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Chris Christie
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Kim Guadagno
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Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

June 21, 2012

Honorable Ken Salazar
Secretary of the Interior
U.S. Department of the Interior
Main Interior Building
1849 C Street, N.W.
Washington, DC 20240

Dear Secretary Salazar:

In accordance with Section 502 of the National Parks and Recreation Act of 1978 and N.J.A.C. 7:50-7.9(b), enclosed please find a copy of a Memorandum of Agreement (MOA) between Ocean County and the Pinelands Commission regarding proposed development projects at the Ocean County Airport located within the Robert Miller Airpark Complex.

The Pinelands Commission approved this MOA at its meeting of June 8, 2012 though the adoption of Resolution PC4-12-20, a copy of which is also enclosed.

Sincerely,

Nancy Wittenberg
Executive Director

Encl.
c: Commissioner Richard Harris w/encl.

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OFFICE SECRETARY

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MEMORANDUM OF AGREEMENT
BETWEEN
THE NEW JERSEY PINELANDS COMMISSION
AND
THE COUNTY OF OCEAN
June 8, 2012

I. PURPOSE

This Memorandum of Agreement (MOA) is entered into between the New Jersey Pinelands Commission (the "Commission") and the County of Ocean (the "County"). The County is the owner of Ocean County Airport (the "Airport") and Robert J. Miller Airpark ("RMAP") located in Berkeley and Lacey Townships, Ocean County, 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 RMAP complex located southwest of Route 530 in Berkeley and Lacey Townships is comprised of approximately 955 Acres of which 822 acres are dedicated to the Ocean County Airport, as shown on the Airport Layout Plan dated December 2011 and Airport Land Release & Proposed Parcel Plan dated December 2011 and prepared by C&S Engineers, Inc. Note acreages are approximate and will be verified by survey.

The County is proposing to conduct certain development projects on the Airport portion of the property, as depicted in Figure 1 entitled "Future Development Plan", prepared by C&S Engineers, Inc., dated March 20, 2012, and attached hereto as Exhibit A. The proposed projects include safety improvements, maintenance and other development projects. Two of these projects, the crosswind runway and the apron expansion, were included in the Airport Layout Plan prepared by C&S Engineers, Inc., dated December 2011, and attached hereto as Exhibit B (hereinafter the "ALP").

The totality of the RMAP Property, including the Airport, is located within the Pinelands Area and, thus, is subject to the requirements of the Pinelands CMP. The proposed development projects are expected to impact habitat critical to the survival of certain threatened and endangered animal species located at the RMAP Property. The Pinelands CMP prohibits development that will result in irreversible adverse impacts to habitats that are critical to the survival of a local population of threatened or endangered animal species (N.J.A.C. 7:50-6.33.) Moreover, tree removal activities required for compliance with FAA FAR Part 77[1] will be

[1] Federal Aviation Regulations (FAR) Part 77 Objects Affecting Navigable Airspace identifies and defines FAA's clearance requirements for civil airport imaginary surfaces including the primary, approach and transitional surfaces for all airport runways.

conducted within wetlands and wetland buffers. These activities are not consistent with the wetlands standards of the Pinelands CMP (N.J.A.C. 7:50-6.1 *et al.)* Consequently, strict application of the requirements of the Pinelands CMP would not permit the County to undertake the proposed development projects.

This MOA is required in order to permit the proposed development projects to proceed in accordance with N.J.A.C. 7:50-4.52(c)2. This MOA will also establish an alternative application process in accordance with N.J.A.C. 7:50-4.52(c)1.

II. BACKGROUND

A. Ocean County Airport and RMAP Property

The Airport is located on 822 acres within the 955 acre RMAP property in Berkeley and Lacey Townships. Much of the property is located within the Preservation Area. The remaining property is located within a Forest Area as defined by the Pinelands CMP. With regard to the Airport itself, of its 822 acres, approximately 585 acres are located within the legislatively designated Preservation Area and the remaining 237 acres are in a Forest Area. This MOA would authorize development solely within the 822 acre Airport property.

A majority of the 955 acre RMAP property is undeveloped. Of the 822 acre portion of the RMAP designated as Airport property, approximately 200 acres is utilized by airport facilities (runways, taxiways, aprons, roads, buildings, safety areas and highly maintained turf) the remaining 622 acres, of designated airport property, is undeveloped. Additionally, a majority of the remaining 133 acres of RMAP property located outside the Airport property, is also mainly undeveloped with the exception of several relatively small areas or facilities operated or managed by other County departments. These areas include the Lacey Road Garage (County Road Department), the Office of Emergency Management (County Sheriff's Department) and a satellite building of the County Parks Department. The Parks Department also manages two recreational areas within the RMAP, the County Fairgrounds and a small picnic area (Dog Park) across from the Airfield terminal building. All of the facilities outside of the airfield operations area are located within the Forest Area District with the exception of the Lacey Road Garage and the small picnic area /dog park.

B. The Airport

The Airport originally opened in 1968 and has undergone a number of improvements since then. These improvements primarily addressed environmental and aviation safety issues and were approved by the Commission through individual public development applications.

