



# State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

JON S. CORZINE  
Governor

MARK N. MAURIELLO  
Acting Commissioner

## MEMORANDUM OF AGREEMENT BY AND BETWEEN

THE NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
and  
THE RICHARD STOCKTON COLLEGE OF NEW JERSEY

### CONCERNING THE LEASE OF A PORTION OF THE CAPE ISLAND WILDLIFE MANAGEMENT AREA (BLOCK 494.01, PART OF LOT 3) LOWER TOWNSHIP, CAPE MAY COUNTY

This Memorandum of Agreement ("Agreement") is made this \_\_\_\_\_ day of July 2009, by and between the New Jersey Department of Environmental Protection, a department in the executive branch of the State of New Jersey having its offices at 401 East State Street, Trenton, New Jersey 08625 ("NJDEP") and The Richard Stockton College of New Jersey ("Stockton"), a State institution of higher education whose mailing address is P.O. Box 195, Pomona, New Jersey 08240, being collectively referred to as the "Parties,"

WHEREAS, in 2006 the NJDEP acquired Block 494.01, Lots 1.04 and 3 in the Township of Lower, County of Cape May ("the Property"), comprising approximately 235 acres, from Ponderlodge, Inc. by deed dated February 28, 2006 and recorded with the Clerk of Cape May County on July 24, 2006 at Book D3243, Page 472; and

WHEREAS, the NJDEP obtained funding for the purchase of the Property from the Garden State Preservation Trust Fund authorized under N.J.S.A. 13:8C-1 et seq. and the Land and Water Conservation Fund authorized under 16 U.S.C. §460I-4 through 460I-11; and

WHEREAS, as a result of the use of State and federal funds to purchase the Property, the use of the Property is limited to "recreation and conservation purposes" as defined at N.J.S.A. 13:8C-3 and "public outdoor recreation" as noted in 16 U.S.C. §460I-8(f), the Land and Water Conservation Fund Act; and

WHEREAS, the Property has been assigned for management purposes to the NJDEP's Division of Fish and Wildlife ("Division") as part of the Cape Island Wildlife Management Area; and

WHEREAS, the Division's objectives are to maintain New Jersey's rich variety of fish and wildlife species at stable, healthy levels and to protect and enhance the many habitats on which they depend, to educate New Jerseyans on the values and needs of our fish and wildlife, to foster a positive human/wildlife co-existence, and to maximize the recreational and commercial use of New Jersey's fish and wildlife for both present and future generations; and

WHEREAS, given the strategic location of the Property for migratory birds and other wildlife species in the Cape May Peninsula, the Division has developed, and is implementing, a plan to restore important wildlife habitat on the Property through the re-establishment and enhancement of a variety of critical wildlife habitats on the Property; and

WHEREAS, the Division's management plan for the Property is also intended to optimize public access to and passive recreation on the Property; and

WHEREAS, at the time of acquisition, the Property contained a number of buildings and other structures, including parking areas, related to its previous use as a golf course; and

WHEREAS, the NJDEP has considered demolition of all remaining structures on the Property in the event they cannot be used in a manner consistent with the State and federal restrictions on the Property and/or cannot be maintained within the constraints of current operational budgets, and has solicited bids for such demolition; and

WHEREAS, Stockton is a public, four-year college within the New Jersey system of higher education, offering baccalaureate level programs in the arts, sciences, and professional studies and graduate programs in environmental science, computer science, physical therapy, and occupational therapy; and

WHEREAS, it is Stockton's mission to help students develop the capacity for continuous learning and the ability to adapt to changing circumstances in a multi-cultural world by insisting on breadth, as well as depth, in the curriculum; and

WHEREAS, Stockton is known as "New Jersey's Green College" and is committed to environmental stewardship through a variety of initiatives, including but not limited to an extensive college-wide inventory of its impact on the world's climate, installation of solar panels on its academic buildings, construction of academic facilities certified by the US Green Building Council as a Leadership in Energy and Environmental Design (LEED) construction, construction of one of the largest geothermal systems in the country, and construction of a new aquifer thermal storage energy project (ATES), one of the first in the United States; and

