback of 20.3 feet, whereas a minimum side yard setback of 25 feet is required, is hereby recommended for APPROVAL.

APPROVAL 6/23/15 
Recommendation on Date Sara J. Sundell, P.E., P.P.
Variance Request Director of Land Use Management

APPROVAL 6/23/15 
Recommendation on Date Ralph J. Marra, Jr.
Variance Request Senior Vice President
Legal & Regulatory Affairs

RESOLUTION 2015 - 39

**RESOLUTION ISSUING A
DECISION ON THE VARIANCE APPLICATION
SUBMITTED AS PART OF FILE NO. 15-085
PSE&G/PENHORN SUBSTATION UPGRADES & VARIANCES (PHASE II)
BLOCK 101, LOTS 2 AND 5, IN THE CITY OF JERSEY CITY**

WHEREAS, an application for three bulk variances was filed with the New Jersey Sports and Exposition Authority (NJSEA) by Raymond A. Tripodi, P.E., P.P., P.M.P., of Public Service Electric & Gas (PSE&G), for the premises located on Secaucus Road and identified as Block 101, Lots 2 and 5, in the City of Jersey City, New Jersey; and

WHEREAS, the premises is located within the Hackensack Meadowlands District's (District) Intermodal B zone; and

WHEREAS, the bulk variances are sought in connection with the applicant's proposal to install electrical equipment to upgrade the existing PSE&G Penhorn Substation on the subject property; and

WHEREAS, the applicant requested relief from N.J.A.C. 19:4-5.98(a)3ii, which requires a minimum side yard setback of 30 feet, whereas the applicant proposes concrete structures and footings for electric transmission structures with a minimum setback of 21.5 feet from the westerly side property line; and

WHEREAS, the applicant requested relief from N.J.A.C. 19:4-5.98(a)3ii, which requires a minimum side yard setback of 30 feet, whereas the applicant proposes concrete structures and footings for electric transmission structures with a minimum setback of 21.5 feet from the easterly side property line; and

WHEREAS, the applicant requested relief from N.J.A.C. 19:4-5.98(a)3iii, which requires a minimum rear yard setback of 75 feet, whereas the applicant proposed concrete structures and footings for electric transmission structures with a minimum setback of 47.2 feet from the rear property line; and

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

WHEREAS, a public hearing was held in the Office of the NJSEA on Tuesday, May 19, 2015, before Sara Sundell, Director of Land Use Management and Chief Engineer, Sharon Mascaró, Deputy Director of Land Use Management

and Deputy Chief Engineer,; Brandon Alviano, Senior Planner, and Mia Petrou, Senior Planner; and

WHEREAS, a comprehensive report, dated June 22, 2015, has been prepared indicating the recommendations of the Director of Land Use Management and Senior Vice President, Legal & Regulatory Affairs, in this matter; and

WHEREAS, a copy of the recommendation and comprehensive report was provided to the applicant on June 23, 2015; and

WHEREAS, the report recommends the approval of the requested bulk variance from N.J.A.C. 19:4-5.98(a)3ii, to construct concrete structures and footings for electric transmission structures with a minimum setback of 21.5 feet from the westerly side property line; and

WHEREAS, the report recommends the approval of the requested bulk variance from N.J.A.C. 19:4-5.98(a)3ii, to construct concrete structures and footings for electric transmission structures with a minimum setback of 21.5 feet from the easterly side property line; and

WHEREAS, the report recommends the approval of the requested bulk variance from N.J.A.C. 19:4-5.98(a)3iii, to construct concrete structures and footings for electric transmission structures with a minimum setback of 47.2 feet from the rear property line; and

WHEREAS, effective February 5, 2015, The New Jersey Meadowlands Commission has become part of the NJSEA; and

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

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

WHEREAS, the Board of Commissioners hereby determines that the requested variance application to construct concrete structures and footings for electric transmission structures with a minimum setback of 21.5 feet from the westerly side property line, conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e); and

WHEREAS, the Board of Commissioners hereby determines that the requested variance application to construct concrete structures and footings for electric transmission structures with a minimum setback of 21.5 feet from the easterly side property line conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e); and

WHEREAS, the Board of Commissioners hereby determines that the requested variance application to construct concrete structures and footings for electric transmission structures with a minimum setback of 47.2 feet from the rear property line conforms with the standards for approving applications of variances as set forth in N.J.A.C. 19:4-4.14(e).

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the PSE&G/Penhorn Substation Upgrades & Variances (Phase II) application for one bulk variance to construct concrete structures and footings for electric transmission structures with a minimum setback of 21.5 feet from the westerly side property line, is hereby **APPROVED** for the reasons set forth in the recommendation dated June 22, 2015.

BE IT FURTHER RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the PSE&G/Penhorn Substation Upgrades & Variances (Phase II) application for one bulk variance to construct concrete structures and footings for electric transmission structures with a minimum setback of 21.5 feet from the easterly side property line, is hereby **APPROVED** for the reasons set forth in the recommendation dated June 22, 2015; and

BE IT FURTHER RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the PSE&G/Penhorn Substation Upgrades & Variances (Phase II) application for one bulk variance to construct concrete structures and footings for electric transmission structures with a minimum setback of 47.2 feet from the rear property line, is hereby **APPROVED** for the reasons set forth in the recommendation dated June 22, 2015.

ADOPTED: July 16, 2015

MEMORANDUM

To: NJSEA Board Members and President Wayne Hasenbalg

From: Sara J. Sundell Date: June 18, 2015

Subject: Variance Recommendation - PSE&G/Penhorn Substation Upgrades & Variances (Phase II) (File No. 15-085)

An application for three bulk variances has been filed with the New Jersey Sports and Exposition Authority (NJSEA) by Raymond A. Tripodi, of Public Service Electric & Gas (PSE&G), for the premises located on Secaucus Road and identified as Block 101, Lots 2 and 5, in the City of Jersey City, New Jersey. The subject premises are located in the Commission's Intermodal B zone.

The bulk variances are sought in connection with the applicant's proposal to install electrical equipment to upgrade the existing PSE&G Penhorn Substation on the subject property.

The applicant requested variance relief from the following:

1. N.J.A.C. 19:4-5.98(a)3ii, which requires a minimum side yard setback of 30 feet. The applicant is proposing concrete structures and footings for electric transmission structures with a minimum setback of 21.5 feet from the westerly side property line.
2. N.J.A.C. 19:4-5.98(a)3ii, which requires a minimum side yard setback of 30 feet. The applicant is proposing concrete structures and footings for electric transmission structures with a minimum setback of 21.5 feet from the easterly side property line.
3. N.J.A.C. 19:4-5.98(a)3iii, which requires a minimum rear yard setback of 75 feet. The applicant is proposing concrete structures and footings for electric transmission structures with a minimum setback of 47.2 feet from the rear property line.