The Airport is a general aviation airport featuring: a 5,950 x 100 ft runway (Runway 6-24), a high intensity lighting system, precision approach equipment, upgraded airfield signage, a 536,550 sq ft aircraft parking apron, three "T-hangar" buildings incorporating 36 aircraft parking units, a 15,000 sq ft maintenance and storage building, an 8,150 sq ft maintenance hangar, a 4,050 sq ft general storage building and a fuel dispensing area with three 12,000 gallon underground storage tanks containing 24,000 gallons of jet fuel and 12,000 gallons of gasoline,

and ancillary aviation related structures. In addition, a 11,600 sq ft terminal building was completed in February 2012 under Application No. 1985-0949.026 to replace an aging 2,150 sq ft terminal building. Also a 22,100 sq ft maintenance hangar was completed in 2007 and a 19,500 sq ft maintenance hangar has yet to be constructed. Both of these structures were approved by the Pinelands Commission under Application No. 1985-0949.023.

The airport has approximately 100 based aircraft and averages 31,000 flight operations per year. In addition to accommodating private planes, the airport supports corporate jets, forest fire planes, the civil air patrol and emergency services aircraft.

C. Proposed Development Projects

The County is proposing to undertake a number of proposed development projects at the Airport. These projects, which are discussed more fully below, include safety improvements, maintenance and other development projects (see Exhibit A).

1. The Crosswind Runway and Parallel Taxiway Project

The FAA requires airports to have an approved airport layout plan (ALP) in order to receive grant funds for airport improvements. The ALP is required to depict existing and planned improvements. The last update of the ALP was completed in 1992 and certified by the FAA in October of that year. Although the majority of the projects within that Layout Plan have been constructed, the largest remaining project is the construction of a visual approach 3,600 ft by 75 ft crosswind runway and parallel taxiway to improve safety of landing and take-off operations at the Airport. The FAA approved the Environmental Assessment and issued a Finding of No Significant Impact (EA/FONSI) for the construction of the Crosswind Runway on October 21, 2004. The FAA subsequently approved a Written Reevaluation of the EA on May 21, 2009. (Attached hereto as Exhibit C.) Additionally, an updated ALP was prepared concurrently with this MOA and the FAA has accepted a draft Airport Layout Plan dated December 2011 as a "Plan on File" pending review and acceptance of the Final ALP.

The Crosswind Runway and Parallel Taxiway (Crosswind Runway) project is solely an airport safety improvement project designed for the safety of smaller aircraft. The Crosswind Runway is proposed as a Utility Runway for Category A and B Design Group I and II aircraft, which are 12,500 lbs or under. These smaller aircraft are most vulnerable to the effects of crosswinds. The Crosswind Runway is primarily required during the winter months when the prevailing northwest winds consistently create a significant crosswind component. At 3,600 feet in length, the proposed Crosswind Runway will be shorter than the existing runway, and, thus, the County does not expect that it will attract larger or additional aircraft. The Crosswind Runway will be constructed perpendicular to the existing 6-24 Runway, at the southwestern end of the Airport.

2. Other Proposed Development Projects

In addition to the construction of a Crosswind Runway project, the following additional projects are proposed and are expected to result in the full build-out of the Airport:

a. Construction of nine (9) aircraft "T" hangars, approximately 275ft by 50ft each to house aircraft and accessory storage space, and associated taxi lanes.

The County is proposing construction of the "T" Hangars in order to provide additional aircraft hangar space. The "T" Hangars protect aircraft from weathering. The County expects that the additional "T" Hangars will not induce additional use of the Airport by new patrons, but that they will be utilized by current Airport patrons.

b. Maintenance and replacement of runway and taxiway lighting, signage, and PAPI/REIL systems; including conduits, cables, bases, power and control systems.

c. R/W 6-24 Obstruction Removal, which includes tree topping (approx. 120 acres) and tree removal (approx. 17 acres).

There is an ongoing requirement to remove obstructions to the navigable airspace for the existing Runway 6-24. Obstruction Removal refers to two types of disturbance, tree removal and tree topping. Obstruction Removal was performed during 1992 within the pine-oak forest at the southwest and northeast ends of Runway 6-24, which consisted solely of tree topping. The current project proposes more comprehensive compliance with the FAA FAR Part 77 requirements, identifying all recommended obstruction removal for existing facilities. FAR Part 77 identifies and defines FAA's clearance requirements for civil airport imaginary surfaces including the primary, approach and transitional surfaces for all airport runways;

d. Expansion of the apron west of the existing terminal building.

The Apron Expansion to the West of the Existing Terminal is required to provide additional aircraft parking, improve aircraft circulation and reduce congestion within the existing active apron.

e. A 500 foot extension/safety area improvement ("shift") west of runway 6-24, in order to provide the required 1,000 square foot safety area between the runway and CR 530.

The 500-Foot Shift will shift the runway 500 feet to the southwest to provide the required 1,000' safety area between the Runway 24 end and Route 530 and is considered a safety improvement. The runway shift will move the landing/takeoff area 500 feet further southwest of County Route 530 and is intended to reduce the potential for a conflict with traffic along Route 530. This project necessarily includes shifting of the runway approach lighting 500 feet to the west. This project will also increase the overall length of the runway, which will provide an additional margin of safety during landing. The increase in length will not allow

for use of the airport by larger planes, but will make landing and taking off safer for the planes that already use the Airport.

f. Pavement maintenance.

