



MEMORANDUM

**TO:** Members of the Board of Directors

**FROM:** Bruce Steadman  
Secretary & Executive Director

**DATE:** May 18, 2011

**SUBJECT:** Agenda for Board Meeting of the Authority

1. **Call to Order – James Gorman, Chairman**
2. **Pledge of Allegiance**
3. **Notice of Public Meeting - Roll Call – Bruce Steadman, Secretary**
4. **Approval of Previous Month’s Board Meeting Minutes**
5. **Welcome - James Gorman, Chairman**
6. **Public Comment Regarding Agenda Items**
7. **Treasurer’s Report:**
  - Summary of Status of Federal Grant
8. **Secretary’s Report:**
  - Formation of FMERA Historical Preservation Staff Advisory Committee
9. **Executive Director’s Report:**
  - Update on Meetings with Matrix Design Group
  - Update on Meetings with Army Representatives
  - Update on Status of HUD Application
  - Update on Garden State Parkway Interchange 105
  - Update on Communications Effort
  - Action Items for Next Month
10. **Committee Reports**
  - Audit Committee – James Gorman, Chairman
  - Real Estate Committee – Michael Pane, Esq., Chairman
  - Environmental Staff Advisory Committee – Michele Siekerka, Esq., Chairwoman
  - Housing Staff Advisory Committee – Charles Richman, Chairman
  - Veterans Staff Advisory Committee – Frank Cosentino, FMERA

11. **Board Action**
  - Consideration of Award of Professional Planning Consultant Services RFP
  - Consideration of Approval of Proposed New Rules for Real and Personal Property Leasing
12. **Public Comment**
13. **Adjournment**

Fort Monmouth Economic Revitalization Authority  
Board Meeting  
April 20, 2011  
Eatontown Municipal Building, Eatontown, New Jersey

## **MINUTES OF THE MEETING**

I.

Members of the Authority present:

- James Gorman, Chairman of the Fort Monmouth Economic Revitalization Authority (FMERA)-**V**
- Michael Pane, Jr. Esq. Vice Chairman- **V**
- Brandon Minde, Office of the Governor, Authorities Unit - **V**
- Caren Franzini, CEO of the NJ Economic Development Authority (NJEDA)-**V**
- Dr. Robert Lucky, Public Member -**V**
- Lillian Burry, Monmouth County Freeholder -**V**
- Gerald Tarantolo, Mayor of Eatontown -**V**
- Michael Mahon, Mayor of Oceanport -**V**
- Michael Skudera, Mayor of Tinton Falls -**V**
- Michele Siekerka, Assistant Commissioner, NJ Department of Environmental Protection
- Robert DeSando, Assistant Commissioner, NJ Department of Transportation
- Charles Richman, Assistant Commissioner, NJ Department of Community Affairs
- Gary Altman, Director, NJ Department of Labor and Workforce Development

*V- Denotes Voting Member*

Also present:

- Tim Lizura, Senior Vice President of the NJ Economic Development Authority
- Odis Jones, Director of Real Estate and FMERA Staff
- NJ Economic Development Authority Staff
- Gabriel Chacon, Deputy Attorney General

II.

The meeting was called to order by Chairman Gorman at 7:03 who led the meeting in the Pledge of Allegiance.

In accordance with the Open Public Meetings Act, Tim Lizura announced that notice of this meeting has been sent to the Asbury Park Press and the Star Ledger at least 48 hours prior to the meeting, that a meeting notice has been duly posted on the Secretary of State's bulletin board at the State House, and the FMERA and the NJEDA websites.

The first item of business was the approval of the March 16, 2011 meeting minutes. A motion was made to approve the minutes by Gerry Tarantolo and seconded by Michael Mahon and unanimously approved by all voting members.

III.

WELCOME

Chairman Gorman thanked everyone for attending and announced that due to unforeseen family circumstances, Bruce Steadman, FMERA Executive Director and Frank Cosentino, Director of Plans and Programs could not attend the meeting. Odis Jones, Director of Real Estate and Assistant Secretary for FMERA will perform Bruce Steadman's role as Secretary and Tim Lizura, former Interim Executive Director of FMERA and Senior Vice President of Business Development for the NJEDA will carry out the Executive Director Role. Chairman Gorman expressed FMERA's excitement over the redevelopment of Fort Monmouth and described how it will impact the residents and businesses of Monmouth County for many years to come. Chairman Gorman went on to state that FMERA's primary focus is jobs. The goal is to not only survive base closure, but to thrive.