A public hearing was held in the Office of the NJSEA on Tuesday, May 19, 2015.

In a comprehensive report dated June 22, 2015, the Director of Land Use Management and the Senior Vice President, Legal & Regulatory Affairs recommended the approval of the bulk variances requested above. A copy of the comprehensive report including the variance recommendations was provided to the applicant on June 23, 2015.

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

**RECOMMENDATION ON THE VARIANCE APPLICATION OF
PSE&G/Penhorn Substation Upgrades & Variance (Phase II)**

FILE #15-085

I. INTRODUCTION

An application for three bulk variances has been filed with the New Jersey Sports and Exposition Authority (NJSEA) by Raymond A. Tripodi, P.E., P.P., P.M.P. of Public Service Electric & Gas (PSE&G), for the premises located on Secaucus Road and identified as Block 101, Lots 2 and 5, in the City of Jersey City, Hudson County, New Jersey. The subject premises are located within the Hackensack Meadowlands District's (District) Intermodal B zone. The bulk variances are sought in connection with the applicant's proposal to install electrical equipment to upgrade the existing PSE&G Penhorn Substation on the subject property.

Specifically, the applicant is requesting relief as follows:

1. N.J.A.C. 19:4-5.98(a)3ii, which requires a minimum side yard setback of 30 feet. The applicant is proposing concrete structures and footings for electric transmission structures with a minimum setback of 21.5 feet from the westerly side property line.
2. N.J.A.C. 19:4-5.98(a)3ii, which requires a minimum side yard setback of 30 feet. The applicant is proposing concrete structures and footings for electric transmission structures with a minimum setback of 21.5 feet from the easterly side property line.
3. N.J.A.C. 19:4-5.98(a)3iii, which requires a minimum rear yard setback of 75 feet. The applicant is proposing concrete structures and footings for electric transmission structures with a minimum setback of 47.2 feet from the rear property line.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Jersey Journal. No written objections were received. A public hearing was held in the Office of the NJSEA on Tuesday, May 19, 2015. All information submitted to the Division of Land Use Management relative to this application is made part of the record of this recommendation.

II. GENERAL INFORMATION

A. Existing and Proposed Use

The property in question, Block 101, Lots 2 and 5, contains approximately 2.045 acres and is located within Hackensack Meadowlands District's Intermodal B zone. The site is currently developed and contains a PSE&G electrical substation that was originally constructed in 1972.

The site contains frontage on Secaucus Road to the northeast. Surrounding properties are improved with industrial development. An intermodal yard is located to the west of the property in question, and properties to the south and east are owned by the United States Postal Service (USPS) and accommodate a regional mail distribution facility. The portion of the USPS property at Block 101, Lot 6, also contains transmission towers that are part of the Hudson-Bergen Transmission Line.

The proposed project involves utility improvements required by PJM Interconnection LLC (PJM), the regional transmission authority for the northeastern United States that evaluates systems to ensure that the power demands and power capacity within the transmission system are sufficient. The applicant proposes to install additional electrical equipment to upgrade the existing facility from 230kV to 345kV. The proposed substation upgrade project is part of an overall transmission corridor improvement extending between the PSE&G Bergen Switching Station in Ridgely and the PSE&G Linden Switching Station in Linden, New Jersey. The

Penhorn Substation upgrades will improve the efficiency and reliability of the delivery of electrical power to approximately 16,500 customers. All proposed buildings and equipment will be constructed a minimum of one foot above the base flood elevation, as determined by FEMA Flood Insurance Rate Maps.

B. Response to the Public Notice

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

III. PUBLIC HEARING (May 19, 2015)

A public hearing was held on Tuesday, May 19, 2015. NJSEA staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, P.P., AICP, Senior Planner; and Brandon Alviano, Senior Planner.

A. Exhibits

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

<u>Number</u>	<u>Description</u>
A-1	"Site Plan," prepared by Bradley M. Johnson, P.E., and Shehzad C. Khan, P.L.S., dated 12/04/2014, last revised 05/06/2015.
A-2	"Penhorn Substation Ultimate Key Plan," prepared by Richard N. Crowdis, P.E., dated 03/02/2015.
A-3	"Penhorn Substation Key Plan Elevations," prepared by Richard N. Crowdis, P.E., dated 11/26/2014, last revised 02/26/2015.

B. Testimony

James Rhatigan, Esq., of the firm Chesa, Shahinian & Giantomasi, represented PSE&G at the hearing. The following witness testified in support of the application:

1. Michael Percarpio, P.E., PSE&G
2. Bradley Johnson, P.E., Black and Veatch
3. Raymond Tripodi, P.E., P.P., P.M.P., PSE&G

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

C. Public Comment

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

IV. RECOMMENDATION

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.98(a)3ii, which requires a minimum side yard setback of 30 feet. The applicant is proposing concrete structures and footings for electric transmission structures with a minimum setback of 21.5 feet from the westerly side property line.

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

1. Concerning bulk variances:

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

The requested variance to install concrete structures and footings for electric transmission structures as part of an equipment upgrade, with a minimum setback of 21.5 feet from the westerly side property line, arises from conditions that are unique to the site. The subject property is comprised of two lots within the Intermodal B zone, totaling 2.045 acres. The site, owned by PSE&G, is currently developed with an electrical substation including transmission towers and electrical equipment. According to testimony by the applicant, the site was originally developed in 1972.

The property in question is long and narrow, having a pre-existing, non-conforming lot width of approximately 155 feet, which is less than the required lot width of 200 feet for the Intermodal B zone, and a lot depth ranging from 544 to 643 feet. The location and configuration of the existing improvements on the property include a pre-existing nonconforming setback of 21.5 feet along the westerly side yard to an existing transmission tower, whereas a minimum side yard setback of 30 feet is required.

The upgrade project is required as part of a regional resiliency initiative to upgrade existing energy infrastructure. As part of the upgrade, the applicant proposes a concrete containment structure and equipment footings at a minimum setback of 21.5 feet from the westerly side property line. The concrete containment structure is

a secondary containment measure for oil that may leak from the transformer and will prevent contamination on the site, which is located within a floodplain. The placement and configuration of the proposed equipment on the site is dictated by the location of the existing equipment and regulatory requirements to maintain certain clearances between equipment structures. Therefore, the variance requested arises from conditions that are unique to the property in question and are not ordinarily found in the same zone.

