



## New Jersey Pinelands Commission **PRESS RELEASE**

**October 3, 2008**

Contact: Paul Leakan

Phone: 609.894.7300

E-mail: [info@njpines.state.nj.us](mailto:info@njpines.state.nj.us)

### **Pinelands Commission Executive Director schedules public hearing on proposed agreement that would authorize widening the Garden State Parkway**

NEW LISBON, N.J. – John C. Stokes, Executive Director of the New Jersey Pinelands Commission, will hold a public hearing October 15 on a proposed Memorandum of Agreement (MOA) that would authorize widening the Garden State Parkway in the Pinelands.

The public hearing will be held at 7 p.m. on Wednesday, **October 15, 2008** at the Berkeley Township Town Hall on 627 Pinewald-Keswick Road in Bayville, NJ. Written testimony may be submitted at the hearing or sent directly to the Pinelands Commission, at 15C Springfield Rd, P.O. Box 7, New Lisbon, NJ 08064 or via facsimile at (609) 894-7330 or by email at [legal@njpines.state.nj.us](mailto:legal@njpines.state.nj.us). Comments must be submitted no later than Noon on **October 16, 2008**.

Following the October 15 hearing, Stokes will submit a report on the hearing and a formal recommendation regarding the proposed MOA to the Commission's Public and Governmental Programs Committee. The Committee will review the comments and decide whether to recommend consideration of the MOA by the 15-member Pinelands Commission.

The proposed agreement would be among the Commission and the New Jersey Turnpike Authority. The Turnpike Authority is proposing to widen the Garden State Parkway between Interchange 30 in Somers Point, Atlantic County and Interchange 80 in South Toms River, Ocean County to respond to traffic demands and to improve public safety within the corridor. All but approximately one acre of the project would occur in the Pinelands.

The proposed 50-mile widening project would take place mostly within the median and primarily within the Parkway's existing right-of-way. It would add a third traffic lane and wider shoulders in the northbound and southbound directions. The project also would include the construction of new parallel spans and rehabilitation of existing bridges over the Mullica and Bass rivers, as well as widening the existing bridge over Patcong Creek.

Because it would impact habitat for certain threatened and endangered plant and animal species, the proposed project is not fully consistent with Pinelands regulations.

Executive Director Stokes is seeking public comments on whether the MOA, which would allow

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activities that are not in strict compliance with Pinelands regulations, is accompanied by measures that will, at a minimum, afford an equivalent level of protection of Pinelands resources than would be provided through the strict application of Pinelands standards.

In order to provide an equivalent level of protection of Pinelands resources, the Turnpike Authority has agreed to purchase and deed restrict against future development at least 142.76 acres of land to offset potential threatened and endangered plant and animal species habitat impacts associated with the project. The Authority has proposed to provide a portion of this offset at a 259-acre site known as the Turtle Creek site in Washington Township, Burlington County. The site contains expanses of Atlantic White Cedar forest that have substantially recovered from historical logging. The site has been studied over the years and has been documented to contain numerous State threatened and endangered species, including Pine Barrens tree frog, various bird species, timber rattlesnake, New Jersey rush and Pine Barrens boneset.

Although the entire Turtle Creek site would be preserved as part of the Authority's overall mitigation package for the proposed project, 44 acres of the site would be specifically set-aside for Pinelands threatened and endangered species habitat offsets. The remaining acreage would be utilized for New Jersey Department of Environmental Protection freshwater wetland mitigation and to address Coastal Area Facility Review Act wildlife habitat mitigation.

The Authority proposes to address the remaining 98.76 acres of threatened and endangered species offset through the future acquisition of land elsewhere. That land will also be deed restricted against future development to ensure that suitable and characteristic habitat for the northern pine snake and red-headed woodpecker is preserved.

Acting as technical consultants on behalf of the Pinelands Commission, the Delaware Valley Regional Planning Commission (DVRPC) undertook a study of the proposed project's potential to generate secondary, growth-related impacts that might induce changes in land use that would be inconsistent with the Pinelands land use program. The DVRPC concluded that only the induced impacts in the vicinity of Interchanges 58 and 69 would have the potential to be inconsistent with the Pinelands program.

Under the MOA, steps would be taken under a separate agreement through which the Authority would address the secondary impacts. That agreement must remain confidential at the present time because it addresses the purchase of specific properties.

The proposed MOA is available for public inspection and copying at the Pinelands Commission's offices in Pemberton Township. The MOA is available below.

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**MEMORANDUM OF AGREEMENT  
BETWEEN  
THE NEW JERSEY PINELANDS COMMISSION  
AND  
THE NEW JERSEY TURNPIKE AUTHORITY**

**I. PURPOSE**

This Memorandum of Agreement (“MOA”) is entered into between the New Jersey Pinelands Commission, having its principal office and place of business at P.O. Box 7, Lisbon, New Jersey 08064, hereinafter referred to as the “Commission”, and the New Jersey Turnpike Authority, a Body Corporate and Politic of the State of New Jersey, having its principal office and place of business at Executive Offices, P.O. Box 5042, 581 Main Street, Woodbridge, New Jersey 07095-5042, hereinafter referred to as the “Authority”. Both the Commission and the Authority may be individually referred to herein as “Party” and collectively referred to herein as “Parties”.

The Authority, pursuant to N.J.S.A. 27:23-1 et seq., is the owner and operator of the 172-mile long Garden State Parkway (the “Parkway”) extending from the New York State line (Montvale Borough) in northern New Jersey to Lower Township, Cape May County in southern New Jersey. The Commission is an independent political subdivision of the State of New Jersey created pursuant to Section 4 of the Pinelands Protection Act, N.J.S.A. 13:18A-1, et seq., and charged with the implementation of the Act and the Pinelands “Comprehensive Management Plan” (the “CMP”), N.J.A.C. 7:50. The Commission is also the planning entity authorized under Section 502 of the National Parks and Recreation Act of 1978.

The Authority is proposing to widen the Parkway from Interchange 30 (Somers Point, Atlantic County) to Interchange 80 (South Toms River, Ocean County) (the “Proposed Widening Project”). The Proposed Widening Project, which will take place primarily within the existing right-of-way of the Parkway, mostly within the median, consists of the addition of a third traffic lane, shoulders and other associated development in each direction northbound and southbound. The Proposed Widening Project is expected to impact habitat for certain threatened and endangered plant and animal species. The vast majority of the Proposed Widening Project, with the exception of approximately one (1) mile, will occur within the Pinelands Area and, therefore, is subject to the requirements of the Pinelands CMP. Strict application of the Pinelands CMP would not permit a development to be carried out that results in irreversible adverse impacts to habitats that are critical to the survival of any local populations of threatened and endangered species designated by the New Jersey Department of Environmental Protection (“NJDEP”). This MOA is required in order to permit the Authority to proceed with the implementation of the Proposed Widening Project and other development associated therewith. This MOA does not authorize any other development activities to be conducted on any road rights-of-way located in the vicinity of the Parkway.

## **II. BACKGROUND**

### **A. The Parkway**

The Parkway is a limited access highway that was constructed in the 1950's by the State of New Jersey prior to the adoption of the Pinelands CMP. The Parkway is presently owned and operated by the Authority. The Parkway is an important transportation corridor and serves as a major tourism roadway, the only north-south evacuation route in the south-eastern New Jersey region, a major commuter roadway and an interstate travel roadway. The Parkway has and continues to be used for its originally intended transportation purposes.