Robert DeSando, Department of Transportation arrived at 7:12 pm.

IV.

PUBLIC COMMENT REGARDING AGENDA ITEMS

Tom Mahedy of Wall Township inquired about the mandatory pre-bid conference for FMERA's Request for Proposal (RFP) for Professional Planning Consulting Services and asked if the Matrix Design Group was among the bidders. Mr. Mahedy also asked about the process for awarding the RFP to the successful bidder. Mr. Mahedy requested more detail surrounding FMERA's meetings and tours and more information regarding the Veterans Hospital. Chairman Gorman acknowledged that Mr. Mahedy's questions would be addressed later on in the meeting.

V.

TREASURER'S REPORT

Beverlee Akerblom, Senior Financial Officer of FMERA provided a financial update that included status on FMERA's request for a no cost extension on the existing grant. The extension of this grant through June 30, 2011 allows for continued funding of contracts previously approved under the grant until their completion. A new grant application was submitted for federal funds consistent with the budget approved by the Authority's Board for fiscal year 2011 and presented to the State Office of Management and Budget in support of the Authority's appropriation request for the fiscal year ending June 30, 2011. This Grant provides funding of the Authority's operating expenses, and proposed contractual commitments for the period of April 1, 2011 through March 31, 2012. Expenses continue to be strictly monitored.

VI.

SECRETARY'S REPORT

Acting Secretary, Odis Jones had nothing to report at this time.

VII.

EXECUTIVE DIRECTOR'S REPORT

Tim Lizura highlighted FMERA's work activities including their progress with the Matrix Design Group and their negotiations with the Army. FMERA continues to work towards a Memorandum of Agreement (MOA) and a Caretaker Agreement with the Army. Mr. Lizura stated that with the assistance of the Governor's Office and the Lt. Governor's Office, FMERA has had meetings with State Police and the Office of Homeland Security and Preparedness to seek guidance on how best to provide security to the Fort once the Army leaves in September. Meetings and Tours continue and in response to Mr. Mahedy's earlier question regarding a list of tour and meeting participants, Mr. Lizura explained that

some of the meetings/tours are preliminary and therefore, not appropriate to disclose at this time. Additionally, Mr. Lizura provided an overview of FMERA's recently posted RFP for Professional Planning Consulting Services and stated that Matrix Design Group has not met the requirements of the procurement process relating to attendance at a mandatory pre-bid meeting and as such will not be able to bid on the work. Mr. Lizura asked FMERA Program Officer, Rick Harrison to explain the RFP selection process. Mr. Harrison explained that the evaluation committee will consist of FMERA staff with counsel from State Agencies as necessary. The Board will approve the final selection. FMERA and NJEDA's Trenton offices continue to work on a marketing plan that will improve community outreach and will create key marketing tools (Logo, Letterhead, etc.). Mr. Lizura provided information on The Attorney General's Office's upcoming RFP for additional outside counsel with a specific expertise in municipal law and real estate development Law.

VIII.