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

The granting of the requested side yard setback variance to install new electrical equipment and concrete containment structures will not adversely affect the rights of neighboring property owners. No adverse visual impacts are anticipated for the portion of the adjoining property to the west immediately adjacent to the substation, which is utilized as an intermodal facility whose operations include heavy trucking activities. Existing site and maintenance operations will be maintained at their present levels. The site is an unmanned electric substation that requires only occasional visits by PSE&G personnel.

The proposed variance will not impact the ability of neighboring properties to function as intended. Rather, the proposed improvements will promote energy resiliency, which will benefit area energy customers. In addition, there are no residences in the general vicinity of the site.

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

The strict application of the regulations will result in peculiar and exceptional practical difficulties and undue hardship to PSE&G. The installation of the new equipment and structures is necessary in order to help facilitate the adequate provision of reliable electric service to PSE&G customers in the area. The narrow 150-foot width of the lot and the placement of existing improvements on the site result in practical difficulties in the ability of the property owner to implement the required upgrades to the regional electric system while complying with the required setbacks. The proposed placement of the equipment and concrete containment structure is dictated by the location and configuration of the existing improvements on the site and regulatory requirements to maintain certain clearances between equipment structures. Without the ability to install the new equipment within the designated westerly side yard setback, PSE&G would be hindered in its effort to provide safe, adequate, and reliable energy from this site to the region it serves.

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

Approval of the variance to permit a 21.5-foot westerly side yard setback, whereas a minimum side yard setback of 30 feet is required, will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The proposed substation upgrades will promote the general welfare through the improvement of power capacity to the customers of PSE&G that are served by the Penhorn Substation.

The existing and proposed substation is unmanned and requires only occasional visits from PSE&G personnel for maintenance purposes. Therefore, traffic to the site is not excessive and will remain unchanged in the proposed condition.

The upgrade project proposes footings for electric transmission structures and equipment, as well as a concrete containment area around the transformers. The containment structure is a secondary containment measure for oil that may potentially leak from the transformer and will prevent contamination on the site, thereby promoting the public health and safety, of particular importance on a site within a floodplain. The positioning of the concrete footings for the electrical structures is based on the proposed layout of the substation, which is set by regulatory requirements and clearances for the equipment.

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

The granting of the requested side yard setback variance will not have any adverse environmental impacts. There will be no vibrations, glare, airborne emissions, hazardous or radioactive materials, or traffic generated by the proposed equipment and structures that would have a substantial adverse environmental impact. No environmentally sensitive areas will be affected by the installation of the new electrical equipment and structures. The installation of concrete containment structures around the proposed transformers will act as a secondary measure to capture any potential oil leakage, which will prevent contamination on a site that is located within a floodplain.

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

The requested side yard setback variance represents the minimum deviation from the regulations that will afford relief. Potential locations on the site to install the concrete structures and footings for electrical equipment are restricted due to the narrow configuration of the property and the location of the existing equipment on the site. The new equipment and structures have been consolidated to the extent possible, as the substation must remain in operation as the upgrade project is implemented. The narrow 150-foot lot width of the site and the layout of the existing equipment limit potential locations for the proposed structures and equipment. The proposed project involves the replacement and reconstruction of existing electric transmission equipment as part of

a regional energy infrastructure initiative. Adequate light, air and open space will continue to be provided in the proposed condition.

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

Granting the requested side yard setback variance will not substantially impair the intent and purpose of the regulations. The existing and proposed use complies with the District's zoning regulations and is consistent with the Master Plan, as a heavy public utility use is permitted in the Intermodal B zone.

The District Zoning Regulations are intended to provide for infrastructure and utility improvements and to promote the efficient use of the land, and the requested variance will not substantially impair these purposes. The proposed equipment upgrades are required to be located within the side yard setback as proposed due to the existing configuration of the property and the location of the existing improvements on site. The equipment upgrades will increase the reliability in the supply of electricity in the area, thus promoting the orderly development of the District.

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.98(a)(3)ii, which requires a minimum side yard setback of 30 feet. The applicant is proposing concrete structures and footings for electric transmission structures with a minimum setback of 21.5 feet from the easterly side property line.

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

1. *Concerning bulk variances:*

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

The requested variance to install concrete structures and footings for electric transmission structures, as part of an equipment upgrade, with a minimum setback of 21.5 feet from the easterly side property line arises from conditions that are unique to the site. The subject property is comprised of two lots, totaling 2.045 acres within the Intermodal B zone. The site, owned by FSE&G, is currently developed with an electrical substation, including transmission towers and electrical equipment. According to testimony by the applicant, the site was originally developed in 1972.

The property in question is long and narrow, having a pre-existing, nonconforming lot width of approximately 155 feet, which is less than the required lot width of 200 feet for the Intermodal B zone, and a lot depth ranging from 544 to 643 feet.

The location and configuration of the existing improvements on the property include a pre-existing nonconforming setback of 11.1 feet along the easterly side yard to an existing structure and transmission tower, whereas a minimum side yard setback of 30 feet is required.

The upgrade project is required as part of a regional resiliency initiative to upgrade existing energy infrastructure. As part of the upgrade, the applicant proposes a concrete containment structure and equipment footings at a minimum setback of 21.5 feet measured from the easterly side property line. The concrete containment structure is a secondary containment measure for oil may leak from the transformer and will prevent contamination on the site, which is located within a floodplain. The placement and configuration of the proposed equipment on the site is dictated by the location of the existing equipment and regulatory requirements to maintain certain clearances between equipment structures. Therefore, the variance requested arises from conditions that are unique to the property in question and are not ordinarily found in the same zone.

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

The granting of the requested variance to permit the installation of new electrical equipment and structures within the required easterly side yard setback will not adversely affect the rights of neighboring property owners. No adverse visual impacts are anticipated for the portion of the adjoining property to the east

immediately adjacent to the substation, which is a generally vacant portion of the USFS distribution facility containing the site's access driveway from Secaucus Road. Existing site and maintenance operations will be maintained at their present levels. The site is an unmanned electric substation that requires only occasional visits by PSE&G personnel.

The proposed variance will not impact the ability of neighboring properties to function as intended. Rather, the proposed improvements will promote energy resiliency, which will benefit area energy customers. In addition, there are no residences in the general vicinity of the site.

