

Prepared by:

Kristina Miles
Deputy Attorney General
R.J. Hughes Justice Complex
25 Market St., PO Box 093
Trenton, NJ 08625

**DEED OF DEDICATION AND PERPETUAL STORM
DAMAGE REDUCTION EASEMENT**

THIS DEED OF DEDICATION AND PERPETUAL STORM DAMAGE REDUCTION EASEMENT is made this 20 day of October 2017 BY AND

BETWEEN

THE CITY OF MARGATE, a Municipal Corporation of the State of New Jersey, whose address is 9001 Winchester Avenue, Margate, New Jersey 08402, referred to herein as Grantor,

AND

THE STATE OF NEW JERSEY referred to herein as the Grantee,

WITNESSETH

WHEREAS, Grantor is the owner of that certain tract of land, located in the City of Margate, County of Atlantic, State of New Jersey, seaward of the mean high water line as depicted on the map attached hereto as Exhibit A, hereinafter the "Property," and Grantor holds the requisite interest to grant this Deed of Easement; and

WHEREAS, the Grantee recognizes that the beach at the City of Margate, New Jersey is subject to constant erosion and degradation, thereby destroying a valuable natural resource and threatening the safety and property of the Grantor and of all of the citizens of the State; and,

WHEREAS, the Grantee desires to cooperate with the United States Army Corps of Engineers to construct the Brigantine Inlet to Great Egg Harbor Inlet, Absecon Island, Storm Damage

Reduction Project, as defined in the 2003 Project Cooperation Agreement and the June 23, 2014 Project Partnership Agreement between the Department of the Army and the State of New Jersey, hereinafter "Project," pursuant to the August 11 and August 12, 2017 court orders that found the Army Corps could construct the Project; and,

WHEREAS, construction of the Project includes periodic renourishment, which may be performed solely by the Grantee or in conjunction with the United States Army Corps of Engineers; and,

WHEREAS, the United States Army Corps of Engineers has designed and agreed to construct a manifold and piped stormwater drainage system within the Project area; and,

WHEREAS, in order to construct all of the Project, including the stormwater drainage system, Grantee needs a Perpetual Storm Damage Reduction Easement on portions of said Property herein described; and,

WHEREAS, the United States Army Corps of Engineers and/or State of New Jersey will not participate in the Project unless the Grantee acquires the real property interest herein described in all real property needed for the Project; and,

WHEREAS, the City of Margate shall consider this Deed of Easement in establishing the full assessed value of any lands subject to such restrictions; and,

WHEREAS, the Grantor desires to cooperate in allowing the Project to take place on a portion of said Property; and,

WHEREAS, the Grantor acknowledges that it will benefit from the successful implementation of the Project; and,

WHEREAS, the Grantor acknowledges that after successful implementation of the Project the beach is still subject to the forces of nature which can result in both erosion and accretion of the beach; and,

NOW, THEREFORE, in consideration for the benefits to be received by the Grantor from the successful implementation of the Project, including the stormwater drainage system, the Grantor grants and conveys to Grantee an irrevocable,

assignable, perpetual and permanent easement as set forth herein:

GRANT OF EASEMENT: A perpetual and assignable easement and right-of-way for the Brigantine Inlet to Great Egg Harbor Inlet, Absecon Island, Storm Damage Reduction Project, in, on, over and across that land of the Property depicted on the map attached hereto as Exhibit A for use by the State of New Jersey, its representatives, agents, contractors and assigns to:

- a. Construct, preserve, patrol, operate, maintain, repair, rehabilitate, and replace a public beach, and other erosion control and storm damage reduction measures together with appurtenances thereto, including the right to deposit sand, to accomplish any alterations of the contours on said land, to construct berms, and to nourish and re-nourish periodically;
- b. Move, temporarily store and remove equipment and supplies;
- c. Erect and remove temporary structures;
- d. Perform any other work necessary and incident to the construction, periodic renourishment, and maintenance of the Brigantine Inlet to Great Egg Harbor Inlet, Absecon Island, Storm Damage Reduction Project together with the right of public use and access;
- e. Post signs on said berms;
- f. Erect, maintain, and remove silt screens and snow fences;
- g. Trim, cut, fell, and remove from said land all trees, underbrush, debris, obstructions, and any other vegetation, structures, and obstacles within the limits of the easement;