A portion of the Parkway's right-of-way, in which the Proposed Widening Project will occur, is located within the State designated Pinelands Area. This right-of-way ranges in width from 300 to 700 feet and contains approximately 5,186 acres, extending from roughly Mile Post 31.1 to Mile Post 80. Within the Pinelands, the Parkway traverses multiple Pinelands management areas: the Preservation Area District, Forest Areas, Rural Development Areas, Pinelands Villages and Regional Growth Areas. A small portion of the Parkway, from Mile Post 30 to Mile Post 31.1, is located in the Pinelands National Reserve outside of the State-designated Pinelands Area. Although the Commission does not exercise direct regulatory jurisdiction to implement the policies of the CMP outside of the State-designated Pinelands Area, the CMP does include land use and development policies governing the future use and development of lands within the entire Pinelands National Reserve. In addition, in accordance with the mandates of the National Parks and Recreation Act of 1978, Pinelands management areas were established for that portion of the Pinelands National Reserve located outside of the State-designated Pinelands Area. Pursuant to the mandates of the Pinelands Protection Act and consistent with the terms of a Memorandum of Agreement between the NJDEP and the Commission, the Commission reviews and comments as to the consistency of applications for development with the standards of the CMP, including the Proposed Widening Project, within the portions of the Pinelands National Reserve, which overlap with those areas subject to the Coastal Areas Facility Review Act.

### **B. The Proposed Widening**

The Authority is proposing to widen the Parkway between Interchange 30 in Somers Point and Interchange 80 in Toms River in order to respond to traffic demands imposed upon the Parkway between these Interchanges and to improve public safety within the corridor. The original function of the Parkway, to mainly serve seasonal recreational travel, has evolved to include high volumes of commuter, inter-county, intra-county and inter-state trips. The Proposed Widening Project is intended to address the following: 1) relieve existing traffic congestion in the corridor (Parkway and Route 9); 2) improve public safety in the corridor, including increasing the capacity of the north-south evacuation route in this area; 3) provide adequate access to Atlantic City and Central Jersey Shore region; and 4) allow for the rehabilitation of the existing, and the construction of new parallel, Bass River and Mullica River bridges carrying the combined Parkway and Route 9 traffic, the sole north-south route in this area of the State.

The Authority is proposing to add a third traffic lane and wider shoulders in the northbound and southbound directions, reconstruct the Parkway's existing stormwater drainage system, widen mainline bridges, replace the Birch Street Bridge overpass, extend existing culverts, construct two new parallel bridge spans and rehabilitate the existing bridges over the Mullica and Bass Rivers and widen the existing bridge over Patcong Creek. The Proposed Widening Project was designed to minimize environmental impacts and disturbance while promoting vehicular safety and minimizing disruption of the traveling public. As a result, the Proposed Widening will take place within the existing right-of-way of the Parkway, mostly within the median, throughout the total project area consisting of approximately 50 miles. The project area includes the portions of the Parkway that run through Ocean, Burlington and Atlantic Counties within the following 14 municipalities: South Toms River, Berkeley Township, Beachwood Borough, Lacey Township, Barnegat Township, Stafford Township, Ocean Township, Eagleswood Township, Little Egg Harbor Township, Bass River Township, City of Port Republic, Galloway Township, Egg Harbor Township and the City of Somers Point.

Although the Authority submitted the entire Proposed Widening Project to the Commission and other permitting agencies for their review and approval, the Authority does not anticipate completing the entire Proposed Widening Project simultaneously. Rather, the Authority views the Proposed Widening Project, as multiple stand-alone segments; with each segment capable of functioning properly and addressing a specific need independently of the others. The Authority has identified each segment based upon annual average daily traffic data, traffic demand growth data and safety concerns as follows:

1. Interchange 63 to Interchange 80;
2. Rehabilitation of Existing and Construction of new Mullica River Bridges;
3. Interchange 52 to Interchange 63;
4. Rehabilitation of Existing and Construction of new Bass River Bridges;
5. Interchange 30 to Interchange 52; including rehabilitation of the Patcong Creek Bridge.

This Agreement provides all applicable Pinelands Commission approvals needed for the Proposed Widening Project so that flexibility exists with respect to scheduling of the above segments in a manner or order that best meets the Authority's needs, goals and objectives, as funding becomes available.

### **III. IMPACTS ON THE RESOURCES OF THE PINELANDS ASSOCIATED WITH THE PROPOSED WIDENING**

Based on the documents delineated in Attachment A, the provisions of the Pinelands CMP and the terms of this MOA, including all Attachments, the Proposed Widening Project will be consistent with the minimum requirements of Subchapter 6 of the Pinelands CMP with the exception of the threatened or endangered plant and wildlife standards (N.J.A.C. 7:50-6.27 and 6.33). Additionally, through the execution and implementation of a separate agreement that

addresses secondary impacts associated with the Proposed Widening Project, the minimum standards of Subchapter 5 will be met.

**A. Threatened or Endangered Species Habitat**

Implementation of the Proposed Widening Project may result in adverse impacts to habitats that may be critical to the survival of eleven (11) local populations of threatened or endangered animal species and two (2) designated threatened or endangered plants species. Specifically, the Proposed Widening Project will require clearing of vegetation, grading and paving, as well as other construction activities, within areas that constitute habitat for the following local populations of animals designated as threatened or endangered:

	<b>Common Name</b>	<b>Scientific Name</b>	<b>N.J. State Status (Breeding/Non-Breeding<sup>1</sup>)</b>	<b>Impacts (Acres)</b>
1	Bald Eagle	<i>Haliaeetus leucocephalus</i>	Endangered	8.25
2	Barred Owl	<i>Strix varia</i>	Threatened/ Threatened	7.19
3	Cooper's Hawk	<i>Accipiter cooperii</i>	Threatened/ Threatened	7.33
4	Northern Harrier	<i>Circus cyaneus</i>	Endangered/Undetermined	1.04
5	Perregrine Falcon	<i>Falco peregrinnus</i>	Endangered	2.97
6	Red Headed Woodpecker	<i>Melanerpes erythrocephalus</i>	Threatened/Threatened	1.64
7	Yellow-crowned Night Heron	<i>Nyctanassa violaccus</i>	Threatened/ Threatened	0.05
8	Pine Barrens Tree Frog	<i>Hyla andersonii</i>	Threatened	0.14
9	Cope's Gray Tree Frog <sup>2</sup>	<i>Hyla chrysoscelis</i>	Endangered	
10	Northern Pine Snake	<i>Pituophis melanoleucus</i>	Threatened	60.73
11	Timber Rattle Snake	<i>Crotalus horridus</i>	Endangered	0.36

<sup>1</sup> The N.J. State Status includes a separate designation for the breeding population and the non-breeding populations of birds.

<sup>2</sup> Because the Cope's Gray Tree Frog and Pine Barrens Tree Frog Habitat impacts completely overlap, the impacts were only counted once.

The habitat impacts for each species attributable to the Proposed Widening Project are noted in the chart above<sup>3</sup>. However, because of the conservative landscape based approach combined with field verification of habitat utilized by the Authority's threatened and endangered species consultant to designate habitat that may be impacted by the Proposed Widening Project, these potential impacts may be overstated. The Authority, however, as discussed below, is proposing an environmental measure to address all of the potential threatened or endangered species habitat impacts attributable to the Proposed Widening Project.

Additionally, documented habitat for New Jersey rush (*Juncus caesariensis*), a threatened or endangered plant of the Pinelands, and habitat for a known population of Pine barrens boneset (*Eupatorium resinosum*), an endangered plant pursuant to N.J.A.C. 7:5C-5.1, occur within the area of the Proposed Widening Project. Consequently, approximately .028 acres and .055 acres, respectively, of habitat for these species may be impacted. There are, however, no direct impacts to these species. No individual plants were identified within the impact area during the threatened or endangered species survey work conducted for the Proposed Widening Project.

