

FIRST AMENDMENT TO THE FEBRUARY 26, 2004
MEMORANDUM OF AGREEMENT
BETWEEN THE NEW JERSEY PINELANDS COMMISSION
AND THE SOUTH JERSEY TRANSPORTATION AUTHORITY

Dated: April 16, 2019

WHEREAS, the New Jersey Pinelands Commission (the "Commission") and the South Jersey Transportation Authority ("SJTA" or the "Authority") (both of which are collectively referred to herein as the "Parties") entered into a Memorandum of Agreement ("MOA"), dated February 26, 2004, which authorized the development of certain short-term development projects at the Atlantic City International Airport ("ACY") located in Egg Harbor Township, Atlantic County, New Jersey; and

WHEREAS, the Authority is an instrumentality of the State of New Jersey exercising public and essential governmental functions and is the owner and operator of ACY; and

WHEREAS, the ACY property is comprised of approximately 2,100 acres, approximately 84 acres of which are owned by the SJTA and upon which the terminal building and associated airport support facilities are located; the other 2,000+ acres of which the Authority leases from the United States of America (the "Property"); and

WHEREAS, as an airport that services commercial air carriers, ACY is required to be certified under 49 U.S.C. 44706 as implemented by 14 C.F.R. Part 139; and

WHEREAS, as a Part 139 Certified Airport, ACY is subject to regulation by the Federal Aviation Administration ("FAA"); and

WHEREAS, the Property is located within a Pinelands Regional Growth Area and a Pinelands Military and Federal Installation Area; and

WHEREAS, the impetus for the February 26, 2004 MOA was the Authority's "Comprehensive Land Use Plan for the Atlantic City International Airport", dated September 2003, which consisted of both short and long term development projects for the airport; and

WHEREAS, as discussed in the FAA's September 2003 Final Environmental Impact Statement (FEIS) prepared for the Property, the short-term projects identified in the "Comprehensive Land Use Plan for Atlantic City Airport" were capable of being implemented immediately or in the foreseeable future, subject to the conditions stated within the Record of Decision; and

WHEREAS, although the FEIS included long term projects for informational purposes and so the cumulative impacts of all projects contained within the "Comprehensive Land Use Plan for the Atlantic City International Airport" could be evaluated, the February 26, 2004 MOA did not address or authorize any of the long term projects and instead required the Authority to seek separate Commission authority before proceeding with any of the long term projects; and

WHEREAS, the short-term projects approved pursuant to the February 26, 2004 MOA included the following:

- 1) Terminal Area Development
 - a. Expansion of Terminal Building and Gates including relocation of the apron and Taxiway H
 - b. Public Parking Garage
 - c. Rental Car Maintenance Facility
 - d. Airline Cargo Warehouses
 - e. General Aviation Hangars
 - f. Deicing Apron

- 2) Auxiliary Area Development
 - a. Aircraft Maintenance Hangars
 - b. Air-Freight Warehouses
 - c. Full-length Parallel Taxiway west of Runway 4-22
 - d. Aircraft Parking Apron and Taxiway
 - f. Access Roadway and Parking

- 3) Hotel/Conference Center
 - a. One Three-story Building for 150 Suites
 - b. Lobby Area and Amenities
 - c. Swimming Pool and Outbuildings
 - d. Auto Parking

- 4) Runway 13-31 Instrument Landing System (ILS) Upgrades
 - a. Localizer Antenna
 - b. Glide Slope Antenna
 - c. Medium Intensity Approach Light System (MALSR)
 - d. Marker Beacons

- 5) Holding Aprons

- 6) Grassland Conservation and Management Area

WHEREAS, with the exception of the Airline Cargo Warehouses, the Rental Car Maintenance Facility and the Deicing Apron, all of the short-term projects identified under (1) Terminal Area Development have been completed. The Authority has submitted an application to the Commission for development of the deicing apron. This application is currently pending and includes a development footprint for the apron substantially larger than what was approved by the Commission in the February 26, 2004 MOA. Consequently, in order to demonstrate compliance with the threatened and endangered wildlife standards at N.J.A.C. 7:50-6.33 of the Pinelands CMP, an additional 5 acre offset is required; and