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

The strict application of the easterly side yard setback requirement of 30 feet on the subject property will result in particular and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. The subject property has a pre-existing, nonconforming lot width of approximately 155 feet, whereas 200 feet is required in the zone. The width of the lot reduces the buildable area in which PSE&G can locate new infrastructure in conjunction with the existing substation layout. The proposed placement of the improvements is dictated by the location and configuration of the existing improvements on the site, and regulatory requirements to maintain certain clearances

between equipment structures. Without the ability to install the new infrastructure and equipment within the designated side yard setback, PSE&G would be hindered in its effort to provide safe, adequate, and reliable energy from this site to the region it serves.

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

Approval of the variance to permit a 21.5-foot side yard setback, whereas a minimum side yard setback of 30 feet is required, will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The proposed substation upgrades will promote the general welfare through the improvement of power capacity to the public that are served by this PSE&G substation. The existing facility is unmanned and will continue to be so after the installation of the new infrastructure, requiring only occasional visits from PSE&G personnel for maintenance purposes. Therefore, traffic to the site is not excessive, and will remain unchanged in the proposed condition. The proposed reduction in the side yard setback for the placement of new structures and equipment will not have a substantial negative impact on any of the surrounding properties.

Proposed structures within the required side yard setback include the installation of concrete containment pits around the transformers. The containment structures are a secondary containment measure for oil that may potentially leak from the

transformer and will prevent contamination on the site, thereby promoting the public health and safety, of particular importance on a site within a floodplain.

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

The granting of the requested side yard setback variance will not have any adverse environmental impacts. There will be no vibrations, glare, airborne emissions, hazardous or radioactive materials, or traffic generated by the proposed equipment and structures that would have a substantial adverse environmental impact. No environmentally sensitive areas will be affected by the installation of the new electrical equipment and structures. The installation of the concrete containment structures around the transformers will act as a secondary measure to capture any potential oil leakage, which will prevent contamination on a site that is located within a floodplain.

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

The requested side yard setback variance represents the minimum deviation from the regulations that will afford relief. Potential locations on the site to install the concrete structures and footings for electrical equipment are restricted due to the narrow configuration of the property and the location of the existing equipment and overhead lines on the site. The new equipment and structures have been consolidated to the extent possible, as the substation must remain in operation as the upgrade project is

implemented. The narrow 155-foot lot width and layout of the existing equipment limit potential locations for the proposed structures and equipment. The proposed project involves the replacement and reconstruction of existing electrical transmission equipment as part of a regional energy infrastructure initiative. Adequate light, air and open space will continue to be provided in the proposed condition.

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

Granting the requested side yard setback variance will not substantially impair the intent and purpose of the regulations. The existing and proposed use complies with the District's zoning regulations and is consistent with the Master Plan, as heavy public utility uses are permitted in the zone.

The District Zoning Regulations are intended to provide for infrastructure and utility improvements and to promote the efficient use of the land, and the requested variance will not substantially impair these purposes. The proposed equipment upgrades are required to be located within the side yard setback as proposed due to the existing configuration of the property and the location of the existing improvements on the site. The equipment upgrades will increase the reliability in the supply of electricity in the area, thus promoting the orderly development of the District.

C. Standards for the Granting of a Bulk Variance from the Provisions of N.I.A.C. 19:4-5.98(a)3iii, which requires a minimum rear yard setback of 75 feet. The applicant is proposing concrete structures and footings for electric transmission structures with a minimum setback of 47.2 feet from the rear property line.

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

1. Concerning bulk variances:

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

The requested variance to install concrete structures and footings for electric transmission structures as part of an equipment upgrade, with a minimum setback of 47.2 feet from the southerly rear property line, arises from conditions that are unique to the site. The subject property is comprised of two lots within the Intermodal B zone. The site, owned by PSE&G, is currently developed with a PSE&G electrical substation with transmission towers and electrical equipment. According to testimony by the applicant, the site was originally developed in 1972.

The property in question is long and narrow, having a pre-existing nonconforming lot width of approximately 155 feet, which is less than the required lot width of 200 feet in the Intermodal B zone. The property also has a pre-existing, nonconforming lot area of approximately 2.045 acres, which is less than the required area of 3 acres for the Intermodal B zone.

The upgrade project is required as part of a regional resiliency initiative to upgrade existing energy infrastructure. As part of the upgrade, the applicant proposes a concrete containment structure and equipment footings at a minimum setback of 47.2 feet from the southerly rear property line. The concrete containment structure is a secondary containment measure for oil that may leak from the transformer and will prevent contamination on the site, which is located within a floodplain. The placement and configuration of the proposed equipment on the site is dictated by the location of the existing equipment and regulatory requirements to maintain certain clearances between equipment structures. Therefore, the variance requested arises from conditions that are unique to the property in question and are not ordinarily found in the same zone.

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

The granting of the requested rear yard setback variance to install new electrical equipment and concrete containment structures will not adversely affect the rights of neighboring property owners or residents. No adverse visual impacts are anticipated to the adjoining property to the south, which is the portion of the USPS site containing existing PSE&G electrical transmission towers. Existing site and maintenance operations will be maintained at their present levels. The site is an unmanned electrical substation that requires only occasional visits by PSE&G personnel. The proposed variance will not impact the ability of neighboring properties to function as intended. Rather, the proposed

improvements will promote energy resiliency, which will benefit area energy customers. In addition, there are no residential properties within the general vicinity of the property.

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

The strict application of the regulations will result in peculiar and exceptional practical difficulties and undue hardship to PSE&G. The installation of the new electrical infrastructure is necessary in order to help facilitate the adequate provision of reliable electrical service to PSE&G customers in the area. The narrow 150-foot width of the lot and the placement of existing improvements on the site result in practical difficulties in the ability of the property owner to implement the required upgrades to the regional electric system while complying with the required rear yard setback. The proposed placement of the equipment and concrete containment structure is dictated by the location and configuration of the existing improvements on the site and regulatory requirements to maintain certain clearances between equipment structures. Without the ability to install the new electric infrastructure and equipment within the designated rear yard setback, PSE&G would be hindered in its effort to provide safe, adequate, and reliable energy from this site to the region it serves.

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

The granting of the rear yard setback variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare. The new equipment is similar to the existing electrical equipment already located on the site. The proposed infrastructure and equipment improvements will allow PSE&G to provide safe, reliable, and adequate energy to its customers, benefiting the welfare and convenience of the public.