Airport pavements must be maintained to provide a smooth operating surface and to prevent the generation of foreign object debris (FOD). Pavement maintenance refers to joint and crack sealing; rejuvenation; resurfacing; and/or replacing of existing paved runways, taxiways, aprons, access roads and auto parking areas. Repaving will require milling to remove existing deteriorated surface material and possibly removal of the entire pavement section in order to restore and compact failing subbase. Clean topsoil may be placed along pavement edges in order to "feather" the pavement surface into the adjacent unpaved surface. Also included is the periodic replacement of pavement markings.

g. Five (5) acres of future, currently undesignated, development at the Airport.

The County has proposed reserving Five (5) acres at the Airport for potential future development projects that may occur as a result of changes or advances in technology, or may arise because of a currently unidentified need. The future development projects are expected to be minor and would not constitute a high intensity use. Examples of future development might result from technological advances in equipment and materials such as improvements in runway safety lighting, or improvements or upgrades to electrical facilities or utilities. The development of office space or industrial space is not intended to be included as a future development project.

All of the proposed development projects that are delineated above and included under this MOA are depicted on Exhibit A attached hereto and include the associated utilities to support their operation. Many of the proposed development projects are also depicted on Exhibit B, the Airport Layout Plan dated December 2011 and some of these projects, including the crosswind runway were included in Airport Master Plans since the 1970's. Based on a review of aerial photographs, the area for the proposed Crosswind Runway was cleared prior to 1982 (Exhibit D, Appendix E, Figure 2) and appears to have been maintained as early successional vegetation through annual mowing.

III. IMPACTS ON THE RESOURCES OF THE PINELAND ASSOCIATED WITH THE PROJECTS

Based on a review of the documents delineated in Attachment I, especially the "Endangered and Threatened Species Impact Assessment and Species Habitat Management Plan for Proposed Airpark Improvements" for the Robert J. Miller Airpark, Berkeley & Lacey Townships, Ocean County, New Jersey, prepared by ASGECI, dated June 27, 2008, and amended by a letter from ASGECI, dated June 7, 2012, both of which are attached hereto as Exhibit D, and the provisions of the Pinelands CMP, it appears that the proposed development projects will not be consistent with the threatened or endangered animal species standards at N.J.A.C. 7:50-6.33 and the wetlands and wetlands buffers standards at N.J.A.C. 7:50-6.1 et seq.

A. Threatened or Endangered Species Habitat

A total of nine (9) endangered and threatened animal species and one (1) Pinelands-listed plant species were identified as potentially present at the RMAP.

Table 1: Potential Endangered or Threatened Species Occurring Within the RMAP

Common Name	Scientific Name	Federal Status	NJ State Status	Pinelands Comm. Status	Global Element Rank	State Element Rank
ANIMALS						
Pine barrens treefrog	*Hyla andersonii*	--	T	Listed	G4	S3
Northern pine snake	*Pituophis m.melanoleucus*	--	T	Listed	G4 T4	S3
Timber rattlesnake	*Crotalus h. horridus*	--	E	Listed	G4 T4	S2
Corn snake	*Elaphe g. guttata*	--	E	Listed	G5T5	S1
Cooper's hawk	*Accipiter cooperii*	--	T / T	Listed	G5	S3B, S4N
Barred owl	*Strix varia*	--	T / T	Listed	G5	S3B
Red-headed woodpecker	Melanerpes erythrocephalus	--	T/T	Listed	G5	S2B, S2N
Grasshopper sparrow	*Ammodramus savannarum*	--	T	Listed	G5	S2
Savannah sparrow	*Passerculus sandwichensis*	--	T	Listed	G5	S2B, S4N
PLANTS						
Sickle-leaved golden aster	*Chrysopsis falcate*	--	--	Listed	G3G4	S3

The County engaged Amy S. Greene Environmental Consultants Inc. (ASGECI) to undertake threatened and endangered species surveys at the RMAP. ASGECI developed survey protocols for these species and following approval of the survey protocols by the Commission staff, performed field investigations and surveys.

ASGECI used a conservative landscape based approach combined with field verification and limited surveying to assess potential impacts to threatened or endangered species habitat located at the RMAP. ASGECI performed a survey of the vegetation communities within the RMAP, which included the following major plant communities/cover types: pine-oak forest, Pinelands scrub-shrub, cool season grass, non-native early successional, native pinelands early successional, warm season grass, barren land, freshwater wetlands, detention basins an sickle-leaved golden aster. ASGECI subsequently assessed the habitat value of each of these vegetation communities for the life functions of the nine (9) threatened or endangered animal species identified as potentially occurring at the RMAP. If suitable habitat was located at the RMAP and

confirmed sightings were documented in the vicinity of the RMAP property, ASGECI made the assumption that such threatened or endangered species was present at the RMAP and then utilized the habitat value of the vegetation communities for the species to determine whether that vegetation community provided critical or suitable habitat for the specific threatened or endangered species.

A report entitled "Critical Habitat Survey for Endangered and Threatened Species For Proposed Airpark Improvements, Robert J. Miller Airpark, Berkeley Township, Ocean County, New Jersey," dated February 22, 2007 and prepared by ASGECI (Critical Habitat Survey), documented the findings of the field investigations and provided an assessment of critical habitat for the identified species. (Attached hereto as Exhibit E). Based on the findings and assessment in that report, and with concurrence from the Commission, the RMAP was found to contain critical habitat for six (6) of the nine (9) animal species: Grasshopper Sparrow, Savannah Sparrow, Northern Pine snake, Timber Rattlesnake, Corn snake, and Pine Barrens Tree Frog. Additionally, the Airport was found to contain a number of clusters, two containing 8,000 to 13,100 plants, of sickle-leaved golden aster.