WHEREAS, approximately 20 acres remains undeveloped within the area identified for Auxiliary Development. Notably, none of the projects identified under (2) Auxiliary Area Development have been constructed. Rather, the development of an Aircraft Rescue and Fire Fighting Station and a Solar Array in this area were approved by the Commission in accordance with the development application review requirements of the Pinelands CMP, thereby precluding future construction of some of the Auxiliary Area Development projects; and

WHEREAS, the Runway ILS Upgrade (excluding MSALSR), Holding Aprons and the Grassland Conservation Management Area have all been constructed; and

WHEREAS, the Authority has not moved forward with the short-term projects identified under (3) Hotel/Conference Center. However, it recently attended a pre-application conference with Commission staff for the construction of a Hotel/Conference Center in a different location than proposed in the February 26, 2004 MOA and, as such, requires submission of a formal public development application to the Commission for its approval; and

WHEREAS, as part of its review process that resulted in the development and execution of the February 26, 2004 MOA, the Commission determined that in addition to adverse impacts to wetlands and wetland buffers, the construction of the short-term projects would result in adverse impacts to habitat that is critical to the survival of two local populations of grassland bird species, Grasshopper sparrow (*Ammodramus savannarum*), a State designated threatened species and Upland sandpiper (*Bartramia longicauda*), a State designated endangered species and a State designated threatened species of Lepidoptera, Frosted elfin butterfly (*Callophrys [Incisalia] iris*); and

WHEREAS, as part of the FEIS, the Authority had developed mitigation measures and environmental commitments to address the environmental impacts associated with its short-term development projects; and

WHEREAS, one of the mitigation measures was the development of a Grassland Conservation and Management Area; and

WHEREAS, as part of the measures included in the February 26, 2004 MOA, intended to provide an equivalent level of protection for the resources of the Pinelands, the Authority was required to create and enhance a 290 acre modified grass community, the Grassland Conservation and Management Area, located in the northwest quadrant of the airport (the Map Depicting the Location of the Grassland Conservation and Management Area is attached hereto as Exhibit A); and

WHEREAS, the Authority created the required Grassland Conservation and Management Area and has continued to manage it in accordance with Paragraph III.A.6.d of the February 26, 2004 MOA; and

WHEREAS, the environmental commitments included in the FEIS were also incorporated into the February 26, 2004 MOA by Paragraph III.A.5 and designated as Attachment 3 (attached hereto as Exhibit B); and

WHEREAS, Paragraph 23 of Attachment 3 of the February 26, 2004 MOA prohibits activities within the Grassland Conservation and Management Area from April 15 through August 15 in order to protect the Upland sandpiper and Grasshopper sparrow during their critical breeding and brooding period; and

WHEREAS, Paragraph 9 of Attachment 3 of the February 26, 2004 MOA also requires all grassland management activities to adhere to the approved mowing plan that restricts mowing in the Grassland Conservation and Management Area from April 15 through August 15, to reduce potential nest destruction and mortality of incubating adults or flightless chicks; and

WHEREAS, following the execution of the February 26, 2004 MOA, the FAA issued updated Advisory Circular FAA AC 150/5200-33B, which was originally published in 1997 and updated in 2004 and again in

2007, and CertAlert 06-07 issued in 2006; Both the Advisory Circular FAA AC 150/5200-33B and CertAlert 06-07 relate to potential wildlife attractants and protection of state-listed species' habitat on airports. The most recent version of each document is attached hereto as Exhibit C); and

WHEREAS, as a result of these updates, the Authority contracted with the United States Department of Agriculture, Wildlife Services in 2009 to conduct a new Wildlife Hazard Assessment for ACY, which was completed and accepted by FAA in March 2011, and which contained a recommendation for the Authority to re-examine the impact of the February 26, 2004 MOA on airport safety (See section 4.0 of the Technical Memorandum, dated August 31, 2017, prepared by Dana Heffernan of AECOM attached hereto as Exhibit D); and

WHEREAS, upon completion of the Wildlife Hazard Assessment, the United States Department of Agriculture, Wildlife Services, worked with Authority staff at ACY to develop a new Wildlife Hazard Management Plan for ACY and to implement wildlife hazard management activities according to such plan; and

WHEREAS, the United States Department of Agriculture, Wildlife Services, provides ongoing coordination with airport staff to report wildlife strikes and conduct an annual review and update of ACY's Wildlife Hazard Management Plan; and