## **B. Secondary Impacts**

In June 2006, the Pinelands Commission adopted the Parkway Overlay District rules, N.J.A.C. 7:50-5.35, which set forth the minimum standards governing the distribution and intensity of development and land use within the Parkway and established a consistent land use policy applicable to the entire Parkway right-of-way. The Parkway Overlay District rules permit “[c]onstruction, improvement, expansion, repair, reconstruction and maintenance of roadways, bridges and outlying and accessory facilities associated with operation and maintenance” of the Parkway provided that such uses “will not induce changes in the location, pattern and intensity of land use which would be inconsistent with the Pinelands land use program as implemented through the Commission’s certification, pursuant to N.J.A.C. 7:50-3, of the master plans and land use ordinances of Pinelands municipalities.”

The Commission engaged the Delaware Valley Regional Planning Commission (“DVRPC”) to undertake a study of the Proposed Widening Project’s potential to generate secondary growth related impacts that might be capable of inducing changes in land use that would be inconsistent with the Pinelands land use program. In December 2007, the DVRPC issued a report entitled *Technical Memorandum – Assessment of Secondary Impacts Associated with the Garden State Parkway Widening Project, Mile Post 30 to 80*. In its report, the DVRPC concluded that limited induced land use impacts associated with the Proposed Widening Project were likely to occur in the areas surrounding Interchanges 30, 36, 37, 58 & 69 and that of these areas of induced impacts only those impacts in the vicinity of Interchanges 58 and 69 would have the potential to be inconsistent with the Pinelands land use program.

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<sup>3</sup> The habitat impacts reflected in the table represent the net habitat impacts associated with the Proposed Widening Project. In areas where there was an overlap between species, impacts were counted once for offset purposes and attributed to a specific species based upon an approach that determined species precedence based on the habitat requirements of the applicable species.

As a result of DVRPC's findings concerning induced land use impacts at Interchanges 58 and 69, certain steps must be taken that, once fully implemented, will address the potential for secondary impacts in the vicinity of these interchanges in a manner consistent with the requirements of N.J.A.C. 7:50-5.35. These steps are delineated in a separate agreement between the parties entitled "Agreement Between the New Jersey Turnpike Authority and the New Jersey Pinelands Commission Concerning the Mechanism by which the Turnpike Authority will Obviate the Secondary Impacts Associated with the New Jersey Turnpike Authority's Widening of the Garden State Parkway from Interchange 30 to Interchange 80", which will be executed concurrently with this MOA<sup>4</sup>. This Agreement will be executed contemporaneously with this MOA.

**C. Historic Preservation Issues**

In a letter dated October 12, 2001, the New Jersey State Historic Preservation Office (NJSHPO) opined that the Parkway was eligible to be listed on the National Register of Historic Places as an historic district under Criteria A and C. In addition, there are other historic or archeological resources located in the vicinity of the Proposed Widening Project. These include the Port Republic Historic District, listed on the National Register; the West Jersey and Atlantic Railroad, opined to be eligible for listing on the National Register; and the Camden and Atlantic Railroad, potentially eligible for listing as well as the Mullica River/Chestnut Neck Archaeological Historic District, listed on the New Jersey Register of Historic Places.

The Pinelands CMP at Part XV includes standards to ensure that important historic, archaeological and cultural resources are protected. Because of the need for regulatory approvals from various Federal entities and the NJDEP, the Proposed Widening Project's potential affect on cultural and historic resources was also required to be considered under Section 106 of the National Historic Preservation Act, 16 U.S.C. 470 and the NJDEP's Coastal Area Facility Review Act ("CAFRA") permitting process at N.J.A.C. 7:7E-3.36.

As a result of this dual regulatory process, the NJSHPO, through implementation of the Federal Section 106 process and the CAFRA permitting process, took the lead regarding review of the historic, cultural and archeological resource impacts attributable to the Proposed Widening Project. The Commission participated in this process as a consulting party.

The Authority undertook an investigation and evaluation of the potential affects of the Proposed Widening Project on the historic, cultural and archeological resources within the area encompassed by the Proposed Widening Project. As a result of that investigation, it was determined by the NJSHPO that Proposed Widening Project would only adversely affect the Garden State Parkway Historic District. In order to mitigate for such adverse affects, and to satisfy the obligations of the Federal Section 106 process, the Authority entered into a Programmatic Agreement with the United States Army Corps of Engineers, the NJSHPO, and the United States Coast Guard. (A copy of this Programmatic Agreement is attached hereto as Attachment C). Included within this Programmatic Agreement are stipulations concerning design

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<sup>4</sup> This Agreement is not available to the public, because its disclosure would adversely affect the public interest and could provide an advantage to others with an interest in land acquisition in the area.



considerations, recordation tasks, interpretive tasks and curation of original documents that must be undertaken by the Authority, which, if implemented for the totality Proposed Widening Project located within the Pinelands area, will also satisfy the standards of the Pinelands CMP.

#### **IV. MEASURES PROPOSED TO AFFORD AN EQUIVALENT OR BETTER LEVEL OF PROTECTION FOR THE RESOURCES OF THE PINELANDS**

As discussed in Paragraph III above, implementation of the Proposed Widening Project will result in impacts to habitat for certain threatened and endangered animal and plant species. Consequently, the Proposed Widening Project is not consistent with the strict application of the following requirements of the Pinelands CMP: 1) N.J.A.C. 7:50-6.27 (Development prohibited in the vicinity of threatened or endangered plants) and 2) N.J.A.C. 7:50-6.33 (Protection of threatened or endangered wildlife).

In order to provide an equivalent level of protection of the resources of the Pinelands, the Authority will purchase and deed restrict against future development at least 142.76 acres of land (based on a 1:1 ratio for suitable habitat located within the median and a 3:1 ratio for habitat located outside of the median) to offset potential threatened and endangered plant and animal species habitat impacts associated with the Proposed Widening Project. The Authority has proposed to provide a portion of this offset at a 259-acre site known as the Turtle Creek Mitigation Site that is located in Washington Township, Burlington County. The site contains expanses of Atlantic White Cedar forest that have substantially recovered from historical logging. The site has been studied over the years and has been documented to contain numerous State threatened and endangered species, including pine barrens tree frog, various bird species, timber rattlesnake, new jersey rush and pine barrens boneset. Although the entire site will be preserved as part of the Authority's overall mitigation package for the Proposed Widening Project; 44 acres of the site will be specifically set-aside for Pinelands threatened and endangered species habitat offsets. The remaining acreage will be utilized for NJDEP freshwater wetland mitigation and to address CAFRA Critical Wildlife Habitat mitigation. The Authority proposes to address the remaining 98.76 acres of threatened and endangered species offset through the future acquisition and deed restriction against future development of upland threatened and endangered species habitat that contains a minimum of 80.77 acres of suitable characteristic Northern Pine Snake habitat and a minimum of 4.93 acres of suitable characteristic Red Headed Woodpecker habitat.

#### **V. THE BASIS FOR THE MOA**

The Pinelands CMP (N.J.A.C. 7:50-4.52(c)2) authorizes the Commission to enter into intergovernmental memoranda with any agency of the Federal, State or local government that authorizes such agency to carry out specified development activities that may not be fully consistent with the provisions of the Pinelands CMP, specifically N.J.A.C. 7:50-5 and 6. The agency must demonstrate, and the Commission must find, that any proposed development that is not fully consistent with the standards of the Pinelands CMP is accompanied by measures that will, at a minimum, afford an equivalent level of protection of the resources of the Pinelands as would be provided through strict application of the standards of the Pinelands CMP.