1. Threatened or Endangered Animal Species

Implementation of the proposed development projects is expected to result in adverse impacts to habitat that may be critical to the survival of six (6) local populations of threatened or endangered animal species found at the RMAP. The majority of the impacts proposed will occur to areas identified as either pine-oak forest, pinelands scrub shrub vegetation and, to a lesser degree, grassland. Temporary impacts as well as permanent impacts, including conversion to a different vegetation community type, are expected to occur. The expected permanent impacts to the various vegetation communities are summarized in Table 2 below and will result from the construction of the Crosswind Runway and Parallel Taxiway (Crosswind Runway), the 500-Foot Shift West of Runway 6-24 (500-Foot Shift), "T" Hangar and Taxi Lane Construction ("T" Hangars) and from Obstruction Removal.

Table 2: Summary of Impacts to Vegetation Communities by Project (acres)

Proposed Projects	Vegetation Communities										
	Pine-Oak Forest		Pinelands scrub shrub	Early Successional Vegetation					Freshwater Wetlands		Barren Land
	Removal	Topping		Cool season grass	Non native early successional	Native pinelands early successional	Warm season grass	Sickle leaved golden aster	Removal	Topping	
Crosswind Runway and Parallel Taxiway	19.91	33.54		5.62		1.37	1.34	Impact		0.26	0.23
"T" Hangar and Taxi Lane Construction	8.67			0.42		0.45					
500-ft Shift West of Runway 6-24	3.69	35.36		0.02		1.16		Impact		3.52	0.53
Obstruction Removal	1.79	116.96	13.84						1.18	3.08	
Apron Exansion to West of Existing Terminal				3.2							
Pavement Maintenance											
Total	34.06*	185.86*	13.84	9.26		2.98	1.34	Impact	1.18	6.86	0.76

* Includes impacts within 300 foot wetland buffer

The habitat impacts attributable to the proposed development projects are described in Table 4.4 of Exhibit D and summarized below in Table 3:

Table 3: Summary of Impacts to Endangered or Threatened Species Habitat (acres)

Pine Snake, Corn Snake & Timber Rattlesnake	Pine-Oak Forest		Pinelands scrub shrub	Early successional	Freshwater Wetlands	
	Removal*	Topping*			Removal	Topping
Obstruction Removal	1.79	116.96	13.84		1.18	3.07
Crosswind Runway Project	19.91	33.54				0.26
500-Foot Runway Shift	3.69	35.36				3.52
"T" Hangar and Taxilane						
TOTAL	**25.4**	185.9	**13.84**		**1.18**	6.86

Pine Barrens Treefrog	Pine-Oak Forest		Pinelands scrub shrub	Early successional	Freshwater Wetlands	
	Removal	Topping			Removal	Topping
Obstruction Removal	0.01	13.11	0.8		0.72	1.65
Crosswind Runway Project						
500-Foot Runway Shift	1.91	19.38				3.52
"T" Hangar and Taxilane						
TOTAL	**1.92**	32.49	**0.8**		**0.72**	5.17

Grasshopper Sparrow	Pine-Oak Forest		Pinelands scrub shrub	Early successional	Freshwater Wetlands	
	Removal	Topping			Removal	Topping
Obstruction Removal						
Crosswind Runway Project				4.78		
500-Foot Runway Shift				1.71		
"T" Hangar and Taxilane				0.013		
TOTAL				**6.59**		

As discussed above, the County's threatened and endangered species consultant utilized a conservative landscaped based approach combined with field verification of habitat and limited surveying to identify habitat that would potentially be impacted by the proposed development projects and to determine whether such habitat constituted critical or suitable habitat for a specific threatened or endangered species. Additionally, one of the proposed activities, obstruction removal, specifically tree topping, is expected to result in only temporary impacts to suitable snake habitat and may improve the value of the habitat for one of the snake species, Northern Pine snake, because of the resultant decrease in canopy cover and expected increase in herbaceous and shrub cover in the area of topping. The County, however, has offered to address all of the potential threatened or endangered species habitat impacts attributable to the proposed development projects.

2. Threatened or Endangered Plant Species

Sickle leaved golden aster *(Chrysopsis falcata)*, a threatened or endangered plant of the Pinelands, can be found at the Airport. Specifically, two areas of the Airport are colonized with large numbers of sickle leaved golden aster plants and there are an additional eight (8) discrete clusters of plants located at the Airport. The large colonies and discrete clusters of plants within

the Airport constitute a single population. Within just the two large colonies, there are approximately 21,100 plants.

Two of the proposed development projects, the Crosswind Runway project and the 500-ft "Shift" of runway 6-24, will result in direct impacts to several discrete clusters of sickle leaved golden aster plants. These clusters consist of approximately 315 plants in all. However, based on the location of the plants within the far end of the largest discrete cluster, away from the area of disturbance for the proposed development, and the fact that only one half of the areas of the other three discrete clusters will be disturbed for the placement of runway and taxiway pavement, it is estimated that +/- 100 plants may be impacted. Since the population of sickle leaved golden aster at the Airport is estimated to be greater than 20,000 individuals, the loss of approximately 100 plants represents less than 0.5% of the total population at the Airport. This percentage is so low that it will not result in an irreversible adverse impact on the survival of the local population of sickle leaved golden aster. An extremely large and healthy population will remain following implementation of the proposed development projects.