WHEREAS, ACY currently operates under an FAA approved Wildlife Hazard Management Plan, dated April 2017 (attached hereto as Exhibit E), that continues to identify the need for reevaluation of the February 26, 2004 MOA, specifically, the continued requirement to maintain the Grassland Conservation and Management Area on the ACY property, in order to allow for management provisions to protect health and safety and continuation of safe airport operations; and

WHEREAS, on or about December 2017, representatives of the Authority in response to these safety concerns expressed an interest in pursuing an amendment of the February 26, 2004 MOA to a) relocate the Grassland Conservation and Management Area off the ACY property in order to b) allow the Authority to mow this area year-round without the existing seasonal restrictions contained with Attachment 3 of the February 26, 2004 MOA; and

WHEREAS, throughout 2018, representatives of the Authority and the Commission discussed the process required for the Authority to seek an amendment of the February 26, 2004 MOA and possible measures that could be proposed to replace the Grassland Conservation and Management Area as an offsetting measure for that agreement; and

WHEREAS, development of a replacement offset has been extremely challenging given the habitat requirements, of the Upland sandpiper, which, as discussed in Appendix E of the FEIS, is an area sensitive species that requires large, open expanses of habitat to breed (its minimum area of potential habitat is 25 hectares (62 acres), which equate to 15 hectares (37 acres)) of effective habitat when a 50 meter buffer from any structure or forest edge is applied, combined with the lack of available and suitable property in the vicinity of the airport; and

WHEREAS, the Authority has submitted documentation, including letters from the FAA, the USDA Wildlife Biologist working with the Authority to implement the Wildlife Hazard Management Plan at ACY, the Commander of the New Jersey Air National Guard stationed at ACY (Copies of which are attached hereto as Exhibit F), to the Commission to substantiate its need to mow the Grassland

Conservation and Management Area and maintain it a height of 5 to 10 inches after April 15, 2019 in order to address safety concerns related to its presence on the airport property; and

WHEREAS, the Pinelands CMP at N.J.A.C. 7:50-4.52(c)2 authorizes the Commission to enter into a Memorandum of Agreement with a governmental agency to authorize such agency to carry out specified development activities that may not be fully consistent with the provision of N.J.A.C. 7:50-5 and 6, provided such agency demonstrates and the Commission finds that variations from the standards of the Pinelands CMP are accompanied by measures that, at a minimum, afford an equivalent level of protection of the resources of the Pinelands than would be provided through strict application of the standards of the Pinelands CMP; and

WHEREAS, removal of the Grassland Conservation and Management Area also constitutes a change to one of the offset measures that was included in the February 26, 2004 MOA and was intended to afford, at a minimum, an equivalent level of protection of the resources of the Pinelands; and

WHEREAS, such measures were required pursuant to N.J.A.C. 7:50-4.52(c)2 in order for the Commission to permit the deviations from the standards of the Pinelands CMP that were authorized by the February 26, 2004 MOA; and

WHEREAS, the removal of the Grassland Conservation and Management Area, through mowing the grasses to a height that is not consistent with the habitat requirements of local populations of the Upland sandpiper, Grasshopper sparrow and the Frosted elfin butterfly would itself constitute a deviation from the threatened and endangered wildlife standards of the Pinelands CMP at N.J.A.C. 7:50-6.33; and

WHEREAS, the Authority has been working to identify new measures that will ameliorate the loss of the Grassland Conservation and Management Area and, thereby provide a replacement offset for the deviations from the standards of the Pinelands CMP authorized by February 26, 2004 MOA; and

WHEREAS, the Authority has proposed to undertake the following offsetting measures:

- 1) Make an initial payment of \$500,000 to the Commission to be added to the Pinelands Conservation Fund ("PCF") for land acquisition within the Pinelands Area in accordance with the priorities established by the Commission for that fund and, if available, contains habitat suitable for threatened or endangered grassland birds;
- 2) Make five additional annual payments of \$500,000 each which would also be added to the PCF and dedicated for land acquisition in the same manner as the initial \$500,000 payment;
- 3) Acquire land within the Pinelands for and creation and long term maintenance of a new Grassland Conservation and Management Area, of which at least 62 acres is already cleared and located at least 50 meters from any structure or forest edge; and
- 4) Enhance an approximately twelve (12) acre site located adjacent to the Forest Preservation Area in the northeast quadrant of the airport, for the frosted elfin butterfly through the planting of wild indigo (hereinafter collectively referred to as the "offsetting measures"); and