The proposed substation upgrades will also promote the general welfare through the improvement of power capacity to the public that are served by this PSE&G substation. The existing facility is unmanned and will continue to be so after the installation of the new infrastructure, requiring only occasional visits from PSE&G personnel for maintenance purposes. Therefore traffic to the site is not excessive, and will remain unchanged in the proposed condition. The proposed reduction in the rear yard setback for the placement of new structures and equipment will not have negative impact on any of the surrounding properties.

Proposed structures within the required rear yard setback include electrical equipment and concrete containment pits. The containment structures are a secondary containment measure for oil that may potentially leak from the transformer and will prevent

contamination on the site, thereby promoting the public health and safety, of particular importance on a site within a floodplain.

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

The granting of the requested rear yard setback variance will not have any adverse environmental impacts. There will be no vibrations, glare, airborne emissions, hazardous or radioactive materials, or traffic generated by the structures or equipment that would have a substantial adverse environmental impact. No environmentally sensitive areas will be affected by the installation of the new structures or equipment. The installation of concrete containment structures around the proposed transformers will act as a secondary measure to capture any potential oil leakage, which will prevent contamination on a site that is located within a floodplain.

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

The requested rear yard setback variance represents the minimum deviation from regulations that will afford relief. Due to the existing configuration of the substation, potential locations on the site to install new equipment and infrastructure are limited due to the narrow configuration of the property and the location of existing equipment on the site. The placement of equipment is based on standards dictated by the National Electric Code, which provide for required clearances and distance between structures.

PSE&G has consolidated the equipment and structures to the extent possible, while still meeting the requirements of the National Electric Code. The site configuration in the proposed condition is further constrained in that the substation and existing equipment must remain in operation as the upgrade project is implemented. Adequate light, air and open space will continue to be provided.

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

The granting of the variance to permit structures and equipment with a minimum rear yard setback of 47.2 feet, whereas 75 feet is required, will not substantially impair the intent and purpose of these regulations. The existing and proposed heavy public utility use is a permitted use in the Intermodal B zone. The site will continue to function as designed with an upgrade to the electrical equipment, as well as spill containment structures that promote the general welfare.

The District Zoning Regulations are intended to provide for infrastructure and utility improvements and to promote the efficient use of the land, and the requested variance will not substantially impair these purposes. The proposed equipment upgrades are required to be located within the rear yard setback as proposed due to the existing configuration of the property and the location of the existing improvements on the site. The equipment upgrades will increase the power supply and reliability of electricity in the surrounding area in a safe and efficient manner, thus promoting the orderly development of the District.

IV. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of N.I.A.C. 19-4-5.98(a)3ii, which requires a minimum side yard setback of 30 feet. The applicant is proposing concrete structures and footings for electric transmission structures with a minimum setback of 21.5 feet from the westerly side property line.

Based on the record in this matter, the bulk variance application to construct concrete structures and footings for electric transmission structures with a minimum setback of 21.5 feet from the westerly side property line, whereas a minimum side yard setback of 30 feet is required, is hereby recommended for APPROVAL.

APPROVAL 6/22/15
Recommendation on Date
Variance Request


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

APPROVAL 6/22/15
Recommendation on Date
Variance Request


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

B. Standards for the Granting of a Bulk Variance from the Provisions of N.I.A.C. 19-4-5.98(a)3ii, which requires a minimum side yard setback of 30 feet. The applicant is proposing concrete structures and footings for electric transmission structures with a minimum setback of 21.5 feet from the easterly side property line.

Based on the record in this matter, the bulk variance application to construct concrete structures and footings for electric transmission structures with a minimum setback of 21.5 feet from the easterly side property line, whereas a minimum side yard setback of 30 feet is required, is hereby recommended for APPROVAL.