As discussed above, the Proposed Widening Project is not fully consistent with the threatened or endangered plant (N.J.A.C. 7:50-6.27) and animal (N.J.A.C. 7:50-6.34) habitat standards of the Pinelands CMP. Consequently, as part of this MOA and discussed in Paragraph IV above, the Authority must undertake measures that will result in the permanent protection of 142.76 acres of threatened and endangered species habitat located within the Pinelands Area. All of these measures, when taken together, will afford at least an equivalent level of protection of the resources of the Pinelands impacted by the Proposed Widening Project as would be provided by strict application of the Pinelands CMP. As a result, entry of this MOA authorizing a deviation from the standards of the Pinelands CMP pertaining to threatened or endangered plants or animal species (N.J.A.C. 7:50-6.27 & 6.33) is warranted.

In accordance with N.J.A.C. 7:50-4.52(c)1, the Commission also may enter into intergovernmental memoranda with any agency of the Federal, State or local government which authorizes such agency to carry out specified development activities without securing individual development approvals from the Commission, provided that the specified development activities are consistent with the provisions of N.J.A.C. 7:50-5 and 6. Because the Authority, as part of this MOA, is proposing measures that will afford an equivalent level of protection of the resources of the Pinelands as would be accomplished by Subchapters 5 & 6, entry of a MOA authorizing alternative application procedure is also warranted.

## **VI. AGREEMENT**

A. The Authority agrees that:

1. The Authority will require its contractor(s) for any segment of the Proposed Widening Project, as delineated in Paragraph II.B. above, to construct such segment(s) in accordance with the list of documents set forth in Attachment A, attached hereto and made a part hereof.
2. The Authority will require its contractor(s) for any segment of the Proposed Widening Project, as delineated in Paragraph II.B. above, to construct such segment(s) in accordance with the terms of this MOA, including all Attachments hereto and made a part hereof, and all standards of the Pinelands CMP from which a deviation has not been expressly authorized by this Agreement, and it will incorporate these obligations into the terms of every contract for the construction of any segment of the Proposed Widening Project.
3. The Authority will obtain any and all certificates, licenses, consent, approvals, or permits required from any State and/or Federal entity prior to authorizing commencement of construction of any segment of the Proposed Widening Project. No part of this MOA is intended to nor shall it release the Authority and/or its designated contractor(s) from the responsibility to obtain all required approvals.
4. The Authority will provide notice to the Pinelands Commission staff thirty (30) days prior to commencing site preparation work for each segment(s) of the

Proposed Widening delineated in Paragraph II.B. above. Such notice shall include the following:

- a. A narrative description of the proposed construction activities to be conducted as part of the proposed project segment;
  - b. A reference to the approved plans identifying the location of the Proposed Widening Project segment and to the mileposts between which work will occur; and
  - c. A description of any changes in the scope, design, impacts, etc., of the Proposed Widening from what was delineated in Paragraph II.B. above and the documents listed in Attachment A.
5. Any material addition to, deviation from or modification to the Proposed Widening Project as delineated in Paragraph II.B. and the documents listed in Attachment A, shall require the Authority to submit a formal application to the Commission in accordance with the Pinelands CMP (N.J.A.C. 7:50-4.52(b)) and that proposed development may not occur until an application has been completed with the Commission and the Commission has issued an approval.
  6. To the extent that either new information becomes available or changes are made to the scope or design of the Proposed Widening Project, as delineated in Paragraph II.B. above and the documents listed in Attachment A, that would result in more than a de minimis change to the impacts associated with the same, but would not be considered material in accordance with Paragraph VI.A.5, the Authority shall, in addition to the description required pursuant to Paragraph VI.A.4., submit such information or changes to the Pinelands Commission staff for review for a consistency determination by the Executive Director in accordance with Paragraph VI.B.5.
  7. If the Executive Director determines that any change to the scope or design of the Proposed Widening Project submitted to him in accordance with Paragraph VI.A.6. is inconsistent with the requirements of this MOA or a standard of the Pinelands CMP from which a deviation has not been authorized by this Agreement or results in a material increase in the threatened or endangered plants or animal species habitat impacts associated with the Proposed Widening Project for which deviations have been authorized by this MOA, the Authority agrees, on behalf of itself and its contractors, to modify the Proposed Widening Project until the Executive Director determines that it is consistent with all requirements of this MOA and the Pinelands CMP. If the Authority disagrees with the Executive Director's determination, it may file a complete Public Development Approval application and seek formal approval from the Pinelands Commission.
  8. The Authority agrees to purchase and deed restrict against future development at least 142.76 acres of land within the Pinelands Area of which 44 acres will be

provided at the Turtle Creek Mitigation Site. The remaining 98.76 acres of threatened and endangered species habitat offset shall be provided through the future acquisition and deed restriction against future development of upland threatened and endangered species habitat that contains a minimum of 80.77 acres of suitable characteristic habitat for Northern pine snake and a minimum of 4.93 acres of suitable characteristic habitat for red headed woodpecker. The deed restriction shall be in a form similar to that attached hereto as Exhibit D, shall be approved by the Executive Director prior to recordation, shall run with the land in perpetuity and shall be referenced in the deed or other legal conveyance of any interest in such property. Evidence of the purchase and imposition of the deed restriction shall be provided to the Executive Director within three (3) years of the effective date of this MOA.

9. The Authority shall submit written progress reports to the Commission's Executive Director every six (6) months, commencing in January 2009, detailing the progress that it or its contractor has made completing its obligations pursuant to Paragraph VI.A.8.
10. The Authority agrees to implement the stipulations contained within the "Programmatic Agreement Among The United States Army Corps of Engineers, Philadelphia District, The New Jersey State Historic Preservation Office, The United States Coast Guard And The New Jersey Turnpike Authority Regarding The Widening Of The Garden State Parkway from Interchange 30 To Interchange 80 Atlantic, Burlington And Ocean Counties, New Jersey", signed and dated on 4/7/08, 4/8/08, 4/9/08, and 4/14/08 by the Authority, NJSHPO, the U.S. Coast Guard, and the U.S. Army Corp of Engineers (USACOE), respectively, for all portions of the Proposed Widening Project being constructed within the Pinelands Area regardless of any limitations within said Programmatic Agreement concerning the USACOE's jurisdiction. Any amendment or modification of the stipulations contained within the Programmatic Agreement shall be accomplished in accordance with the Administrative Conditions of the Programmatic Agreement and the stipulations shall be enforced by the NJDEP through the terms of Permit No. 0000-06-0022.1CAFO60001, WFD060001, FHA060001, FWW060001, CSW060001.
11. The Authority agrees to reimburse the Commission for its staff time, consultant costs and other costs associated with the development of this Agreement in the amount of \$\_\_\_\_\_. It also agrees to reimburse the Commission for any additional costs incurred by the Commission as a result of the Authority's submission of information or a public development application in accordance with Paragraphs VI.A.5 and 6. Reimbursement shall be remitted to the Commission within sixty (60) days of the Authority's receipt of an invoice for payment containing an itemized breakdown of costs certified by the Commission's Business Manager.

12. The Authority will abide by the terms of the separate agreement between it and the Commission by which it will address the secondary impacts associated with the Proposed Widening Project.

