APPENDIX I

Hackensack Meadowlands District 2005 Memorandum of Agreement

MEMORANDUM OF AGREEMENT
BETWEEN
THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND
HACKENSACK MEADOWLANDS

WHEREAS, pursuant to Hackensack Meadowlands Reclamation and Development Act, N.J.S.A. 13:17-1 et seq. the New Jersey Meadowlands Commission (NJMC) has been given the responsibility for land use planning and permitting within the Hackensack Meadowlands District (District); and

WHEREAS, pursuant to the Waterfront Development Law, N.J.S.A. 12:5-3, the New Jersey Department of Environmental Protection (NJDEP) has been given responsibility for regulating activities occurring in state tidal waters; and

WHEREAS, pursuant to Section 401 of the Clean Water Act, 33 U.S.C. §1341, and implementing state regulations, the NJDEP is responsible for issuing Water Quality Certificates for activities which may result in a discharge into navigable waters including the discharge of dredged or fill material; and

WHEREAS, pursuant to the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq., NJDEP is responsible for regulating activities within the 100-year floodplain; and

WHEREAS, New Jersey's Coastal Management Program was approved by the National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management (NOAA) on September 1978 and September 1980. The approved New Jersey Coastal Management Program includes the District; and

WHEREAS, the NJDEP is responsible for implementing the New Jersey Coastal Management Program and is responsible for issuing all Federal Consistency determinations for Federal actions within or affecting New Jersey's coastal zone. Federal actions, as further defined at 15 CFR 930, are Federal agency activities, Federal license and permit activities and Federal financial assistance to State and local governments; and

WHEREAS, it is necessary to identify the roles of the NJDEP and NJMC in reviewing proposed developments and activities within the District;

NOW, THEREFORE BE IT RESOLVED, that the NJDEP and NJMC agree to the following:

1 The NJMC is the lead planning agency in the District.

2. For those developments or activities that require a zoning certificate from the NJMC and a Federal Consistency determination from NJDEP, the NJDEP shall determine the consistency of Federal actions with the New Jersey Coastal Management Program after receiving either a copy of the zoning certificate or a statement of consistency with the NJMC Master Plan (Master Plan) issued by the NJMC.

3. For those developments or activities that do not require a zoning certificate from the NJMC but require a Federal Consistency determination from NJDEP, the NJDEP shall not require a statement of consistency with the Master Plan, and will proceed with the review of the application for the Federal Consistency determination without such statement. This section does not apply to those developments or activities identified at paragraph 6 below.

4. For those developments or activities that require a zoning certificate from the NJMC and a Water Quality Certificate from the NJDEP, the NJDEP shall issue a decision on a Water Quality Certificate after receiving either a copy of the zoning certificate or a statement of consistency with the Master Plan issued by the NJMC.

5. For those developments or activities that do not require a zoning certificate from the NJMC but require a Water Quality Certificate from the NJDEP, the NJDEP shall not require a statement of consistency with the Master Plan, and will proceed with the review of the Water Quality Certificate application without such statement. This section does not apply to those developments or activities identified at paragraph 7 below.

6. For developments or activities described below that require a Federal Consistency determination by the NJDEP, the NJDEP shall determine the consistency of Federal actions with the New Jersey Coastal Management Program after receiving either a copy of a resolution by the NJMC approving the development or activity or a statement of consistency with the Master Plan issued by the NJMC.

   a. Municipal or county projects necessitating the expenditure of any public funds, and requiring a resolution from the NJMC, in accordance with N.J.S.A. 13:17-12(b).

   b. Municipal projects, located on land owned by a municipality, provided that the following conditions are met:

      i. The governing body and planning board of the municipality have entered into a Memorandum of Understanding (MOU) with the NJMC, and remain in compliance with the MOU. Such MOU shall provide that municipal projects shall comply with applicable NJMC zoning regulations and that review of the project by the municipality shall utilize NJMC standards;
      ii. The municipal project has been reviewed by the municipal planning board, which has certified to the NJMC that the project is in compliance with all applicable NJMC zoning regulations;

iii. A complete copy of the plans for the municipal project, and a certification of the planning board, have been sent to the NJMC for review, and the NJMC has not notified the municipality within 45 days of the receipt thereof of any objection to the project; and

iv. At the completion of the construction of the project, the municipal zoning officer shall certify to the NJMC that the project has been constructed in accordance with approved plans.

c. Development and improvement plans proposed or sponsored by the NJMC

7. For developments or activities described at paragraph 6 a through c above that require a Water Quality Certificate from the NJDEP, the NJDEP shall issue a decision on a Water Quality Certificate after receiving either a copy of a resolution by the NJMC approving the development or activity or a statement of consistency with the Master Plan issued by the NJMC.

8. The NJDEP shall issue permit decisions under the Waterfront Development Law for activities located below the mean high water line after receiving a statement of the proposed development or activity's consistency with the Master Plan from the NJMC.

9. The NJMC shall prepare in accordance with NOAA guidance, a program change document for submission to NOAA's Office of Ocean and Coastal Resource Management (OCRM) incorporating the NJMC Master Plan adopted by NJMC on January 8, 2004 into New Jersey's Coastal Management Program. The NJDEP's Coastal Management Office shall provide technical assistance to the NJMC in the preparation of the document and shall be responsible for submitting the draft and final program change submissions to OCRM. Any subsequent revisions to the Master Plan shall be incorporated into New Jersey's Coastal Management Program in accordance with this process.

10. This Memorandum of Agreement will be reviewed and assessed periodically by the NJDEP and NJMC to determine if any additions, deletions, and/or modifications are needed to any provision herein.

BE IT FURTHER RESOLVED, that the responsibilities outlined above shall take effect upon the execution of this agreement and any changes in the facts upon which this agreement is based or any deviations from the terms and conditions of this agreement may render this agreement null and void.

I hereby agree to the terms set forth above on behalf of the New Jersey Department of Environmental Protection on this day November 9, 2005

Bradley M. Campbell, Commissioner, New Jersey Department of Environmental Protection

I hereby agree to the terms set forth above on behalf of the New Jersey Meadowlands Commission on this day _____

Robert R. Ceberio, Executive Director, New Jersey Meadowlands Commission