Additionally, the County is proposing to transplant impacted individuals. The County is proposing to have the plants moved by qualified environmental monitoring personnel to the southeastern portion of the Airport. The County has had success with transplanting sickle leaved golden asters at the site as authorized by a prior Commission public approval. Approximately, 87% of the plants transplanted as a result of that approval successfully survived relocation and are expected to thrive.

There is also the potential for indirect impacts to four (4) discrete clusters of sickle leaved golden aster should unnecessary site disturbance or careless equipment movement occur during construction. To prevent this, the County will require its contractor to install a physical barrier to protect portions of discrete clusters located beyond the limit of disturbance.

Lastly, a Sickle Leaved Golden Aster Management Plan was developed for the Airport by ASGECI for the County and is dated March 10, 2006. (Attached hereto as Exhibit F). This Management Plan include management commitments designed to ensure that development proposals and management practices at the Airport are performed in a way that will encourage the long term survival of the sickle leaved golden aster population at the Airport. The commitments of this Management Plan will be followed during the County's implementation of the proposed development projects.

B. Wetlands and Wetland Buffers

Obstruction Removal in the form of tree removal and topping is proposed to occur within wetlands and the 300 foot wetland buffers. The potential impacts associated with these activities are as follows:

Table 4: Summary of Impacts to Wetlands and Wetland Buffers

	Obstruction Removal		Crosswind Runway and Parallel Taxiway		500-ft Shift West of Runway 6-24	
	Removal	Topping	Removal	Topping	Removal	Topping
Wetlands	1.18	3.08		0.27		3.52
300 ft Wetland Buffers	2.59	32.36		6.00	1.91	19.38
TOTAL	**3.77**	35.44	0	6.27	**1.91**	22.9

* includes .80 acres of Pinelands scrub shrub vegetation located within the a 300 ft wetland buffer that will be removed.

The Pinelands CMP at N.J.A.C. 7:50-6.6 prohibits development in wetlands and wetland buffers except for activities expressly authorized pursuant to Part I of Subchapter 6. Removal of vegetation within wetlands and wetland buffers to meet FAA clearance requirements for airport runways and taxiways is not an authorized activity pursuant to Part I. As a result, the proposed tree and vegetation removal activities within wetlands and wetland buffers would not be authorized absent a deviation from the wetlands standards of the Pinelands CMP as permitted by this MOA.

In contrast, the proposed tree topping activities in wetlands and wetland buffers would not be inconsistent with the wetland requirements of the Pinelands CMP, provided such activities do not result in the disturbance of any soils or vegetation within the vicinity of the proposed tree topping activities. The County intends to conduct its obstruction removal activities within wetlands and wetland buffers in accordance with the specifications contained within Appendix B, of Exhibit D. With regard to tree topping, these specifications provide that "trees proposed for topping be individually topped by climbers." Given that no soils or vegetation disturbance is anticipated for tree topping, these activities would be consistent with the wetlands and wetland buffers standards of the Pinelands CMP.

C. 50% Expansion Provision, N.J.A.C. 7:50-5.2(b)

Much of the existing airport and, likewise, most of the proposed development projects, are located within the Preservation Area. New airport facilities are not a permitted use within the Preservation Area. As a result, the Airport, which was in existence on January 14, 1981, is a pre-existing, non-conforming use. The Pinelands CMP at N.J.A.C. 7:50-5.2(b) permits the expansion or alteration of any non-conforming use which was in existence on January 14, 1981 provided that such use has 1) not been abandoned or terminated subsequent to January 14, 1981; 2) the expansion or alteration of the use is in accordance with the minimum standards of N.J.S.A. 7:50-6; and 3) the area of expansion does not exceed 50% of the floor area, the area of use or the capacity of use, whichever is applicable, on January 14, 1981. Historically, it has been difficult to determine the appropriate standard to utilize in determining whether development at this Airport results in greater then a 50% expansion of the Airport use. As individual development applications for improvement projects at the Airport were submitted to the Commission for its review, it has become increasingly more difficult to determine whether the 50 percent expansion threshold has been reached. This uncertainty is further exacerbated by the fact that the Airport spans two different management areas, the Preservation Area and a Forest Area. Airport facilities are a permitted use under certain conditions within a Forest Area. N.J.A.C. 7:50-5.23. Additionally, the demarcation between the two management areas is not based on a surveyed line and, therefore, is not clearly discernible within the area of Airport operations. Consequently, it is

entirely possible that the proposed development projects covered by this MOA coupled with previously approved projects will exceed the 50% expansion threshold. Such conclusion, to some extent, is dependent upon which test, floor area, area of use or capacity of use, one applies to evaluate the proposed development. Although it may be argued that the threshold will not be exceeded, such an argument would require significantly more analysis. Rather, than expend resources definitively analyzing the issue, the County has agreed to offset the potential for a deviation of the 50 percent expansion requirement by deed restricting 75 acres against future development.