WHEREAS, these measures are being offered by the Authority to ameliorate for the loss of the Grassland Conservation and Management Area; and

WHEREAS, ACY contains substantial areas of critical habitat for threatened and endangered animal species, including, but not limited to the Upland sandpiper, the Grasshopper sparrow and the Frosted elfin butterfly; and

WHEREAS, the February 26, 2004 MOA provided a deviation from the threatened and endangered wildlife standards of the Pinelands CMP, N.J.A.C. 7:50-6.33, for construction of the short-term projects identified therein; and

WHEREAS, this Amendment and the February 26, 2004 MOA are limited to the short-term projects as discussed above and depicted in the FEIS. Any new development or a change in the size, scope and/or location of a short time project proposed at ACY will require submission of a formal public development application to the Commission; and

WHEREAS, in accordance with the requirements of the Pinelands CMP, N.J.A.C. 7:50-4.52(a) and -5.1(a), no development may be carried out in the Pinelands Area unless it conforms with the requirements of the Pinelands CMP; and

WHEREAS, in order to demonstrate continued compliance with the threatened and endangered species standards of the Pinelands CMP, N.J.A.C. 7:50-6.33, as a result of the elimination of the seasonal mowing restrictions and the construction of the short-term projects delineated in the February 26, 2004 MOA, the Authority has offered the offsetting measures delineated above; and

WHEREAS, as discussed in the FEIS, the short-term projects at ACY were expected to result in the loss of approximately 77 acres of critical habitat for the Upland sandpiper and 61.5 acres of critical habitat for the Grasshopper sparrow. The development of the parallel taxiway as part of Auxiliary Area Development and the ILS upgrades were expected to result in the loss of 4.007 acres of suitable habitat for the Frosted elfin butterfly; and

WHEREAS, the offsetting measures proposed by the Authority would result in the creation and maintenance of a new Grassland Conservation and Management Area comprised of a minimum of 62 cleared acres, located 50 meter from any structure or forest edge, thus assuring creation of viable habitat for the Upland sandpiper and Grasshopper sparrow; and

WHEREAS, the \$3 million payment to the PCF, over the course of six (6) years, which is based on a conservative estimate of the historic land acquisition costs for a site comparable in size to the existing Grassland Conservation and Management Area, would result in the preservation of land worth three times that amount within the Pinelands based on existing Commission guidelines for the PCF which provides a 1/3 match of fair market value for land preservation; and

WHEREAS, the enhancement of twelve (12) acres of land in the northeast quadrant of ACY, which is not only adjacent to a Forest Preservation Area but within 2,000 feet of an existing Frosted elfin butterfly colony, will offset the 4.007 acres of suitable Frosted elfin butterfly habitat that was estimated to be lost as a result of the development of the short-term development projects; and

WHEREAS, the Commission finds that the offsetting measures proposed by the Authority provides an equivalent level of protection for the resources of the Pinelands as would be provided through strict application of the threatened or endangered wildlife standards of the Pinelands CMP as required by N.J.A.C. 7:50-4.52(c), because it will result in:

- 1) Funding, creation and maintenance of a new Grassland Conservation and Management Area, consisting of viable habitat for the Upland sandpiper and the Grasshopper sparrow, on a site where these species are not susceptible to airstrike and, resultant mortality;
- 2) As a result of the \$3,000,000 payment to the PCF over the course of six (6) years, the acquisition and preservation of the equivalent of approximately \$9,000,000 worth of ecologically sensitive lands located within the Pinelands Area, including lands containing grassland bird habitat, if available; and
- 3) The enhancement and preservation of twelve (12) acres of land located within the northeast quadrant and outside of the airport's operation area for the Frosted elfin butterfly in the vicinity of an existing Frosted elfin butterfly colony.