APPROVAL 6/22/15
Recommendation on Date
Variance Request


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

APPROVAL 6/22/15
Recommendation on Date
Variance Request

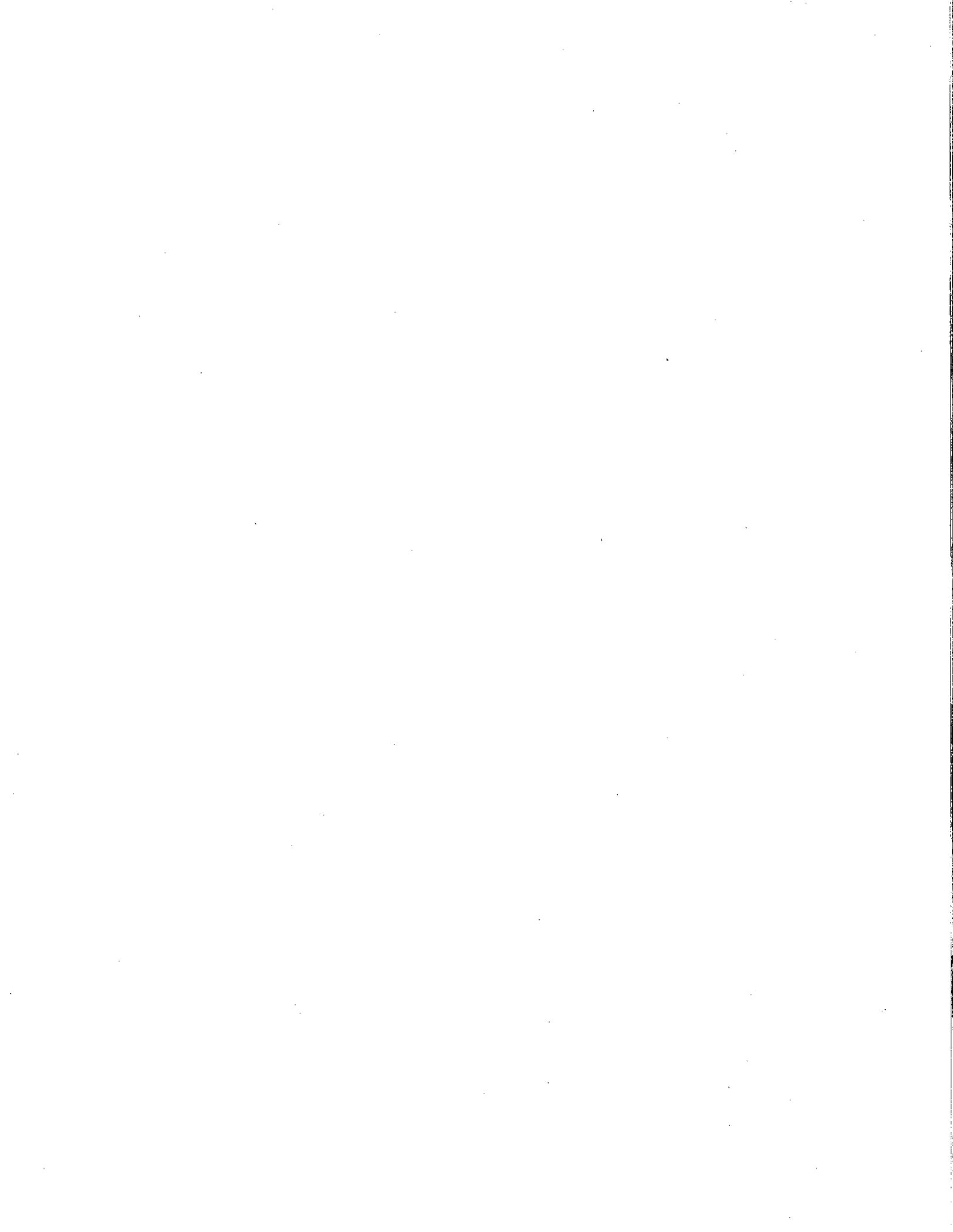

Ralph J. Marra, Jr.
Senior Vice President
Legal & Regulatory Affairs

C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.98(a)3iii, which requires a minimum rear yard setback of 75 feet. The applicant is proposing concrete structures and footings for electric transmission structures with minimum setback of 47.2 feet from the rear property line.

Based on the record in this matter, the bulk variance application to construct concrete structures and footings for electric transmission structures with a minimum setback of 47.2 feet from the rear property line, whereas a minimum rear yard setback of 75 feet is required, is hereby recommended for APPROVAL.

APPROVAL 6/22/15 _____
Recommendation on Date
Variance Request Sara J. Sundell, P.E., P.P.
Director of Land Use Management

APPROVAL 6/22/15 _____
Recommendation on Date
Variance Request 
Senior Vice President
Legal & Regulatory Affairs



RESOLUTION 2015-40

**RESOLUTION REGARDING A TIDELANDS APPLICATION
FOR CAMPBELL FOUNDRY/SITE IMPROVEMENT**

FILE NO. 15-070

BLOCK 284, LOT 7, IN THE TOWN OF KEARNY

WHEREAS, pursuant to N.J.S.A. 13:1B-13.8, the New Jersey Meadowlands Commission may provide comments to the New Jersey Department of Environmental Protection's Bureau of Tidelands Management on tidelands conveyance applications if the application pertains to lands within the Hackensack Meadowlands District; and

WHEREAS, effective February 5, 2015, the New Jersey Meadowlands Commission has become part of the New Jersey Sports and Exposition Authority (NJSEA);

WHEREAS, Campbell Foundry Co., has submitted a zoning certificate application to the NJSEA for major site improvements related to a remediation of the property identified 252-268 Harrison Avenue, Block 284, Lot 7, in the Town of Kearny (Campbell Foundry/Site Improvement, File No. 15-070); and

WHEREAS, in accordance with N.J.A.C. 19:4-4.4(e)3, if a portion of a lot that is proposed for development is subject to the State's riparian interest, a duly executed riparian instrument or permit executed by the Bureau of Tidelands Management shall accompany a zoning certificate application; and

WHEREAS, on June 12, 2015, Gary S. Rosensweig, Esq., of the firm Sokol Behot LLP, on behalf of Campbell Foundry Co., submitted an application to the Bureau of Tidelands Management for a riparian grant for the use of state-owned tidelands; and

WHEREAS, the NJSEA Staff has reviewed the application submitted by Campbell Foundry Co. to the Bureau of Tidelands Management and recommends approval of same as the Campbell Foundry Co.'s proposed development and application will comply with applicable District zoning regulations.

NOW, THEREFORE, BE IT RESOLVED that, based upon its review of the Campbell Foundry Co.'s application to the Tidelands Resource Council for a riparian grant, the Board of Commissioners of the New Jersey Sports and Exposition Authority agrees with the Staff recommendation and recommends that the application be approved by the Bureau of Tidelands Management.

BE IT FURTHER RESOLVED that the Board of Commissioners of the New Jersey Sports and Exposition Authority hereby authorizes NJSEA staff to forward the Board of Commissioner's recommendation to the Bureau of Tidelands Management accordingly.

ADOPTED: July 16, 2015

MEMORANDUM

To: NJSEA Board Members and President Wayne Hasenbalg

From: Sara J. Sundell *Date:* July 16, 2015

Subject: Tidelands Application- Campbell Foundry/Site Improvement -Tidelands Grant Application (File No. 15-070)

On June 12, 2015, Gary S. Rosensweig, Esq., of the firm Sokol Behot, LLP, on behalf of Campbell Foundry Co. ("Applicant") submitted an application to the New Jersey Department of Environmental Protection Bureau of Tidelands Management (Tidelands Resource Council) for a riparian grant to purchase tidelands claimed by the State within the southerly portion of Block 284, Lot 7, in the Town of Kearny. The subject property is 7.9 acres in area and is presently developed with a one-story masonry industrial building with associated paved vehicular use and outdoor storage areas. The clearance of the tidelands claims on the southerly portion of the property will facilitate major site improvements related to the remediation of the premises, which are subject to the New Jersey Sports and Exposition Authority (NJSEA) approval. The tidelands in question encompass a total area of 0.469 acres.

Pursuant to N.J.S.A. 13:1B-13.8, the Tidelands Resource Council is responsible for transmitting a copy of the application to the NJSEA for comment. The NJSEA has 45 days to submit its recommendation to the Tidelands Resource Council. Having reviewed the application and associated plans, the NJSEA Staff recommends that the application be approved by the Tidelands Resource Council. Furthermore, the NJSEA staff recommends that the NJSEA adopt the attached resolution and forward same to the Tidelands Resource Council as its comment on the application.

**AWARDS/
CONTRACTS**

RESOLUTION 2015-41

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

WHEREAS, on February 5, 2015, P.L.2015, c.19 merged the New Jersey Meadowlands Commission ("NJMC") into the New Jersey Sports and Exposition Authority ("NJSEA"); and

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

WHEREAS, in accordance with EO 122, a Request for Proposals (RFP) was issued on May 20, 2015 for the Annual Audits of the NJSEA and the former NJMC for the year ending December 31, 2014, and for the consolidated operations of the NJSEA and former NJMC for the years ending December 31, 2015 and 2016, with two one-year extension options; and

WHEREAS, a total of 9 firms attended the mandatory pre-bid meeting held on June 3, 2015; and

WHEREAS, the due date for responses was June 24, 2015 and the following four firms submitted proposals for a three-year contract: Ernst & Young; O'Connor Davies, LLP; Clifton Larson Allen; and Mercadien Group; and

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

WHEREAS, the Evaluation Committee found that all four firms provided responsive proposals and all four firms were certified by the Department of Treasury pursuant to Chapter 51; and

WHEREAS, of the four firms, O'Connor Davies, LLP was ranked highest by the Evaluation Committee; and

WHEREAS, the Audit Committee reviewed the findings of the Evaluation Committee, concurs with the Evaluation Committee's scoring, and recommends that the contract for audit services be awarded to O'Connor Davies, LLP.