**B. The Pinelands Commission agrees that:**

1. It will not require the filing of a formal public development application in accordance with the CMP (N.J.A.C. 7:50-4.52(b)) for the Proposed Widening Project as delineated in Paragraph II.B. and the documents listed in Attachment A, unless there is a material addition deviation or modification to the Proposed Widening Project.
2. Based on its review of the documents listed in Attachment A, the provisions of the Pinelands CMP and the terms of this MOA, including the Attachments, and with the exception of those standards for which a deviation is being granted pursuant to this MOA, the Proposed Widening Project is consistent with the minimum requirements of the Pinelands CMP. No further action by the Commission, or its staff, shall be required regarding the Proposed Widening Project, unless there is a material addition, deviation or modification to the Proposed Widening Project as delineated in Paragraph II.B.5. or new information becomes available or there is a change to the scope or design of the Proposed Widening Project as defined in Paragraph VI.A.6.
3. The stipulations contained within the Programmatic Agreement attached hereto as Attachment C, and made a part hereof, when implemented for all portions of the Proposed Widening Project being constructed within the Pinelands Area, regardless of any limitations within said Programmatic Agreement concerning the USACOE's jurisdiction, shall satisfy the historic, archaeological and cultural preservation standards of the Pinelands CMP. This MOA, therefore, constitutes a Certificate of Appropriateness. No further action by the Commission or its staff shall be required. Any material addition, deviation or modification to the Proposed Widening Project that would require an amendment or modification of the stipulations contained within the Programmatic Agreement or the terms of NJDEP Permit No. 0000-06-0022.1CAFO60001, WFD060001, FHA060001, FWW060001, CSW060001 pertaining to historic or cultural resources shall be addressed in accordance with the terms of those documents.
4. Within thirty (30) days of receipt of the information submitted pursuant to Paragraphs VI.A.4.c. or VI.A.6, the Executive Director will provide written authorization in accordance with Paragraph VI.B.6. or the Commission staff will provide a written explanation of deficiencies in accordance with Paragraph VI.B.5. below.
5. If the Executive Director determines after the review of any information submitted pursuant to Paragraph VI.A.4.c., VI.A.6 or a response to any deficiency letter issued by the Commission pursuant to this paragraph that any portion of the

Proposed Widening Project is inconsistent with the terms of this MOA, including all attachments, and/or the standards of the Pinelands CMP, the Commission staff shall provide a written explanation of the deficiencies and identify specific actions that must be taken by the Authority or its contractor(s) to remedy such deficiencies.

6. If the Executive Director determines, after review of information submitted in accordance with Paragraphs VI.A.4.c or VI.A.6 and/or in response to any deficiency letter issued by the Commission pursuant to Paragraph VI.B.5, that any portion of the Proposed Widening is consistent with this MOA, including all attachments, and the standards of the Pinelands CMP, it shall issue a written authorization to the Authority setting forth this determination. This written authorization shall constitute a public development approval and no further action by the Commission shall be required.
7. The Commission will abide by the terms of the separate agreement between it and the Authority by which the Authority will address the secondary impacts associated with the Proposed Widening Project.

#### **VII. EFFECTIVE DATE AND DURATION**

1. In accordance with N.J.S.A. 13:18A-5(h), this MOA and any subsequent amendments shall take effect following the conclusion of the Governor's review period and/or approval of the Pinelands Commission meeting minutes authorizing entry of this MOA and then upon approval and signature by the authorized representative of both Parties.
2. This MOA shall remain in effect unless amended by written consent of both Parties or otherwise terminated by either Party with sixty (60) days prior written notice. However, should this Agreement be terminated by the Authority all obligations pursuant to Paragraph VI.A.12 will remain in force and the Authority shall reimburse the Commission for all costs incurred associated either with the development of this Agreement or the review of information submitted in accordance with Paragraphs VI.A.5 & 6 up to the termination of this Agreement.

#### **VIII. SIGNATURES**

**NEW JERSEY PINELANDS COMMISSION**

Date \_\_\_\_\_

By: \_\_\_\_\_  
John C. Stokes, Executive Director

Approved as to form by:

Date \_\_\_\_\_

By: \_\_\_\_\_  
Valerie Haynes, Deputy Attorney General  
State of New Jersey

**NEW JERSEY TURNPIKE AUTHORITY**

Date \_\_\_\_\_

By: \_\_\_\_\_  
Diane Guitierrez-Scaccetti, Executive Director

Attested:

Date \_\_\_\_\_

By: \_\_\_\_\_  
Rose Stanko, Secretary to the Authority

ATTACHMENT A

Garden State Parkway Widening Project  
Interchange 30 to 80  
Documents

**APPLICATION MATERIALS:**

New Jersey Pinelands Application Form, submitted on December 2, 1998 for widening one lane in each direction

Environmental Impact Statement, Garden State Parkway, Mainline Widening, Interchange 30 to 80, Prepared for New Jersey Highway Authority, Volume I, prepared by T&M Associates, Inc., dated August 2006 and revised February 14, 2007 by submission from T&M Associates, prepared by T&M Associates and dated as follows:

**SITE PLANS:**

New Jersey Turnpike Authority, Garden State Parkway, Plans For Widening Of The Garden State Parkway, Plans For Widening Of The Garden State Parkway From Interchange 30 To 80

199 Sheets, all dated August 2006; revised August 11, 2008

and

Sheets A-Z; dated as follows:

A-F, and R-Z - August 2006

G-Q – January 2000

And

Revised A-F; R-W, Y and Z – dated August 11, 2008

G-Q – no revision

X – dated September 7, 2006

New Jersey Highway Authority Garden State Parkway Plans For Widening Of The Garden State Parkway From Interchange 30 to 80, Threatened and Endangered Species Mapping

199 Sheets, all dated August 2006, revised August 12, 2008

Prepared by T&M Associates (not sealed)

**STORMWATER MANAGEMENT:**

Garden State Parkway Widening Project, Interchange 30 To Interchange 80, Technical Memorandum No.12, Environmental Report, Stormwater Management & Water Quality, dated January 30, 2007; revised May 15, 2007, Appendix G, Final Calculations, Sub-



Drainage Area Studies-Part I, Submission Date” October 15, 2007, Final Submission Date: August 15, 2008. Prepared by T&M Associates

Garden State Parkway Widening Project, Interchange 30 To Interchange 80, Technical Memorandum No.12, Environmental Report, Stormwater Management & Water Quality, dated January 30, 2007; revised May 15, 2007, Appendix G, Final Calculations, Sub-Drainage Area Studies-Part II, Submission Date” October 15, 2007, Final Submission Date: August 15, 2008. Prepared by T&M Associates

Garden State Parkway Widening Project, Interchange 30 To Interchange 80, Technical Memorandum No.12, Environmental Report, Stormwater Management & Water Quality, dated January 30, 2007; revised May 15, 2007, Appendix G, Final Calculations, Sub-Drainage Area Studies-Part III, Submission Date” October 15, 2007, Final Submission Date: August 15, 2008. Prepared by T&M Associates

Garden State Parkway Widening Project, Interchange 30 To Interchange 80, Technical Memorandum No.12, Environmental Report, Stormwater Management & Water Quality, dated January 30, 2007; revised May 15, 2007, Appendix G, Final Calculations, Sub-Drainage Area Studies-Part IV, Submission Date” October 15, 2007, Final Submission Date: August 15, 2008. Prepared by T&M Associates

Garden State Parkway Widening Project, Milepost 30 to Milepost 80, Addendum No.1 Part 1a, Revised Sub-Area Design Point Summary Using New SCS Rainfall Data, Submission Date: February 3, 2006, Final Submission Date August 15, 2008. Prepared by T&M Associates

Garden State Parkway Widening Project, Milepost 30 to Milepost 80, Addendum No.1 Part 1b, Revised Sub-Area Design Point Summary Using New SCS Rainfall Data, Submission Date: February 3, 2006, Final Submission Date August 15, 2008. Prepared by T&M Associates.