WHEREAS, until the Authority 1) provides the initial payment of \$500,000 to the Commission and 2) provides a resolution from its Board committing to the remaining five annual payments of \$500,000 each and a timeframe for the acquisition and creation of the new Grassland Conservation and Management Area and the enhancement of habitat for the Frosted elfin butterfly, 1) no mowing of the Grassland Conservation and Management Area shall occur during the seasonal restriction period, i.e. April 15 through August 15, and 2) no Commission approvals for development at the ACY shall be granted; and

WHEREAS, once the Authority has provided the initial \$500,000 payment and Board Resolution containing the commitments identified above to the Commission, the Commission will resume processing development applications for ACY; and

NOW THEREFORE, in consideration of the mutual promises, covenants, terms, conditions, obligations and agreements contained herein, which the Parties acknowledge to be good and sufficient consideration to support this Amendments and to bind and obligate the Parties hereto, the Parties agree to amend the February 26, 2004 MOA as follows:

1. Unless expressly amended herein, all provisions of the February 26, 2004, MOA shall remain in full force and effect.
2. Notwithstanding the provisions of Paragraphs III.A.5 and III.A.6.d and Paragraph 23 of Attachment 3 of the February 26, 2004 MOA to the contrary, the parties agree that the Authority may mow the GCMA to a FAA recommended height of 5 to 10 inches and maintain the grasses within the Grassland Conservation and Management Area at this height year-round going forward.
3. The Authority agrees to make six (6) annual payments of \$500,000 each to the Commission. The initial \$500,000 payment shall be made no later than ten (10) days following execution of this Amendment by an authorized representative of the

Authority. All subsequent payments shall be made no later than January 5th of the subsequent year. These annual payments shall be added to the Pinelands Conservation Fund and dedicated to land acquisition with a priority given for lands that not only meet the priorities established by the Commission for that fund, but also contain habitat for threatened or endangered grassland birds, if available.

4. In addition to the annual payments to the Pinelands Conservation Fund delineated in Paragraph 3, the Authority agrees to acquire land within the Pinelands, of which at least 62 acres is already cleared and the cleared acreage is located at least 50 meters from any structure or forest edge, either on its own or with the assistance of Atlantic County, and to fund the creation, dedication and long term maintenance of a new Grassland Conservation and Management Area. The Authority further agrees to preserve the new Grassland Conservation and Maintenance Area in perpetuity through the execution and filing of a deed of conservation restriction within ninety (90) days of the land for the new Grassland Conservation and Management Area being acquired.
5. The Authority also agrees to fund the enhancement of an approximately twelve (12) acre site located adjacent to the Forest Preservation Area in the northeast quadrant of the airport for the Frosted elfin butterfly through the planting of wild indigo. The Authority further agrees to obtain FAA's approval to expand the area located in the northeastern portion of the airport and designated as a "Forest Preservation Area – to be Held in Reserve. No Development Shall Occur" to include not only the twelve (12) acres that comprise the area to be enhanced for the Frosted elfin butterfly, but also the area 2,000 feet away where the well-documented colony is located. Within thirty (30) days of the Authority's execution of this Amendment, it shall request written agreement from the FAA indicating that the FAA concurs with the expansion of the Forest Preservation Area to include the two frosted elfin butterfly areas discussed herein and agrees to include the expanded "Forest Preservation Area" on all subsequent layout plans for ACY. Additionally, the Authority shall provide a copy of the FAA's written agreement to the Commission within fifteen (15) days receipt of same, but no later than sixty (60) days following its execution of this Amendment and shall provide the Commission with a copy of the Amendment ALP no later than ninety (90) days following its execution of this Amendment.
6. The Authority shall provide a resolution from its Board to the Commission. This resolution shall acknowledge the Authority's obligation and commitment to undertake and complete the offsetting measures delineated in Paragraphs 3-5. Additionally, this resolution shall contain a time line for the acquisition and creation of the new Grassland Conservation and Management Area and the Frosted elfin butterfly enhancement project. Such time line shall require acquisition of a site for the new Grassland Conservation Area within one (1) year of execution of this Amendment by the Authority and the establishment of the new Grassland Conservation and Management Area within three (3) years of the Authority's execution of this Amendment. The time line shall also require completion of the Frosted elfin butterfly enhancement project within two (2) years of the Authority's execution of this Amendment.
7. No mowing of the Grassland Conservation and Management Area shall occur during the seasonal restriction period, i.e. April 15 through August 15, 2019 until the Authority

provides the initial \$500,000 annual payment and a Resolution of its Board conforming to the requirements of Paragraph 6 to the Commission for its approval and receives written authorization from the Commission's Executive Director advising it that mowing is permitted.