NOW, THEREFORE, BE IT RESOLVED the President and CEO of the New Jersey Sports and Exposition Authority is hereby authorized to enter into a three-year contract with O'Connor Davies, LLP at a cost not to exceed \$ 555,930.

BE IT FURTHER RESOLVED that if NJSEA and vendor are in agreement to extend the contract, the cost for the first and second year options will not exceed \$195,711 and \$201,583 respectively.

ADOPTED: July 16, 2015

RESOLUTION 2015-42

**RESOLUTION AUTHORIZING THE PRESIDENT AND CEO OF
THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY TO ENTER INTO A
MEMORANDUM OF UNDERSTANDING WITH
BERGEN COMMUNITY COLLEGE REGARDING THE OPERATION OF THE
WILLIAM D. MCDOWELL OBSERVATORY**

WHEREAS, the New Jersey Meadowlands Commission (now the New Jersey Sports and Exposition Authority) constructed the William D. McDowell Observatory at the NJMC's DeKorte Park Plaza campus in Lyndhurst, and the Observatory opened to the public on March 26, 2008; and

WHEREAS, the William D. McDowell Observatory is a state-of-the-art facility that includes a research-grade telescope with a 20-inch, high-powered lens housed within a six-meter retractable dome that has been open to the public for popular free viewing nights and has attracted approximately 3,000 stargazers per year; and

WHEREAS, the William D. McDowell Observatory serves as a vital educational resource for all ages by promoting an interest in astronomy and understanding of our solar system, and is a source of enjoyment for the community; and

WHEREAS, Bergen Community College has a campus within the Meadowlands District in close proximity to the NJSEA's Lyndhurst campus at DeKorte Park Plaza; and

WHEREAS, Bergen Community College houses an observatory at its Paramus campus that is staffed by expert astronomers and educators who operate the observatory and assist in its maintenance, and who are capable of providing the same high level of service at the William D. McDowell Observatory; and

WHEREAS, Bergen Community College is an outstanding institution of higher learning and a leading community college in the nation dedicated to lifelong learning opportunities for all members of the community; and

WHEREAS, NJSEA staff has negotiated the attached Memorandum of Understanding (MOU) by and between the New Jersey Sports and Exposition Authority and Bergen Community College regarding an educational/public programming partnership; and Bergen Community College has agreed to the terms of the MOU.

NOW, THEREFORE, BE IT RESOLVED that the President and CEO is hereby authorized to execute the attached MOU.

ADOPTED: July 16, 2015

**MEMORANDUM OF UNDERSTANDING BY AND BETWEEN
THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY
AND
BERGEN COMMUNITY COLLEGE
REGARDING THE OPERATION OF THE
WILLIAM D. MCDOWELL OBSERVATORY**

WHEREAS, the New Jersey Sports and Exposition Authority ("NJSEA") is a body corporate and politic of the State of New Jersey established in the Department of State and having offices at One DeKorte Park Plaza, Lyndhurst, New Jersey 07071; and

WHEREAS, Bergen Community College ("BCC") is a public county community college having principal offices at 400 Paramus Road, Paramus, New Jersey 07652; and

WHEREAS, the NJSEA's Lyndhurst campus includes the William D. McDowell Observatory ("Observatory"), housing a state-of-the-art telescope that provides the public with access to astronomy programming and viewing opportunities; and

WHEREAS, BCC has a campus located in the District in close proximity to the NJSEA's Lyndhurst campus at DeKorte Park Plaza; and

WHEREAS, the NJSEA is seeking an operator of the Observatory to assist in the maintenance of the telescope as well as to offer astronomy programming and viewing opportunities for the public; and

WHEREAS, BCC has qualified and trained faculty, who are experts in astronomy who are able to operate the Observatory and assist in maintaining the same; and

WHEREAS, the NJSEA and BCC have identified common goals in providing educational opportunities for the public, enhancing the services currently provided at the Observatory and utilizing space on the NJSEA's Lyndhurst campus for BCC classes services.

NOW THEREFORE, in consideration of the promises and mutual covenants herein contained, the NJSEA and BCC, also collectively referred to herein as the "Parties," agree to the following:

- A. Observatory. BCC faculty and staff shall operate the Observatory for the period beginning on the date of the execution of this MOU and continuing through December 31, 2015. The parties may extend this MOU upon written agreement of the parties. Such operation shall include providing public viewing nights at a minimum 2 times per month, weather permitting; additional astronomy programs at a minimum 1 time per month; and maintaining the telescope and appurtenant equipment, except that BCC's obligation to maintain the telescope and appurtenant equipment shall be limited to routine maintenance.

1. NJSEA shall bear the cost of any parts necessary for maintenance, as well as any other extraordinary expenses related to maintaining the telescope. NJSEA, in its sole discretion, shall determine whether to undertake repairs other than routine maintenance and shall solely determine the timing of any repairs it elects to undertake.
 2. BCC is encouraged to partner with regional astronomy clubs, including but not limited to the Rockland Astronomy Club, to provide programming opportunities and viewing nights.
 3. BCC shall provide insurance in a form acceptable to the NJSEA's CFO.
- B. General Collaboration. The Parties, with the mutual goal of furthering educational opportunities agree as follows:
1. The NJSEA agrees to provide classroom facilities at its Center for Environmental and Scientific Education to BCC upon request at \$900 per class; *provided however*, that the NJSEA reserves the right to reject such request if it requires the classroom facilities for its own programs, or programming related to the Meadowlands Environment Center at the time requested.
 2. The dates and times of the public viewing nights or any other program that BCC proposes to offer shall be forwarded to NJSEA for approval so that NJSEA may determine whether the proposed programs will interfere with other programming at the facility.
- C. Confidentiality. BCC will hold in confidence information divulged that is specifically identified by the NJSEA as confidential or proprietary and impose the same level of protective measure it would employ to safeguard its own confidential or proprietary information.
- D. Entire Agreement. This MOU, including any Exhibits, contain the sole and entire MOU between the Parties and supersedes all negotiations and prior agreements or understandings between the Parties, whether oral or written.
- E. No Third-Party Rights Created. Nothing in this MOU shall be construed as creating or giving rise to any rights in any third parties or other persons other than the parties hereto. This MOU is not a third-party beneficiary contract and confers no rights upon any students or employees of the Parties.
- F. Governing Law. This MOU shall be governed by and construed in accordance with the laws of the State of New Jersey, including the New Jersey Tort Claims Act, N.J.S.A. 59:1-2 et seq., and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq. All disputes arising out of this MOU shall be resolved in the Courts of the State of New Jersey.
- G. Modification. This MOU may not be amended in any manner except by an instrument in writing signed by the Parties.