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

As discussed in Paragraph III above, the implementation of the proposed development projects is expected to result in impacts to habitat for certain threatened and endangered animal species. Additionally, the proposed tree and vegetation removal activities within wetlands and wetland buffers to meet FAA clearance requirements for airport runways and taxiways is expected to result in unauthorized impacts to wetlands and wetlands buffers. Consequently, the proposed development projects are not consistent with the strict application of the following requirements of the Pinelands CMP: 1) N.J.A.C. 7:50-6.1 *et al.* (Wetlands) 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 County is proposing to acquire and deed restrict against future development 485 acres of upland threatened or endangered species habitat located in the vicinity of RMAP. These uplands will contain a minimum of 345 acres of suitable, characteristic Pine snake, Corn snake or Timber Rattlesnake habitat and 50 acres of suitable, characteristic Pine Barren Tree Frog Habitat. The County proposes to acquire and deed restrict these lands within three years of the effective date of this MOA. The County has agreed to consult with the Commission's staff to identify suitable habitat with high ecological value to satisfy its offset obligations and agrees to focus its acquisition efforts on lands identified by the Commission staff as primary acquisition sites before undertaking efforts to acquire lands identified by Commission staff as secondary acquisition sites. The County has agreed to submit quarterly progress reports to the Commission's Executive Director delineating the progress it has made during that quarter in meeting its acquisition obligations. Additionally, at the end of the three years, the County has agreed to place a sum of money equal to $7,500 per acres of land remaining to be acquired into an escrow account to fund the acquisition of the remaining offset acreage. The County has also agreed to increase the monies maintained in the escrow account annually by 5%. Lastly, the County has agreed that at the end of five years from the date of execution of this MOA by the last signatory, any money remaining in the escrow account will be transferred to the Pinelands Conservation Fund and used by the Commission to fund acquisition of lands of high ecological value in the Ocean County portion of the Pinelands.

The amount of acreage to be deed restricted is based on an offset ratio of 1:1 for temporary impacts to threatened or endangered species habitat and 3:1 for permanent impacts to threatened or endangered species habitat potentially impacted by the proposed development projects. Some of this acreage is being proposed to offset potential impacts to approximately 1.18 acres of

wetland habitat and 4.5 acres of habitat located within wetland buffers. Furthermore, 15 acres of this acreage is being proposed as an offset for 5 acres of additional development to be conducted at the Airport at some point in the future. Lastly, 75 acres of this acreage are being proposed as an offset for the 50% expansion provision of N.J.A.C. 7:50-5.2(b). The County has agreed to record a Deed of Conservation Restriction(s), in a form similar to that attached as Exhibit G, for all properties acquired to satisfy this offset obligation.

Additionally, the impacts to grassland bird "effective habitat" (i.e. area of open contiguous habitat greater than 50 meters from developed, urban, or forest cover types) will be addressed through the creation of additional grassland bird habitat, as a result of the removal of scrub shrub vegetation and pine/oak forest as part of obstruction removal activities to be conducted at the RMAP. This will effectively result in an increase of approximately 22 acres of grassland bird habitat at the Airport overall.

The County is also proposing to construct two Reptile Habitat Management Areas (RHMAs) on the Airport. These RHMAs will be created by manipulation of existing vegetation communities. The RHMAs will consist of approximately 25.5 acres and will be located within two separate areas within the portions of the Airport. Specifications for the RHMAs are set forth in Appendix C of Exhibit D. Implementation of the RHMAs is expected to increase and improve the quality of nesting, denning, and basking habitat within these areas of the Airport.

The County is also proposing a number of management practices and environmental commitments to reduce the potential impacts of the proposed development projects on the resources of the Pinelands. These include implementation of: 1) the Environmental Commitments set forth in Appendix D of Exhibit D, which include, but are not limited to, timing restrictions, monitoring by qualified environmental personnel, installation of snake exclusion fencing and other fencing to demarcate limits of disturbance, etc.; 2) the Grassland Management and Mowing Plan set forth in Appendix A of Exhibit D; 3) the Specifications for Tree Removal and Tree Topping within Wetlands and 300-foot Wetland Buffers; and 4) the Sickle Leaved Golden Aster Management Plan Report and Commitments set forth in Appendix H of Exhibit D.

V. 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 many 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 development projects are not fully consistent with the threatened and endangered wildlife standards (N.J.A.C. 7:50 -6.33) and the wetland and wetland buffer standards (N.J.A.C. 7:50-6.1 et seq.) of the Pinelands CMP. As discussed in Paragraph IV above, the County has proposed a number of measures including the permanent protection of 485

acres of threatened or endangered species habitat that includes wetlands and wetland buffers and two reptile habitat management areas that the County intends to create. The measures discussed in Paragraph IV, when taken together, will afford at least an equivalent level of protection of the resources of the Pinelands impacted by the proposed development project as would be provided by strict application of the Pinelands CMP. As a result, entry of this MOA authorizing deviations from the standards of the Pinelands CMP pertaining to the threatened and endangered wildlife and wetlands and wetland buffers standards (N.J.A.C. 7:50-6.33 & 6.1 et seq.) is warranted.

In accordance with N.J.A.C. 7:50-4.52(c)1, the Commission may also enter into an 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 County, 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, execution of a MOA authorizing alternative application procedures is also warranted.