COMMITTEE REPORTS

- a) AUDIT COMMITTEE (CHAIR – JAMES GORMAN): The Audit Committee held its first meeting on April 12, 2011 at the FMERA offices. The FMERPA audit for the period ending September 30, 2010 is underway and the FMERA audit for the period from October 1, 2010 through December 31, 2010 will start when the FMERPA audit is completed. The independent auditing firm will also provide auditing services for FMERA through 2011. The Audit Committee Charter was approved by the Committee and will be posted on the FMERA web-site. The Committee also established a calendar of meetings for 2011.
- b) REAL ESTATE COMMITTEE (CHAIR – MICHAEL PANE) The Real Estate Committee had its first meeting on April 8, 2011 at the FMERA office. Mr. Pane stated that the purpose of the Real Estate Committee is to review real estate transfers, monitor land use and to make proposals and review recommendations for a designated Redeveloper Agreement with the New Jersey Economic Development Authority. As per legislation, the NJEDA is the master redeveloper of Fort Monmouth. The Real Estate Committee will work closely with Michele Siekerka of the DEP to ensure environmental concerns are addressed as they pertain to real estate and the transferring of the property.
- c) ENVIRONMENTAL STAFF ADVISORY COMMITTEE (CHAIR-MICHELE SIEKERKA) The Environmental Staff Advisory Committee met on April 12, 2011 at the FMERA office. The Committee discussed landfills and the Committee's baseline document that describe the status of environmental issues. The current NJDEP case manager, Larry Quinn will be replaced by Matt Turner and a smooth transition is expected. As a follow up from last month's meeting, Ms. Siekerka described DEP's proposed Waiver Rule. The NJDEP is hearing public comment regarding the proposed Waiver Rule through June 2, 2011 and more information can be found on the web-site of The NJDEP. The proposed Waiver Rule applies to the entire State of New Jersey. It is not specific to Fort Monmouth.
- d) HOUSING STAFF ADVISORY COMMITTEE (CHAIR- CHARLES RICHMAN) The Housing Staff Advisory Committee met in March and it is committed to 20% affordable housing consistent with the Plan while recognizing that the exact impact of the 20% will be driven by economics and what is ruled by the courts. Recently, the New Jersey Supreme Court has agreed to hear a case arguing on the Growth Share Concept. The Housing Committee and the Real Estate Committee will work closely together to ensure that the proper amount of affordable housing is included in the

redevelopment of the Fort. Gerry Tarantolo wanted to ensure that the record reflects his concern over COAH and Growth Share, and the potential impacts to the municipalities if these policies and methodologies are reinstated. Charles Richman also noted that there was a meeting with the Department of Community Affairs and local finance officials to discuss the 2% cap and how it relates to Fort Monmouth and the municipalities.

- e) VETERANS STAFF ADVISORY COMMITTEE (CHAIR-LILLIAN BURRY) The Committee continues to focus on areas of concern to veterans and retirees. The VA has recently leased property off site in Tinton Falls to continue to be able to provide medical services to veterans. The Committee views this as a temporary lease/interim solution until FMERA is in a position to offer them a permanent lease on the property. The Committee is finalizing a business plan in support of a Veterans Center. The Veterans Transition Initiative is conducting a Transition Seminar for Veterans on May 21, 2011 in Colts Neck.

Chairman Gorman called for a motion to approve the activities highlighted in the Executive Director's Report and the Committee Reports. A motion was made to approve the Committee Reports by Gerry Tarantolo and was seconded by Lillian Burry and unanimously approved by all voting members.

IX.

Matrix Design Group Presentation The consultants from the Matrix Design Group gave a presentation on the BRAC Redevelopment Process, Environmental Status and Business Plan. See Attached Presentation.

X.

Public Comment

Bill Kenny of Monmouth Beach asked if there is any opportunity for landfills to become Green Acres and asked who will pay for insurance in connection with clean-up. Chairman Gorman noted that FMERA will buy insurance at the expense of the Army.

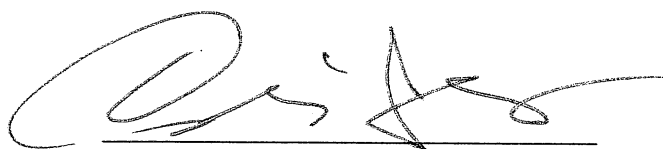
Linda Zucaro of Tinton Falls and member of the Monmouth A-Team asked for feedback from FMERA's meeting with the Women's Council of Realtors and the early transfer of property, specifically Howard Commons. Mr. Jones noted that the Howard Commons parcel has been identified as an early sale parcel and therefore, we intend to issue an RFP for the property in accordance with the reuse plan.

Phil Welch of Lincroft stated that the Matrix Presentation suggested that the commercial development will be slower than residential development. He asked if the NJEDA has expertise in residential development. Caren Franzini offered that FMERA's number one focus is jobs, and economic development activity that can be supported by EDA financing and incentive programs. NJEDA's sister agency, the NJ Department of Community Affairs, acts as EDA's subject matter expert on housing.