- H. No Assignment. This MOU may not be assigned in whole or in part without the express written permission of both Parties.
- I. Indemnification. BCC and the NJSEA shall each, subject to the provisions of the New Jersey Tort Claims Act and the New Jersey Contractual Liability Act, be responsible for, and shall each, at their own expense, defend themselves against any and all suits, claims, losses, demands or damages of any kind or nature arising out of or in connection with any act or omission of their own employees, agents or contractors in the performance of their respective obligations pursuant to this MOU.
- J. Notice. All notices, requests, demands and other communications with respect to this MOU shall be in writing and shall be deemed to have been duly given if delivered personally or sent by registered mail, certified mail, Express Mail service, or nationally utilized overnight delivery service, postage prepaid and return receipt requested, addressed to the Parties as follows:

As to the New Jersey Sports and Exposition Authority:

Wayne Hasenbalg, Esq.
 President and CEO
 1 DeKorte Park Plaza
 Lyndhurst, NJ 07071

As to Bergen Community College:

Dr. B. Kaye Walter
 President
 400 Paramus Road
 Paramus, NJ 07652.

THE PARTIES ACKNOWLEDGE THAT THEY HAVE READ THIS DOCUMENT AND AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS.

New Jersey Sports & Exposition Authority

Bergen Community College

 Wayne Hasenbalg
 President and CEO

 Dr. B. Kaye Walter
 President

 Date

 Date

MEMORANDUM

To: NJSEA Board Members and President Wayne Hasenbalg

From: Helen Struss *Date:* July 16, 2015

Subject: Memorandum of Agreement with Bergen Community College Regarding the Operation of the William D. McDowell Observatory

The NJSEA's William D. McDowell Observatory, located on the Authority's Lyndhurst campus, has been an important public resource since opening in 2008. The state-of-the-art facility includes a research-grade telescope with a 20-inch, high-powered lens housed within a six-meter retractable dome. It is open to the public for free viewing nights and has drawn up to 3,000 visitors per year.

By promoting an interest in astronomy and understanding of our solar system, the Observatory serves as a vital educational resource for all ages. In researching options to enhance programming at the Observatory, the NJSEA has found Bergen Community College to be an ideal partner. The college has a campus located in the Meadowlands District in Lyndhurst, in close proximity to DeKorte Park. The college also houses an observatory at its Paramus campus, and the expert astronomers and educators who operate and help to maintain the Paramus observatory are able to provide the same high level of service at the William D. McDowell Observatory.

RESOLUTION 2015-43

**RESOLUTION AUTHORIZING A PARTNERSHIP BETWEEN
RUTGERS UNIVERSITY-NEWARK AND
NEW JERSEY SPORTS & EXPOSITION AUTHORITY
REGARDING THE OPERATION OF THE
MEADOWLANDS ENVIRONMENTAL RESEARCH INSTITUTE**

WHEREAS, the New Jersey Sports and Exposition Authority ("NJSEA") and Rutgers University-Newark ("RU-Newark") have a common interest in advancing and growing scientific research in the Meadowlands region; and

WHEREAS, the NJSEA operates a premiere research entity known as the Meadowlands Environmental Research Institute ("MERI"); and

WHEREAS, RU-Newark has expert faculty, students and resources that will enhance unique research opportunities; and

WHEREAS, the NJSEA and RU-Newark have identified points of collaboration between scientists and staff from both entities; and

WHEREAS, the NJSEA and RU-Newark are negotiating terms of a partnership that will advance the objectives of both entities to continue the work of the existing premiere research institute while growing scientific research opportunities.

NOW, THEREFORE, BE IT RESOLVED, that the President and CEO of the NJSEA is authorized to negotiate and execute a Term Sheet, to be followed by a formal MOU with RU-Newark, memorializing the following terms, among others:

1. RU-Newark will operate MERI to ensure that the MERI Employees continue to provide the NJSEA with laboratory, GIS and other services consistent with current practice.
2. RU-Newark will offer employment at the same salary and similar fringe benefits to all current MERI Employees. Transfer of employees will be staged between September 2015 and March 2016.
3. MERI will continue to occupy the entire third floor of One DeKorte Park Plaza together with the laboratory located at Two DeKorte Park Plaza (the "Premises"). The NJSEA will provide building services consistent with level of services currently provided. Parking spaces will be made available for employees and visitors of MERI.
4. The initial term of the MOU shall be for a period of five (5) years, with successive five-year renewal terms available with the mutual consent of RU-Newark and the NJSEA.

5. All furniture and equipment at the Premises will be included as part of the arrangements but will remain the property of the NJSEA. Maintenance, repair and replacement of any furniture or equipment shall be the responsibility of RU-Newark. All instrumentation in the laboratory space will be included but will remain the property of the NJSEA. Responsibility for maintenance, repair or replacement of the laboratory equipment shall be RU-Newark's.
6. The NJSEA will provide MERI and RU-Newark with a non-exclusive license to all relevant intellectual property. NJSEA will own all existing MERI research and the parties will jointly own future research and IP.
7. The NJSEA and RU-Newark will equally share net operating income.
8. RU-Newark shall have a non-exclusive license to operate, occupy and have unlimited use of the library on the third floor of One DeKorte Park Plaza; provided however that the records and materials contained therein shall remain the property of the NJSEA.
9. NJSEA shall use reasonable efforts to provide reasonable access to its properties for MERI research purposes consistent with current practice.
10. The NJSEA and RU-Newark shall agree upon adequate insurance to be provided by both entities, transfer existing grants and grant agreements, and coordinate communications and other forms of publicity.

ADOPTED: July 16, 2015

EXECUTIVE SESSION

RESOLUTION 2015-44

**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.

ADOPTED: July 16, 2015