Garden State Parkway Widening Project, Milepost 30 to Milepost 80, Addendum No.1 Part II, Revised Sub-Area Design Point Summary Using New SCS Rainfall Data, Submission Date: February 3, 2006, Final Submission Date August 15, 2008. Prepared by T&M Associates

Garden State Parkway Widening Project, Interchange 30 to Interchange 80, Swale Evaluation (Profile) & Typical Section And Test Pit Log, Book 1: Sub Area 1 to Sub-Area 6, Final Submission Date: August 15, 2008. Prepared by T&M Associates

Garden State Parkway Widening Project, Interchange 30 to Interchange 80, Swale Evaluation (Profile) & Typical Section And Test Pit Log, Book 2: Sub Area 7 to Sub-Area 12. Final Submission Date: August 15, 2008. Prepared by T&M Associates

Garden State Parkway Widening Project, Interchange 30 to Interchange 80, Swale Evaluation (Profile) & Typical Section And Test Pit Log, Book 3: Sub Area 13 to Sub-Area 21. Final Submission Date: August 15, 2008. Prepared by T&M Associates

**THREATENED AND ENDANGERED SPECIES:**

Endangered And Threatened Species Survey, Section I, Introduction and Methods, Garden State Parkway Widening Between Interchanges 30 And 80, prepared by Amy S. Greene Environmental Consultants, dated September 14, 1999

Endangered and Threatened Species Survey, Section I, Introduction and Methods, Garden State Parkway Widening Between Interchanges 30 and 80, Appendix C, prepared by Amy S. Greene Environmental Consultants, dated September 14, 1999

Endangered And Threatened Species Survey, Section II, Results, Garden State Parkway Widening Between Interchanges 30 And 80, Appendix C, prepared by Amy S. Greene Environmental Consultants, dated December 7, 1999

Endangered and Threatened and Species Survey, Section II, Results, Garden State Parkway Widening Between Interchanges 30 and 80, prepared by Amy S. Greene Environmental Consultants, dated December 7, 1999

Impact Analysis, Endangered and Threatened Species, Garden State Parkway Improvements, Interchange 30 to 809, Ocean, Burlington, And Atlantic Counties, New Jersey, prepared by Amy S. Green Environmental Consultants, dated May 24, 2002

Revised Endangered And Threatened Species Impact Assessment And Species Management Plan, Proposed Garden State Parkway Widening Project Between Interchanges 30-80, Atlantic, Burlington and Ocean Counties, New Jersey, prepared by Amy S. Green Environmental Consultants and dated January 30, 2008

Revised Threatened and Endangered Species Impact Assessment And Species Management Plan, Proposed Garden State Parkway Widening Project Between Interchanges 30 And 80, Appendix D, prepared by Amy S. Greene Environmental Consultants, dated January 25, 2007

Revised Endangered And Threatened Species Impact Assessment And Species Impact Assessment And Species Management Plan, Appendix C, Impact Tables, dated August 20, 2008, prepared by T&M Associates

Results of Survey for Federally-Listed Plant Species, Proposed Garden State Parkway Widening Project Between Interchanges 30-80, Atlantic, Burlington and Ocean Counties, New Jersey, prepared by Amy S. Greene Environmental Consultants, dated October 9, 2006

**CULTURAL RESOURCES:**

Technical Memorandum No. 18, "Cultural Resources Investigation." Widening of the Garden State Parkway, Interchange 30 to Interchange 8." Prepared for: New Jersey Highway Authority. Prepared by T& M Associates, dated April 2000

Programmatic Agreement Among The United States Army Corps Of Engineers, Philadelphia District, New Jersey State Historic Preservation Office, The United States Coast Guard And The New Jersey Turnpike Authority Regarding The Widening Of The Garden State Parkway From Interchange 30 To Interchange 80, Atlantic, Burlington, And Ocean Counties, New Jersey

Historic Alternatives and Project Effects Report, Garden State Parkway Widening, Interchange 30 to Interchange 80, prepared by Gannett Fleming, dated February 2008

Mullica River Bridge Rehabilitation and Widening (OPS P3026), Design Rationale Document, prepared by Parsons Brinckerhoff Quade & Douglas, Inc, and dated December 28, 2006

Mullica River Bridge Rehabilitation and Widening (OPS P3026), Environmental Permit Support Document, prepared by Parson Brinckerhoff Quade & Douglas, submitted October 16, 2006, revised December 28, 2006

Mullica River & Bass River Area, USACOE Non-Assumed Interchange 48 to Interchange 52, Potential Reduction In Wetland Impacts, summary, submitted January 8, 2007

New Jersey Turnpike Authority, Widening of the Garden State Parkway M.P. 30 M.P. 80, Minimization of Impacts Report (Update), from T&M Associates, dated January 4, 2007

**AIR QUALITY:**

Technical Memorandum No. 10, Air Quality Report, "Widening of the Garden State Parkway, Interchange 30 to Interchange 80." Prepared for: New Jersey Highway Authority. Prepared by T& M Associates, dated July 2002

Technical Memorandum No. 7, Traffic Report, "Widening of the Garden State Parkway, Interchange 30 to Interchange 80." Prepared for: New Jersey Highway Authority. Prepared by T& M Associates, dated January 2000

**SECONDARY IMPACTS:**

New Jersey Turnpike Authority Garden State Parkway, Widening of the Garden State Parkway From Interchange 30 to Interchange 80, Preliminary Plans, February 2006

Garden State Parkway Widening Project Milepost 30 to Milepost 80, Transportation Model Analysis, requested by T&M Associates, prepared by QualQuan Insights, Inc., received July 24, 2006

Widening of the Garden State Parkway Interchange 30 to Interchange 80 Secondary Impact Preliminary Project Evaluation Questions including: Executive Summary – NJ State Development and Redevelopment Plan, List of Designated Redevelopment Centers, Information Regarding Water Systems in Project Area, List of Major Employers in Project Area, Growth Projections, Traffic Model Results and Analysis, prepared by T&M Associates, received July 24, 2006

Secondary Impacts Analysis for the Widening of the Garden State Parkway from Mile Post 30 to Mile Post 80, prepared by T&M Associates, October 31, 2006

Traffic Impact Analysis, Garden State Parkway Milepost 30 to Milepost 80 Widening, prepared by T&M Associates, submitted July 24, 2007

Technical Memorandum, Assessment of Secondary Impacts Associated with the Garden State Parkway Widening Project, Milepost 30 to 80, prepared by Delaware Valley Regional Planning Commission, December 2007

(Include concurrence lines of signatories for all attachments)

## ATTACHMENT B

### Environmental Conditions

#### **General Conditions**

1. Only native Pinelands grasses, seeds, shrubs and plant species shall be used, in accordance with N.J.A.C. 7:50-6.24, for revegetation performed as part of the implementation of the Proposed Widening Project. Any wetlands or wetlands buffers disturbed as a result of the construction of any segment of the Proposed Widening Project shall be graded to natural conditions and seeded with native Pinelands grass species suitable for such areas.
2. The Pinelands Commissions staff shall be permitted to inspect the site of the Proposed Widening Project to ensure compliance with these environmental conditions and the provisions of this MOA.
3. The limits of the proposed clearing, grading and construction activities shall be demarcated with construction fencing; especially in areas of both suitable and confirmed threatened or endangered plant or animal species habitat.
4. All vegetation (timber, woodchips) removed from the project area of any segment of the Proposed Widening shall be lawfully disposed of offsite unless the Executive Director approves of the disposition of vegetative material on sites within the Pinelands Area prior to the disposition of any such material.
5. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
6. No storage/staging area(s) (i.e. locations for the storage, temporary or otherwise, of equipment or materials) for the Proposed Widening Project within the Pinelands Area shall be located outside of the existing cleared portions of the Parkway right-of-way, within wetlands or area within 300 feet of wetlands unless approved by the Commission's Executive Director prior to the use of such area(s), or within habitat that is critical for the survival of a local population of threatened or endangered plants or animals.
7. The Authority shall include language within its bid specifications for the construction of any segment of the Proposed Widening Project prohibiting the storage, discharge, placement or utilization of any fill that is not free from hazardous or toxic substances or hazardous waste as those terms are defined at N.J.A.C. 7:50-2.11.