Tom Mahedy of Wall Township inquired about an Environmental Impact Study (EIS). Matrix responded by saying that the DOD (Department of Defense) determines whether an EIS is warranted. Mr. Mahedy asked about the status of Wampum Lake. The FMERA Staff will provide status on Wampum Lake at the next meeting. Mr. Mahedy questioned NJDEP's change in case manager. Michele Siekerka explained that the NJDEP is going through a major reorganization and there will be a smooth transition between case managers. Mr. Mahedy also inquired about potential contamination at the Golf Course. Julie Carver of Matrix believes that the NJDEP has issued a NFA (No Further Action) on the property. If Mr. Mahedy provides specific details of the property of concern, more information can be provided.

There being no further business on a motion by Gerry Tarantolo and seconded by Lillian Burry and unanimously approved by all voting members, the meeting was adjourned at 9:56 pm.

Certification: The foregoing and attachments represent a true and complete summary of the actions taken by the Fort Monmouth Economic Revitalization Authority at its Board Meeting.

A handwritten signature in black ink, appearing to read "Odis Jones", written over a horizontal line.

Odis Jones, Assistant Secretary



MEMORANDUM

**TO:** Members of the Board of Directors

**FROM:** Bruce Steadman  
Executive Director

**DATE:** May 18, 2011

**SUBJECT:** Monthly Status Report

Summary

The following are brief descriptions of the FMERA Staff's monthly activities which include an Update on the Status of the Federal Grant; Meetings with the Matrix Design Group; Meetings with Army Representatives; Update on Status of HUD Application; Update on Garden State Parkway Interchange 105; Update on Communications Effort; and Action Items for Next Month.

Treasurer's Report.

1. Federal Grant Status

This month the Authority plans on submitting Grant Amendment requests for additional funds, consistent with the Authority's approved budget for 2011. The Authority is preparing several requests for proposals at this time and securing the federal funding prior to award of the contracts is necessary.

2. Budget

Spending continues to be strictly monitored.

Executive Director's Report.

1. Meetings with Matrix Design Group.

FMERA Staff continue to hold weekly conference calls with the Matrix Design Group. The Conference Calls include status updates and discussions on environmental data and infrastructure analysis, the business plan and 20 year pro forma, which were presented at last month's Board Meeting.

FMERA Staff anticipate receiving 3 draft environmental reports from the Army by the end of the month. In addition, Matrix Staff continue to participate in the monthly meetings of the FMERA Environmental Staff Advisory Committee.



2. Meetings with Army Representatives.

FMERA Staff continue its discussions with representatives of the Office of the Deputy Assistant Secretary of the Army (Installation and Housing), related to the closure process and property disposition. Weekly conference calls are used to update the status of key issues, such as the business plan draft, draft MOA, the environmental work plan, utilities, caretaker agreement and others. These discussions continue to build a working relationship with the Army toward finding appropriate solutions to mutual issues we must address.

Army Representatives from Washington D.C. will be coming to New Jersey at the end of May to meet with FMERA Staff to further their discussions.

3. Update on Status of HUD Application.

FMERA continues to await HUD approval of the Reuse and Redevelopment Plan that was submitted in September of 2008. FMERA Staff have been working with the Governor's Washington D.C. Office on the issue and hope that approval of the Plan will occur shortly.

Without review and approval of the Reuse and Redevelopment Plan by HUD the transfer of the property from the Army to FMERA cannot occur. HUD's approval is a requirement under the applicable federal Base Closure and Realignment Law and regulations.

4. Update on Garden State Parkway 105 Interchange.

On April 28, 2011 the Christie Administration announced plans to invest an estimated \$40 million of New Jersey Turnpike Authority capital funds in Garden State Parkway Interchange 105 improvements.

The Turnpike Authority plans to reconfigure the Garden State Parkway in Tinton Falls, adding new ramps from the southbound Parkway to Wayside Avenue and signage in both directions at Exit 105 for Fort Monmouth visitors. The project also includes improving the intersection of Hope Road and Route 36, an area plagued by congestion and traffic delays.

The project will improve traffic flow in the vicinity and provide better access to the western portion of the Fort. Improvements to Garden State Parkway Interchange 105 will provide excellent access to the Fort property, adding value, helping to create redevelopment opportunities and spurring job creation.