8. The Authority may request a one-time extension of the one (1) year deadline for acquisition of a site for the new Grassland Conservation and Management Area set forth in Paragraph 6 above. Such request shall be submitted to the Commission in writing at least thirty (30) days prior to the expiration of the one (1) year acquisition deadline. The Executive Director, with the concurrence of the Commission Chair, may, at their sole discretion, grant a six (6) month extension provided that the Authority demonstrates that acquisition of the site has commenced and will be completed within the six (6) month extension period.
9. Forty five (45) days prior to commencing creation of the new Grassland Conservation and Management Area and the Frosted elfin butterfly habitat enhancement project, the Authority shall submit the following:
 - a) A copy of the detailed plans for the project, including, but not limited to wetlands mapping and, for the new Grassland Conservation and Management Area, the 50 meter buffer from any structure or forest edge;
 - b) Information demonstrating the project's compliance with the applicable Environmental Commitments of the FEIS, which was included as Attachments 3 to the February 26, 2004 MOA, is attached hereto as Exhibit B and incorporated herein by reference; and
 - c) Information demonstrating the project's compliance with all applicable land use and environmental standard (N.J.A.C. 7:50-5 and -6) of the Pinelands CMP.
10. The Authority shall not commence either creation of the new Grassland Conservation and Management Area or the Frosted elfin butterfly enhancement project until it has submitted the information required in paragraph 9 and received approval from the Executive Director, with the concurrence of the Commission, stating that the proposed project is consistent with the requirements of the Pinelands CMP.
11. Should the Authority fail to obtain a parcel of land suitable for the creation of a new Grassland Conservation and Management Area within one (1) year of its execution of the Amendment, or one and a half (1.5) years if an extension is granted in accordance with Paragraph 8 above, it shall provide an additional payment to the Commission to be added to the Pinelands Conservation Fund and dedicated to land acquisition with a priority given for lands that not only meet the priorities established by the Commission for that fund, but also contain habitat for threatened or endangered grassland birds. Such payment shall be based on the following:
 - a) The Fair Market Value cost, at that time, associated with finding and purchasing an equivalent amount of suitable land for the creation and maintenance of a new Grassland Conservation and Maintenance Area; and

- b) The present day value of the costs incurred by the SJTA to create and maintain the Grassland Conservation and Management Area.
12. The precise amount to be paid by the Authority pursuant to Paragraph 11 above will be determined by the Commission upon receipt of documentation from the Authority a) itemizing the costs they incurred, including labor costs, to create and maintain the Grassland Conservation and Management Area at ACY and b) demonstrating the fair market value of equivalent property, valued as the date the Authority triggers the obligations under this Paragraph, The Authority shall provide such documentation within thirty (30) days of the one year anniversary of its execution of this Amendment and shall provide the additional payment to the Commission within sixty (60) days of receipt of the payment amount in writing from the Commission.
13. The parties agree that no part of this Proposed Amendment shall release the Authority from its responsibility to obtain approvals from the FAA or other State or Federal entities, including but not limited to any additional approvals related to threatened or endangered species from the New Jersey Department of Environmental Protection and/or the United States Fish and Wildlife, and any approvals from the FAA, including but not limited to the National Environmental Policy Act, that may be required prior to mowing the Grassland Conservation and Management Area.
14. All development activities authorized by this Agreement or the February 26, 2004 MOA, including but not limited to the mowing of the Grassland Conservation and Management Area on the Property during the seasonal restriction period, shall immediately cease and these agreements shall be considered suspended in the event the Authority fails to make any of the annual payments required under the terms of this Amendment or fails to meet the time lines for either 1) the acquisition, creation and maintenance of the new off-airport Grassland Conservation and Management Area or 2) the enhancement and maintenance of the Frosted elfin butterfly habitat in the northeast quadrant of the Property.
15. In the event that Paragraph 14, above, is triggered, the Authority shall have thirty (30) days to seek reinstatement of this Amendment and the February 26, 2004 MOA by providing either 1) the delinquent annual payment or 2) a written agreement itemizing the steps the Authority will take to bring the new Grassland Conservation and Management area or Frosted elfin butterfly enhancement project back into conformance with the Board resolution time lines required pursuant to Paragraph 6. If the Executive Director finds the written agreement acceptable, following concurrence by the Commission Chair, s/he shall issue a letter to the Authority reinstating the terms of this Amendment and the February 26, 2004 MOA. Failure of the Authority to comply with a written agreement submitted pursuant to the terms of this Paragraph or a subsequent failure to perform the required offsetting measures may result in reinstatement of the suspension or issuance of a subsequent suspension of this Amendment and the February 26, 2004 MOA.
16. During a period of suspension pursuant to Paragraph 14, the Authority shall be permitted to complete development projects for which an approval from the