#### **Threatened or Endangered Species**

9. All activities conducted in furtherance of any segment of the Proposed Widening Project shall be conducted in accordance with the Avoidance, Minimization and Mitigation

measures, including but not limited to timing restrictions, set forth in the Species Management Plan, at pages 32 through 41, contained within the document entitled “Revised Endangered and Threatened Species Impact and Species Management Plan” dated January 30, 2008 and prepared by Amy S. Greene Environmental Consultants, Inc. (“Species Management Plan”).

10. As set forth in the general requirements of the Species Management Plan, qualified environmental monitoring personnel (herpetologist and botanist, as appropriate) shall be present during tree clearing and removal activities, the installation of fencing and other soil erosion devices, and the placement of fill within endangered or threatened plant or animal species habitat. The construction activities shall be monitored on a daily basis until the placement of fill and performance of clearing or grading activities, as well as the use of heavy construction equipment is complete.
11. Any threatened or endangered animal species encountered during implementation of any segment of the Proposed Widening Project shall be handled in accordance with the recommendations of the Species Management Plan.
12. The Pinelands Commission and the NJDEP, Endangered and Non-Game Species Program (ENSP) shall be notified immediately if any threatened or endangered plants or animal species or habitat critical to their survival, other than those species and their associated habitat discussed in this Agreement, are discovered in the area of any segment of the Proposed Widening Project during its implementation. All activities in the vicinity of such species or critical habitat shall immediately cease pending direction from Pinelands Commission staff, which will be provided in consultation with the NJDEP, ENSP. During that time, qualified environmental monitoring personnel shall take all reasonable steps to ensure that such species or critical habitats are protected.

#### **Wetlands and Wetland Transition Areas**

13. Silt fencing, hay bales or other appropriate measures shall be taken prior to construction to preclude sedimentation from entering freshwater wetlands. The measures shall be installed prior to the start of work and shall be maintained in place until all development has been completed and the area has been stabilized at which point all measures shall be removed.
14. No activities shall occur in wetlands or wetlands buffers unless delineated in the documents listed on Attachment A and, therefore, expressly authorized by the provisions of the MOA.
15. All cut vegetation shall be removed from wetlands and areas within 300 feet of wetlands. Woodchips or other vegetative matter shall not be disposed of in wetlands or within 300 feet of wetlands nor shall any temporary stockpiling or placement of such materials occur in wetlands or within 300 feet of wetlands.

16. Vegetation clearing and other activities within wetlands shall be accompanied by techniques developed to minimize impacts to the wetlands. Such techniques shall include but not be limited to hand clearing, low impact vehicles designed for mechanical clearing, and mechanical clearing with equipment placed on palettes or mats and use of other appropriate devices designed to prevent tire rutting by construction equipment vehicles. All devices shall be removed promptly upon completion of that portion of the Proposed Widening Project necessitating their use.
17. Refueling shall not occur within wetlands or areas within 300 feet of wetlands unless approved by the Commission's Executive Director prior to the initiation of any refueling activities.

DRAFT

ATTACHMENT C

Programmatic Agreement Among The United States Army Corp of Engineers, Philadelphia District, The New Jersey State Historic Preservation Office, The United States Coast Guard And The New Jersey Turnpike Authority Regarding The Widening Of The Garden State Parkway from Interchange 30 To Interchange 80 Atlantic, Burlington And Ocean Counties, New Jersey

(Include concurrence lines of signatories for all attachments)

DRAFT



ATTACHMENT D

PREPARED BY

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

**DEED OF CONSERVATION RESTRICTION**

THIS INDENTURE dated \_\_\_\_\_, 200\_\_

Made by:

\_\_\_\_\_  
(Name(s) and addresses of landowner(s))  
\_\_\_\_\_  
\_\_\_\_\_

(hereinafter referred to as GRANTOR);

In favor of The State of New Jersey, Department of Environmental Protection, a principle Department in the Executive Branch of the State of New Jersey, having an address at 401 East State Street, New Jersey (hereinafter referred to as GRANTEE.)

This transfer is made for no monetary consideration.

**WITNESSETH:**

WHEREAS, Grantor is the owner of certain real property known and designated as Block \_\_\_\_, Lot \_\_\_\_, on the tax map of the Township of \_\_\_\_\_, County of \_\_\_\_\_, State of New Jersey (hereinafter the "Property"), which property is described in the Schedule A annexed hereto and incorporated herein by reference; and

WHEREAS, the Grantee is a principal Department of the Executive Branch of State Government charged with the responsibility to formulate comprehensive policies for the conservation of the natural resources of the state, including protection of threatened and endangered species and their associated habitat, the promotion of environmental protection and the prevention of pollution of the environment of the State (N.J.S.A. 13:1D-9); and

WHEREAS, the purposes of this Deed of Conservation Restriction include:  
a. that the Property will be retained in its natural, scenic, open and existing state, in perpetuity, subject only to the specific rights reserved to the Grantor herein;

- b. that the natural features of the Property will be respected and preserved to the maximum extent consistent with Grantor's exercise of the rights expressly reserved to Grantor herein;
- c. that the Property will be forever protected and preserved in its natural, scenic, open and existing state free from all activities that might damage, compromise or interfere with the ecological diversity, natural beauty or resource quality, or with the natural processes occurring therein; and
- d. the prohibition of any use of the Property that will significantly impair or interfere with the conservation values of the Property or would be inconsistent with the provisions of the Pinelands Comprehensive Management Plan (the "Plan"), codified at N.J.A.C. 7:50.

WHEREAS, Grantor desires and intends to prohibit development activities in, on, and/or under the Property, in perpetuity, pursuant to the terms, covenants, conditions and restrictions set forth herein so that the Property will be protected and remain in its natural state; and

NOW THEREFORE, in consideration of the foregoing and the agreements, terms, covenants, conditions and restrictions contained herein, Grantor, for itself, its successors and assigns hereby declares that Grantor's Property shall be held, transferred, sold, conveyed, leased and occupied subject to the following covenants, conditions, obligations and restrictions hereafter set forth:

- 1. Except as specifically set forth herein, the following activities shall not be conducted, performed, or take place in, on or under the Property:
  - a. The construction, placement, building, installation, erection, assembly, manufacture, fabrication, alteration, enlargement, renovation or replacement of any building, structure; or pavement in, on, above or beneath the surface of the Property;
  - b. Any disturbance or alteration of the surface topography and natural features of the Property;
  - c. Clearing, cutting, destruction or removal of any tree cover, tree limbs, trees, shrubs, plants, vegetation or other plant material, except that dead, fallen, diseased or infected tree limbs or other vegetation that poses a health or safety hazard may be trimmed or removed;
  - d. The planting of any invasive or non-native plant species;
  - e. Processing, storage, disposal, spreading, placing or dumping of refuse, rubbish, debris, dredge spoils, chemicals, hazardous materials, animal

waste, fertilizers, herbicides, pesticides, fungicides, abandoned vehicles or other refuse or offensive materials;

- f. Placement, installation, dumping, side casting of any soils or other substances or materials as fill or the stockpiling of soils or other substances or materials on the Property;
- g. Use of the Property by automobiles, trucks, all-terrain vehicles, trail bikes, motorcycles, snowmobiles or other motorized vehicles;
- h. Use of the Property for commercial or industrial uses;
- i. Mining, quarrying, drilling, extraction, excavation, dredging, extraction or otherwise removing loam, peat, turf, soil, gravel, sand, coal, rock, mineral, petroleum, natural gas, or other natural resources from the Property; and
- j. Other activities, uses, disturbances or development that could be detrimental to continuation of the Property in its natural state.

2. Grantor, for itself, its successors, transferees, or assignees, agrees to leave the Property unmolested and in their natural state.