WHEREAS, Stockton also offers an innovative curriculum in sustainability and environmental policy with collaboration between the political science and environmental science programs, bringing courses in the natural sciences and social and political studies together to help prepare students for careers in environmental policy, environmental management, law, advocacy, and education; and

WHEREAS, in furtherance of its “green” curriculum, Stockton has requested that the NJDEP consider the lease of a 12.2-acre portion of the Property within Block 494.01, Lot 3, containing many of the existing structures on the Property and depicted on the map attached to and incorporated into this Agreement as Attachment 1 (“the Lease Area”), for use for educational purposes, such as an educational center to hold classes, seminars, adult educational programs, talks, and conferences open to the public with the possibility of creating an “educational campus” and using an appropriate portion of the developed property as an interpretive educational center ; and

WHEREAS, the NJDEP believes Stockton’s lease proposal has merit and wishes to further explore with Stockton ways to establish a long-term working partnership that will benefit the Property and the public; and

WHEREAS, the Parties now wish to memorialize the general terms and conditions for the proposed lease of a portion of the Property by Stockton from NJDEP;

NOW THEREFORE, in consideration of the mutual and public benefits to be realized from the proposed lease, it is hereby AGREED as follows:

NJDEP agrees to work closely with Stockton with the objective of executing a 20-year lease of the Lease Area, through a lease to be drafted by NJDEP, reviewed by Stockton, and approved by both Parties.

In order to enable the NJDEP to determine if a lease with Stockton would be consistent with the State and federal funding restrictions on the Property and its management objectives for the Property, and to give the NJDEP sufficient information to draft the lease, Stockton agrees to submit a detailed conceptual plan for its proposed use of the Property.

At a minimum, the conceptual plan to be submitted by Stockton shall include exhibit space permanently dedicated to the interpretation of the Property for environmental education purposes and will allow for the use of available restroom facilities for public use at reasonable hours and times of the year. Stockton also agrees to provide shared office space for use by the Division. As feasible, based on the programmatic needs of the college, Stockton also agrees to make classroom/auditorium space available for use by the Division for environmental education purposes. The Division shall submit its request for space utilization through Stockton’s protocols.

Stockton acknowledges that all of the structures in the proposed Lease Area will require substantial capital improvements to be used by the public and that any such improvements will be made by Stockton and not the NJDEP. In particular, Stockton acknowledges that the three residential structures included in the proposed Lease Area are not currently in a habitable condition and may require installation of multiple utility systems in order to become habitable.

If the conceptual plan submitted by Stockton is acceptable to the NJDEP, Stockton will conduct at least one informational meeting in Lower Township to discuss any proposed

use(s) of the Lease Area. The NJDEP will then proceed to draft a lease for review by Stockton and the mutual approval of both Parties.

The lease to be drafted by the NJDEP will incorporate but not be limited to the terms and conditions outlined herein, which reflect statements set out in NJDEP's June 15, 2009 letter to Stockton. In addition, the draft lease, after further in depth discussions, may address the following:

Coordination between the Division and Stockton to provide educational opportunities for conducting surveys and the monitoring of the Division's restoration areas on the Property. The Division agrees that it will look to provide internships to Stockton students and work with Stockton faculty to develop such opportunities.

Coordination between the Division and Stockton to provide educational opportunities for Stockton staff and/or students to offer organized interpretative hikes through the Property to the public.

Coordination between the Division and Stockton to provide educational opportunities for students to conduct habitat management work identified in the wildlife management plan for the Property, including mowing, planting, trail work, invasive species control, and other habitat maintenance activities. The Division agrees that it will look to provide internships to Stockton students and will work with Stockton faculty to develop such opportunities.

Collaboration between the Division and Stockton to create partnerships for the purposes of obtaining grants for research on the Property and the Lease Area.