5. Update on Communications Effort.

FMERA issued its first news release on May 5, 2011 in an effort to keep the public informed and engaged on the Redevelopment of Fort Monmouth. The Authority anticipates issuing news releases on a regular basis in furtherance of that effort. In addition, FMERA will be routinely putting together public service announcements for the web and television.

6. Action Items for Next Month.

- Continued work with Matrix to finalize the business plan and pro forma
- Continued work with Matrix to identify environmental issues of concern
- Continued work with Washington, D.C. and local Army/BRAC representatives regarding property transfer, caretaker agreement, environmental issues, costs and timing
- Continued meetings and tours with the interested prospective employers and investors
- Continued outreach to our stakeholders
- Continued collaboration with our Trenton office on marketing and business development opportunities
- FMERA anticipates issuing RFPs for a Caretaker of the Fort Property, Golf Course Operator, an Appraiser, and a Surveyor in the upcoming weeks.



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Bruce Steadman

Prepared by: Bruce Steadman & Katie Hedden



**MEMORANDUM**

**TO:** Members of the Board of Directors

**FROM:** Bruce Steadman  
Executive Director

**RE:** Selection of Professional Planning Consultant

**DATE:** May 18, 2011

Summary

I am requesting the Members to approve the selection of a Professional Planning Consultant pursuant to a Request for Proposals for various professional planning services, including preparation and finalization of development and design guidelines, land use regulations, and zoning maps, in accordance with the Fort Monmouth Reuse and Redevelopment Plan.

Background

Governor Christie signed P.L. 2010 c. 51 on August 17, 2010 to create the Fort Monmouth Economic Revitalization Authority (FMERA or the Authority). The economies, environment, and quality of life of the host municipalities, Monmouth County, and the State will benefit from the efficient, coordinated, and comprehensive redevelopment and revitalization of Fort Monmouth.

On September 4, 2008, the Fort Monmouth Economic Revitalization Planning Authority, FMERA's predecessor Authority, submitted a comprehensive conversion and revitalization plan for Fort Monmouth (the "Fort Monmouth Reuse and Redevelopment Plan" or "Plan"), and a homeless assistance submission to the United States Department of Defense and the United States Department of Housing and Urban Development (HUD), as required under the applicable federal Base Closure and Realignment law and regulations.

Upon acceptance by the United States Department of Housing and Urban Development, as required under applicable federal Base Closure and Realignment law and regulations, the Fort Monmouth Reuse and Redevelopment Plan will constitute the Plan for the redevelopment and revitalization of Fort Monmouth to be implemented by FMERA. The Authority is charged with the adoption of development and design guidelines and land use regulations in furtherance thereof.

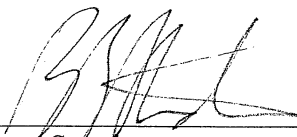
In order to move forward with the implementation of the Plan, FMERA has issued a publicly advertised Request for Proposal for Professional Planning Consultant Services. The Planning Consultant will prepare and finalize development and design guidelines and land use regulations, including zoning maps, in accordance with the Plan. At the Authority's discretion, the selected Planning Consultant may also provide additional planning services; review proposed

amendments to the Plan, development and design guidelines, and land use regulations; review proposed projects for compliance with such guidelines and regulations; and assist the Authority in determining its obligations under applicable affordable housing law. On Tuesday, May 3, 2011 FMERA received proposals from the following planning firms: "...a better design...", Beacon Planning and Consulting Services, LLC, Planning Progress LLC, Banisch Associates, Inc., Phillips Preiss Grygiel LLC, Metro/ Brown & Keener and Melvin Design Group. One of these bidders was ruled ineligible because Treasury did not approve their Chapter 51/Executive Order 117 certification and disclosure form.