Commission has been received and which is either under construction at the time of the suspension or for which the Authority has already entered into a contract for construction. All other development shall require submission of a formal Public Development Application to the Commission in accordance with N.J.A.C. 7:50-4.52(b) and shall include a demonstration as to the proposed development's compliance with the applicable standards of the Pinelands CMP, including but not limited to the threatened and endangered wildlife standards set forth at N.J.A.C. 7:50-6.33, and said development shall not commence until such application has been approved by the Commission. The Authority acknowledges that the Commission will not be able to approve any development that does not comply with all required provisions of the Pinelands CMP.

17. Should the Authority fail to make an annual payment required under Paragraph three (3) of this Amendment or fail to meet any of the time lines set forth in Paragraph six (6) of this Agreement or the Authority's Resolution for either 1) the acquisition, creation and maintenance of the new off-airport Grassland Conservation and Management Area or 2) the enhancement and maintenance of the Frosted elfin butterfly habitat in the northeast quadrant of the Property, and fail to cure the triggering event within thirty (30) days as required by Paragraph 15, the Commission shall have the right, at its sole discretion, to demand the Authority's immediate payment of all remaining annual \$500,000 payments and the Authority shall submit such payment to the Commission within fifteen (15) days of the receipt of such written demand.
18. The Authority shall provide monthly written status reports to the Commission commencing three (3) months following its execution of the Amendment. Such report shall delineate all steps taken by the Authority to implement the offsetting measures required by Paragraphs 4 and 5 herein. Following acquisition of a site for the new Grassland Conservation and Management Area, the duration for submission of monthly written reports by the Authority may be modified by written authorization of the Executive Director, with the concurrence of the Commission's Policy and Implementation Committee.
20. The Authority shall attend meetings of the Commission's Policy and Implementation Committee as requested by the Committee. At such meetings, the Authority shall provide the Committee with an update on its efforts to fulfill the offsetting measures required by this agreement.
21. This Proposed Amendment shall take effect upon approval and signature by the authorized representatives of all parties and following the conclusion of the Governor's review in accordance with N.J.S.A. 13:18A-5(h).
22. This Proposed Amendment to the February 26, 2004 MOA shall remain in effect unless amended or terminated by written consent of both parties.
23. All the promises, covenants, terms, conditions, obligations and agreements contained herein shall be applicable to and binding upon the Parties, any successors or assigns and any contract operators.

24. This Proposed Amendment, along with the February 26, 2004 MOA, constitutes the entire agreement of the parties, and supersedes all previous understandings and agreements between the parties, whether oral or written. The parties hereby acknowledge and represent that said parties have not relied on any representation, assertion, guarantee, warranty, collateral contract, or other assurance, except those set out in this Proposed Amendment, made by or on behalf of any other party or any other person or entity whatsoever, prior to the execution of this Proposed Amendment.
25. This MOA may be executed in counterparts. All such counterparts shall constitute an original and all of which together shall constitute one and the same agreement, binding upon the parties. Faxed and electronic signatures shall constitute original signatures.

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this Proposed Amendment on and as of the day and year written below. This Proposed Amendment shall be executed in at least three original copies of which one is to be delivered to the South Jersey Transportation Authority, and two of which are to be delivered to the New Jersey Pinelands Commission.

THE SOUTH JERSEY TRANSPORTATION AUTHORITY

Witnessed:

By: Stephen F. Dougherty
 Stephen F. Dougherty, Executive Director
 Date: 4/12/19

By: [Signature]
 Name: Tina Kull
 Title: Airport Director

NEW JERSEY PINELANDS COMMISSION

Witnessed:

By: Nancy Wittenberg
 Nancy Wittenberg, Executive Director
 Date: 4/16/19

By: [Signature]
 Name: Jessica Nade
 Title: Exec. Assistant

Approved as to form by:

By: [Signature]
 Kristina Miles, Deputy Attorney General
 Date: April 17, 2019