Collaboration between Stockton and other entities, including the Division, to create partnerships for the purpose of the study and research, including but not limited to the area of energy use and sustainability.

Main parking areas within the Lease Area will be kept reasonably open and accessible to the public and will contain signs indicating that such parking areas near residential homes and/or storage and work areas will not be open to the public for safety reasons.

All signage used by Stockton with its name and logo on or around the Lease Area will also contain the Division's logo and a contact phone number for the Division.

Any other mutually acceptable terms and conditions necessary to allow the use of the Lease Area in a manner consistent with the State and federal funding restrictions on the Property and the NJDEP's management objectives for the Property.

Due to the source of funding for the purchase of the Property, the draft lease will require the approval of the State House Commission ("Commission") and the National Park Service ("Service"), and the NJDEP agrees to make all reasonable efforts to obtain these approvals in a timely fashion. However, the Parties acknowledge that if the Commission and the Service are not able to determine that the primary purpose of the lease is public outdoor recreation, then the lease may be deemed a "diversion" of NJ DEP property under

N.J.S.A. 13:8C-31 and/or a conversion of federally-funded parkland under the Land and Water Conservation Fund Act, 16 U.S.C. §460 I-4 et seq. In the event that Stockton's proposed use of the Property under the proposed lease is deemed a "diversion" or "conversion" of the Property, the Parties acknowledge that the NJDEP will not be able to proceed with the lease process unless and until the Parties have agreed on terms of compensation that would meet State and/or federal statutory and regulatory requirements.

The draft lease must also be submitted to the Fish and Game Council for review and comment, in accordance with N.J.S.A. 23:8A-2, and to the Division's other federal funding partners for informational purposes.

If the NJDEP and Stockton are successful in executing a 20-year lease for the Lease Area, then the NJDEP agrees to initiate the process of obtaining approval to extend the lease pursuant to N.J.S.A. 13:1D-51 et seq. The length of the lease extension will be determined by mutual agreement of the Parties but shall be no longer than necessary to afford Stockton a reasonable return on investment in relation to the amount of money to be invested in the restoration and management of the structures on the Property.

In consideration of the above, the NJDEP agrees to forgo the planned demolition of any structures on the Property. At its expense, Stockton may demolish structures within the proposed Lease Area with the written approval of the NJDEP.

In consideration of the above, particularly the NJDEP's commitment to forgo demolition of any structures on the Property, Stockton agrees to immediately assume all responsibility for physical security of the structures in the proposed Lease Area, which includes providing a security presence on the Lease Area under a Right of Entry agreement to be separately agreed to between Stockton and the Division. The terms and conditions of this MOU are conditioned upon the execution of said Right of Entry agreement.

Nothing in this Agreement shall be construed as a waiver or grant of any federal, State, or local approvals or permits required for Stockton's use of the Lease Area.

This Agreement will expire upon the execution of a lease of the Lease Area between the Parties or upon NJDEP's written notification to Stockton that a lease will not be executed between the Parties. This Agreement may be terminated or amended upon the mutual agreement of the Parties prior to the execution of a lease, without cause or penalty, provided that Stockton shall remain responsible for physical security of the structures in the proposed Lease Area until such time as a lease is executed or, in the event a lease is not executed, the award of a contract by NJDEP for demolition of the structures in the Lease Area, which award shall not be unreasonably delayed.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed, attested to, and sealed as of the date first set forth herein.

WITNESS:

Catherine P. Army  
Counselor to the Commissioner  
Attorney at Law of State of New Jersey

By: Mark N. Mauriello for MNM  
Mark N. Mauriello, Acting Commissioner  
Department of Environmental Protection

WITNESS:

Alicia L. Spachleton  
Exec Admin. Assistant  
to President Saatkamp

By: Herman J. Saatkamp, Jr.  
Herman J. Saatkamp, Jr.  
President  
The Richard Stockton College of  
New Jersey

Approved as to form for NJDEP only.

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY

By: Mark Collier 7/28/05  
Mark Collier  
Deputy Attorney General