VI. AGREEMENTS

A. The County agrees that:

1. The County will provide the following information to the Commission staff thirty (30) days prior to commencing site preparation for or construction of, whichever occurs first, each of the proposed development projects delineated in Paragraph II.C. above:

   a. A narrative description of the proposed project.

   b. A copy of the Airport Layout Map identifying the location of the proposed development project.

   c. A copy of the detailed building or construction plans for the proposed development project.

   d A detailed Stormwater Management Plan that complies with the requirements of N.J.A.C. 7:50-6.84.

   e. If applicable, a detailed analysis demonstrating compliance with 2 parts per million standard of N.J.A.C. 7:50-6.84(a)4ii.

   f. A detailed analysis demonstrating compliance with all other applicable standards of Subchapter 6 of the Pinelands CMP for which a deviation has not been expressly provided by this MOA.

   g. A statement demonstrating compliance with the terms and conditions of this MOA.

h. If applicable pursuant to N.J.S.A. 13:9B-1 et seq. and N.J.A.C. 7:7A, a Freshwater Wetlands Permit application.

i. A description of any changes in the scope, design, impacts, etc. of the projects from what is described in Paragraph II.C. and Exhibit D.

2. The County will obtain any and all certificates, licenses, consent, approvals, or permits required from any State and/or Federal entity prior to authorizing or initiating commencement of site preparation or construction of any of the proposed development projects delineated in Paragraph II.C. No part of this MOA is intended to release the County and/or its designated contractor(s) from the responsibility to obtain all required approvals.

3. The County will construct or will require its contractor(s) to construct any of the proposed development projects delineated in Paragraph II.C. in accordance with the terms of this MOA, including all Exhibits attached hereto and made a part hereof, and all of the 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 contraction of any of the proposed development projects.

4. The County, for any of the proposed development projects delineated in Paragraph II.C., will comply with or will require its contractor(s) to comply with the following: 1) the Environmental Conditions set forth in Appendix D of Exhibit D; 2) the Specifications for Tree Removal and Tree Topping set forth in Appendix B of Exhibit D; 3) the Sickle Leaved Golden Aster Management Plan Report and Commitments set forth in Appendix H of Exhibit D; and 4) the recommendations and timing restrictions set forth in the Species Management Plan set forth in Section 5 of Exhibit D.

5. If it is determined by the Executive Director of the Commission that any portion of a proposed development project submitted to the Commission staff pursuant to Paragraph IV.A.1 is inconsistent with the requirements of this MOA and/or any of the standards of Subchapter 5 and 6 of the Pinelands CMP for which a deviation has not been expressly provided by this MOA, the County agrees that the project will be modified until the Executive Director determines that the proposed development project is consistent with such requirements. If the County disagrees with the Executive Director's determination, it may file a complete application in accordance with N.J.A.C. 7:50-4.52(b) and seek formal Commission approval of the project. The proposed development project may not proceed until the public development application review process has been completed and the Commission has issued a resolution approving the development project.

6. Any material addition to, deviation from or modification to the proposed development projects as delineated in Paragraph II.C. and the Exhibits attached

hereto, shall require the County to submit a formal public development application in accordance with N.J.A.C. 7:50-4.52(b) to the Commission and seek formal Commission approval of such Public Development Application for the project. The proposed development project may not proceed until the public development application review process has been completed and the Commission has issued a resolution approving the development project.

7. To the extent that new information becomes available or changes are made to the scope or design of the proposed development projects as delineated in Paragraph II.C. and the Exhibits attached hereto 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.6, the County shall submit such information or changes to the Commission staff for review for a consistency determination by the Executive Director in accordance with Paragraph VI.B.2.

8. If the Executive Director determines that as a result of new information or any change to the scope or design of the proposed development project(s) submitted to him in accordance with Paragraph VI.A.7., the proposed development project 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 animal species habitat or wetlands/wetland buffers impacts associated with the proposed development project(s) for which deviations have been authorized by this MOA, the County agrees, on behalf of itself and its contractors, to modify the proposed development project(s) until the Executive Director determines that it is consistent with all requirements of this MOA and the Pinelands CMP. If the County disagrees with the Executive Director's determination, it may file a complete Public Development Approval application pursuant to N.J.A.C. 7:50-4.52(b) and seek formal approval from the Pinelands Commission of the project. The proposed development project may not proceed until the public development application review process has been completed and the Commission has issued a resolution approving the development project.

9. The County will not commence any of the proposed development project(s) delineated in Paragraph II.C. until it receives written authorization from the Commission staff indicating that the proposed development project(s) is consistent with the requirements of the MOA and the requirements of the CMP set forth in Paragraph V.A.1 above or to the extent that new information becomes available or changes are made to the scope or design pursuant to Paragraph V.A.7., the County has received written a authorization to proceed from the Executive Director pursuant to Paragraph VI.B.4.

10. Within three years of the effective date of this MOA, the County agrees to acquire and deed restrict 485 acres of upland threatened or endangered species habitat against future development in perpetuity. These lands shall, at a minimum, contain 354 acres of suitable, characteristic Pine snake, Corn snake or Timber

Rattlesnake habitat and 60 acres of suitable, characteristic Pine Barren Tree Frog Habitat. The County agrees to consult with the Commission's staff to identify suitable habitat with high ecological value to satisfy the obligations of this Paragraph and agrees to focus its acquisition efforts on lands identified by the Commission staff as primary acquisition sites before undertaking efforts to acquire lands identified by Commission staff as secondary acquisition sites.