The easement reserves to the Grantor, the Grantor's heirs, successors and assigns the right to construct a private overwalk structure in accordance with any applicable Federal, State, or local laws or regulations, provided that such structure shall not violate the integrity of the berm in shape, dimension, or function. Prior approval of the plans and specifications for such structures must be obtained from the State of New Jersey. Such structures are to be considered subordinate to the construction, operation, maintenance, repair, rehabilitation, and replacement of the Project. The easement reserves to the Grantor, the Grantor's heirs, successors, and assigns all such rights and privileges as may be used and enjoyed without

interfering with or abridging the rights and easements hereby conveyed to the Grantee, subject however to existing easements for utilities and pipelines, existing public highways, existing paved public roads and existing public streets. Grantor hereby expressly agrees not to grade or excavate within the easement area or to place therein any structure or material other than a walkover as referenced above without prior approval of the plans and specifications for said activities from the State of New Jersey and/or any applicable Federal agency, as required.

Duration of Easement: The easement granted hereby shall be in perpetuity, and in the event that the State of New Jersey shall become merged with any other geo-political entity or entities, the easement granted hereby shall run in favor of surviving entities. The covenants, terms, conditions and restrictions of this Deed of Easement shall be binding upon, and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns and shall continue as a servitude running in perpetuity with the land.

Municipality to Maintain Beach: The Grantor agrees, consistent with all Federal, State and local statutes and regulations, that at all times it shall use its best, good-faith efforts to cause the beach area abutting Grantor's lands to be maintained, consistent with any applicable Federal, State or local laws or regulations, notwithstanding any action or inaction of the State of New Jersey, Department of Environmental Protection or the United States Army Corps of Engineers to maintain the beach area.

Character of Property: Notwithstanding the foregoing, nothing herein is intended or shall be deemed to change the overall character of the Property as municipal property; nothing herein shall be deemed to grant to the Grantee or otherwise permit the Grantee or any other person to cross over or use any part of the Property which is not within the Easement Area; nothing herein is intended or shall be deemed to alter the boundary lines or setback lines of the Property.

The Municipality agrees, to the extent allowed by applicable law, that the Lands burdened by the easement herein described shall not be excluded from the calculation of minimum square footage requirements when construing applications under the Zoning Ordinance of the Municipality.

Miscellaneous:

1. The enforcement of the terms of this Easement shall be at the discretion of the Grantee and any forbearance by Grantee to exercise its rights under this Easement in the event of any violation by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent violation or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any violation by Grantor shall impair such rights or remedies or be construed as a waiver of such rights or remedies.
2. The interpretation and performance of this Deed of Easement shall be governed by the laws of the State of New Jersey.
3. If any provision of this Deed of Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Easement or the application of such provision to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.
4. Any notice, demand, request, consent, approval or communication under this Deed of Easement shall be sent by regular first class mail, postage prepaid and by Certified Mail, Return Receipt Requested, addressed to the mailing addresses set forth above or any other address of which the relocating party shall notify the other, in writing.
5. The captions in this Deed of Easement have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon its construction or interpretation.
6. Structures not part of the project are not authorized.
7. Grantor represents and warrants it holds the requisite ownership interest and authority to execute this Deed of Easement; and has made this Deed of Easement for the full and actual consideration as set forth herein.
8. This Deed may be executed in counterparts by the respective Parties, which together will constitute the original Deed.

IN WITNESS WHEREOF, with the parties understanding and agreeing to the above, they do hereby place their signatures on the date at the top of the first page.

Accepted by the
CITY OF MARGATE, GRANTOR

Witnessed by:

Michael Becker,
Mayor of Margate

NOTARY PUBLIC OF THE
STATE OF NEW JERSEY

Date _____

STATE OF NEW JERSEY,
COUNTY OF _____ SS.:

I CERTIFY that on _____ 2017,

Mayor Michael Becker on behalf of the City of Margate

personally came before me and this person acknowledged under oath, to my satisfaction that this person (or if more than one, each person);

- 1) is named in and personally signed this Deed of Easement; and
- 2) signed, sealed and delivered this Deed of Easement as his or her act and deed.

NOTARY PUBLIC OF THE
STATE OF NEW JERSEY

Accepted by the
STATE OF NEW JERSEY, GRANTEE

Witnessed by:

BY: _____
Dave Rosenblatt
Assistant Commissioner
Engineering & Construction

NOTARY PUBLIC OF THE
STATE OF NEW JERSEY

Date _____