3. Notwithstanding any provision of this Deed of Conservation Restriction, the Property may be utilized for:

- a. fish and wildlife management purposes and low intensity recreational uses as defined at N.J.A.C. 7:50-2.11 (hereinafter "recreation uses") as may be permitted by the Pinelands Commission in its sole and absolute discretion, and subject to compliance with applicable local, county, state and federal laws, rules, regulations and ordinances;
- b. soil and water conservation practices or management activities as may be necessary to preserve, enhance, create or restore habitat for plant or animal species and/or natural communities, as may be permitted by the Pinelands Commission in its sole and absolute discretion, and provided that such practices and activities protect the conservation values associated with the Property, and provided further that these practices and activities are undertaken in compliance with all relevant federal, state and local laws and regulations, including the Plan. These practices and activities may include, but need not be limited to: the removal of vegetation which poses a health or safety risk; the removal of invasive or successional plant species; the undertaking of ecological burning designed to preserve, enhance, create or restore habitat for specific plant or animal species and/or natural communities; and the preservation, creation, enhancement and management of the hydrological regime needed to sustain specific plant or animal species and/or natural communities;

- c. construct, maintain, improve, replace or repair bridges intended for occasional pedestrian use, paths and trails, fences, stiles, interpretive and directional signs and kiosks, and related and associated structures necessary for the public's recreation and conservation use, access, and convenience, as may be permitted by the Pinelands Commission in its sole and absolute discretion and subject to compliance with applicable local, county, state and federal laws, rules, regulations and ordinances, including the Plan;
- d. reconstruct, maintain, replace or repair any existing building or other structure on the Property which will be used for recreation or conservation purposes, including stewardship or management of the Property, as may be permitted by the Pinelands Commission in its sole and absolute discretion and subject to compliance with applicable local, county, state and federal laws, rules, regulations and ordinances, including the Plan; and
- e. impose terms, conditions, and restrictions upon the use of the Property which are in addition to, or more restrictive than, this Deed of Conservation Restriction, provided that any use of the Property will not substantially impair or interfere with the conservation values of the Property.

4. Grantor covenants that Grantor has done no act to encumber the Property other than impose this Deed of Conservation Restriction.

5. Grantor reserves to itself, its successors or assigns, all rights associated with ownership of the Property, including the right to engage in all uses of the Property not inconsistent with the terms, covenants, conditions, and restrictions of this Deed of Conservation Restriction and the requirements of the certified municipal land use ordinances and this Plan. Nothing contained herein shall be construed to interfere with the right of Grantor, its successors or assigns to utilize the Property subject to the terms and conditions of this Deed of Conservation Restriction.

6. Grantor, its successors, transferees, or assignees, shall not sell, lease, exchange, or donate the Property except to the State, federal government, a local government unit, or other qualified tax exempt, nonprofit organization. The Property shall remain subject to this Deed of Conservation Restriction after any conveyance.

7. To accomplish the purposes of this Deed of Conservation Restriction, the Grantor grants the Grantee and the Pinelands Commission, a special beneficiary to this Deed of Conservation Restriction, their employees, agents, representatives, successors, or assigns the following rights:

- a. To have access to and enter upon the Property at all reasonable times to inspect the Property and enforce the terms of this Deed of Conservation Restriction;
- b. In addition to the exercise of any statutory or common law right, the right to enforce this Deed of Conservation Restriction by means of any remedy provided for herein or available at law or equity, including but not limited to, enjoining any activity on, or use of, the Property that is inconsistent with the purpose of this Deed of Conservation Restriction;
- c. To require Grantor or third persons to restore the Property, or any portion thereof, as may be damaged by an inconsistent use or activity; and
- d. To protect and preserve the Property, and in connection therewith, to determine the consistency of any activity or use for which no express provision is made herein with the purposes of this Deed of Conservation Restriction.

8. This Deed of Conservation Restriction may be amended only by written instrument duly executed by Grantor, Grantee and the Pinelands, their successors or assigns. Such modification shall not be effective until duly recorded with the Office of the Recorder of Deeds for \_\_\_\_\_ County, New Jersey.

9. The terms and conditions of this Deed of Conservation Restriction shall be governed and construed in accordance with the laws of the State of New Jersey.

10. This Deed of Conservation Restriction and all rights and obligations incidental thereto, whether expressed or implied, shall be construed to be a covenant running with the land and shall be binding upon and inure to the benefit and be enforceable by any successor, transferee, or assignee to the parties hereto.

11. The terms of this Deed of Conservation Restriction may be enforced by any appropriate proceeding in law or equity in any Court or administrative tribunal having jurisdiction, against any person or persons, firm or corporation violating or attempting to violate or circumvent any provision herein contained, either to restrain or enjoin such violation or threat of violation or to recover damages and the failure or forbearance by any party benefited by these restrictions to enforce any covenant or restriction contained within this document or to exercise their rights hereunder in the event of any breach by the Grantor or any third persons for any period of time shall in no event be deemed a waiver or estoppel of the right thereafter to enforce the same or exercise a right hereunder

12. This Deed of Conservation Restriction shall be recorded in the Office of the Recorder of Deeds for \_\_\_\_\_ County, New Jersey and a reference to this Deed of Conservation Restriction shall be contained in a separate paragraph of any future deed, lease, or document of transfer or conveyance, or any other legal instrument including or affecting the Property described in Schedule A or any portion thereof. Grantor shall give written notice to the

Pinelands Commission of any such transfer or conveyance of interest in the Property prior to or within ten (10) days following such transfer or conveyance. Such notice shall include the name and address of the Transferee of such interest. Grantor shall provide a copy of this instrument to all subsequent Transferees of an interest in any part or all of a Property. The failure of the Grantor to perform any act required by this paragraph shall not impair the validity of this Deed of Conservation Restriction or limit its enforceability in any way. Grantor shall not be responsible for the violation of the terms of this Declaration by third parties unless they are acting under the control or authorization of Grantor.

13. The terms and conditions of this Deed of Conservation Restriction shall be governed and construed in accordance with the laws of the State of New Jersey and this Deed of Conservation Restriction constitutes a conservation restriction under and is subject to the New Jersey Conservation Restriction and Historic Preservation Act, N.J.S.A. 13:8B-1 et seq.

14. Should any covenant or restriction herein contained, or any subsection, sentence, clause, phrase or term of this Deed of Conservation Restriction be declared to be void, invalid, illegal or unenforceable, for any reason, by the adjudication of any Court or other tribunal having jurisdiction, such a declaration shall not affect the validity of the remaining provisions which are hereby declared to be severable and which shall continue to remain in full force and effect.

15. The following exhibits are annexed hereto and shall form a part of this Deed of Conservation Restriction:

Exhibit A:  
Exhibit B:  
Exhibit C: (etc.)

GRANTOR:

Attest"

By: \_\_\_\_\_  
Witness

By: \_\_\_\_\_  
GRANTOR

Dated: \_\_\_\_\_

ACKNOWLEDGEMENT

STATE OF NEW JERSEY :

SS

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

BE IT REMEMBERED, that on the \_\_\_\_ day of \_\_\_\_\_, 200\_\_, before me personally appeared \_\_\_\_\_, who being duly sworn on his oath, deposes and makes proof to my satisfaction that her or she is the \_\_\_\_\_ of the Grantor; that the execution and the making of this Deed of Conservation Restriction has been duly authorized by proper resolution of the Grantor, and the seal affixed to this instrument is such corporate seal of the Grantor; and that this Deed of Conservation Restriction was signed and delivered by \_\_\_\_\_, \_\_\_\_\_, as and for the voluntary act and deed of said Grantor, in the presence of the deponent.

\_\_\_\_\_  
(signature)

Signed and Sworn to before me on this \_\_\_\_ day of \_\_\_\_\_, 200\_\_

\_\_\_\_\_  
Notary Public  
My Commission Expires:

(Include concurrence lines of signatories for all attachments)