11. The County shall utilize its best efforts to complete the obligations of Paragraph VI.A.10 above no later than 3 years after the date of execution of this MOA by the last signatory. If, after 3 years, the County has not acquired and deed restricted all 485 acres, it shall execute an escrow agreement with the Commission and place a sum of money equivalent to $7,500 per acre of land of the 485 acres remaining to be acquired. Each year after establishment of the escrow account, the County shall increase the monies maintained in the escrow account by 5%. At the end of 5 years from the date of execution of this MOA by the last signatory, the County agrees that all monies remaining in the escrow account shall be transferred to the Pinelands Conservation Fund and used by the Commission to fund acquisition of lands of high ecological value in the Ocean County portion of the Pinelands.

12. The deed restriction(s) required pursuant to Paragraph VI.A.10 above shall be in a form similar to that attached hereto as Exhibit G, 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. The County shall provide the Executive Director with evidence of the imposition of the required deed restriction within three (3) months of the acquisition of any lands in satisfaction of the obligations of Paragraph VI.A.10.

13. The County shall submit written progress reports to the Commission's Executive Director every three (3) months, commencing three months following the execution of this MOA by all parties. Such progress reports shall detail the progress that has been made completing its obligations pursuant to Paragraph VI.A.10. Additionally, the County shall attend a meeting of the Commission's Policy and Implementation Committee annually, around the anniversary date of the execution of this MOA by the last signatory, to brief the Committee on its efforts to satisfy the offset obligations of this agreement, including but not limited to the obligations set forth in Paragraph VI.A.10.

14. The County shall implement development of the Reptile Habitat Management Areas at the Airport in accordance with the specifications set forth in Appendix C of Exhibit D attached hereto.

15. The County will provide the Commission a copy of any revised or amended Airport Layout Plan within thirty (30) days of the approval of same by the FAA.

16. The County shall adhere to and implement the following:

a. The Grassland Management and Mowing Plan contained within Appendix A of Exhibit D at the Airport; and

b. The Sickle Leaved Golden Aster Management Plan Report and Commitments set forth in Appendix H of Exhibit D.

17. The County agrees that the "Future Development Plan", prepared by C&S Engineers, Inc., dated March 20, 2012, and attached hereto as Exhibit A, constitutes build out of the Airport.

18. The County agrees that it with the proposed development authorized herein it has exceeded the 50% expansion provision set forth at N.J.A.C. 7:50-5.2.

B. The Pinelands Commission agrees:

1. The Commission will not require the filing of formal public development applications in accordance with the CMP (N.J.A.C. 7:50-4.52(b)) for the proposed development projects delineated in Paragraph II.C. unless:

a. A proposed development project submitted to the Commission staff pursuant to Paragraph IV.A.1 is inconsistent with the requirements of this MOA and/or any of the standards of Subchapter 5 and 6 of the Pinelands CMP for which a deviation has not been expressly provided by this MOA, and the County has not modified the proposed development project to render it consistent with such requirements;

b. There is a material addition to, deviation from or modification to any of the proposed development projects; or

c. As a result of new information or any change to the scope or design of the proposed development project(s) submitted to the Executive Director in accordance with Paragraph VI.A.7., the proposed development project 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 will result in a material increase in the threatened or endangered animal species habitat or wetlands/wetland buffers impacts associated with the proposed widening project(s) for which deviations have been authorized by this MOA, and the County has not modified the proposed development project to render it consistent with such requirements.

2. Within thirty (30) days of receipt of the information submitted pursuant to Paragraphs VI.A.1.h or VI.A.7, the Executive Director will provide written authorization in accordance with Paragraph VI.B.4 or the Commission staff will

provide a written explanation of deficiencies in accordance with Paragraph VI.B.3.

3. If the Executive Director determines that any portion of a proposed development project is inconsistent with this MOA and/or the provisions of the CMP from which a deviation has not been authorized by this Agreement, then the Commission staff shall provide a written explanation of the deficiencies and identify specific actions that must be taken by the County to remedy such deficiencies.

4. If the Commission staff determines, after review of information submitted in accordance with Paragraphs VI.A.1.h or VI.A.7 and/or in response to any deficiency letter issued by the Commission pursuant to Paragraph VI.B.3, that a proposed development project is consistent with this MOA and the provisions of the CMP from which a deviation has not been authorized by this Agreement, it shall issue a written authorization to the County setting forth this determination. This written authorization shall constitute a public development approval and no further action by the Commission shall be required.

C. The Commission and the County agree:

1. To meet periodically to discuss this MOA, the status of the proposed development projects and any other issues of mutual concern.

VII. EFFECTIVE DATE AND DURATION

1. In accordance with N.J.S.A. 13:18A-5(h), this MOA shall take effect following the conclusion of the Governor's review period and approval of the Pinelands Commissions minutes authorizing entry of this MOA and then upon approval and signature by the authorized representatives of all parties

2. This agreement shall remain in effect unless amended by written consent of both Parties or otherwise terminated or suspended by the Pinelands Commission or terminated by both parties upon sixty (60) days written notice.

(Signatures on Next Page)

VIII. SIGNATURES

NEW JERSEY PINELANDS COMMISSION

Date: _____ By: _____
Nancy Wittenberg, Executive Director

Approved as to form by:

Date: _____ By: _____
Kristen Heinzerling, Deputy Attorney General
State of New Jersey

OCEAN COUNTY

Date: _____ By: _____
Gerry P. Little, Freeholder Director
Ocean County

Approved as to form by:

Date: _____ By: _____
John C. Sahradnik, Esq.
County Counsel