The seven technical proposals were distributed to the Evaluation Committee. The Committee was made up of 4 New Jersey Economic Development Authority Employees, 3 of which work in the Eatontown Office and 1 who works in the Trenton Office. The cost proposals were distributed to FMERA's Senior Finance Officer and the RFP Coordinator for review and scoring. The Evaluation Committee met on Tuesday, May 10, 2011 to review both the technical and cost proposal scores. The evaluation was based upon a comparative ranking with an emphasis on relevant experience and management approach. The technical ranking ranged from a high of 291 to a low of 150 points, with the highest ranked Professional Planning Consultant being Phillips Preiss Grygiel LLC. The cost proposals for fixed price tasks A-C ranged from a low of \$26,580 and to a high of \$450,000. Phillips Preiss Grygiel LLC's cost proposal was the second lowest at \$54,900 for tasks A-C. The contract is a hybrid with tasks A-C being fixed price, maximum not to exceed, and tasks D-I being time and materials based. Phillips Preiss Grygiel LLC's hourly fees were among the lowest proposed. Because the highest ranked firm, based on all selection criteria including price, was Phillips Preiss Grygiel LLC, the Committee is recommending that the Board approve the selection of Phillips Preiss Grygiel LLC as Professional Planning Consultant.

#### Recommendation

In summary, I am requesting the Members' approval to enter into a contract with Phillips Preiss Grygiel LLC for services sought in the Request for Proposal for Professional Planning Consultant Services, which includes preparing and finalizing development and design guidelines and land use regulations, including zoning maps, in accordance with the Fort Monmouth Reuse and Redevelopment Plan. FMERA's contract with Phillips Preiss Grygiel LLC is subject to the availability and receipt of funding from the United States Department of Defense, Office of Economic Adjustment.



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Bruce Steadman

Prepared by: Katie Hedden & Rick Harrison



## MEMORANDUM

**TO:** Members of the Board of Directors

**FROM:** Bruce Steadman, Executive Director

**RE:** Real and Personal Property Leasing – Proposed New Rules

**DATE:** May 18, 2011

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**Request:**

The Members of the Board are requested to approve proposed new rules to govern the lease of real property and accompanying personal property by the Fort Monmouth Economic Revitalization Authority. The proposed new rules are intended to support the redevelopment and reuse of Fort Monmouth and provide transparency to the public and stakeholders alike in the leasing of real and personal property at the Fort.

**Background:**

Governor Christie signed P.L. 2010 c. 51 on August 17, 2010 to create the Fort Monmouth Economic Revitalization Authority (FMERA or the Authority). The economies, environment, and quality of life of the host municipalities, Monmouth County, and the State will benefit from the efficient, coordinated, and comprehensive redevelopment and revitalization of Fort Monmouth. Section 9 of the FMERA Act (P.L. 2010 c. 51) authorizes rulemaking by the Authority in furtherance of its responsibilities and mission.

The Authority is currently engaged on several fronts to advance the redevelopment and reuse of Fort Monmouth, which includes negotiating an Economic Development Conveyance Agreement with the Army, establishing caretaking responsibilities, and beginning to market the site to prospective users, in anticipation of the Army leaving the Fort Property on September 15, 2011. In furtherance of the redevelopment effort, the Authority is proposing the attached new rules for real and personal property leasing. The proposed new rules are intended to formalize FMERA's real estate disposition procedures for the leasing of property, ensure a transparent process and prioritize job creation and economic redevelopment. The proposed new rules have been reviewed by the Authority's Real Estate Committee and are being submitted to Board for final review and approval.

## Summary:

The proposed new rules are summarized as follows:

**N.J.A.C. 19:40-1.1 Applicability and Scope** – Addresses the statutory authority and summarizes the scope and purpose of the subchapter;

**N.J.A.C. 19:40-1.2 Definitions** – Defines certain terms used in the subchapter, incorporates terms used in the Fort Monmouth Economic Revitalization Authority Act, and provides additional terms included governing the lease of real and accompanying personal property at Fort Monmouth;

**N.J.A.C. 19:40-1.3 Advertising process** – Outlines procedures for the public notice and contact of potential lessees for the lease of real and accompanying personal property at Fort Monmouth;

**N.J.A.C. 19:40-1.4 Proposal request** – Establishes the required information and procedures for the notice of opportunity for a lease of a particular parcel or building;

**N.J.A.C. 19:40-1.5 Proposal submission** – Establishes the requirements for submittal of proposals, including payment of ten percent of first year's rent which shall be held as a deposit and applied to rental payments for the accepted proposal, and returned to all others;

**N.J.A.C. 19:40-1.6 Extension of time to submit proposal** – Authorizes the Director, at the request of a potential lessee, to extend the time to submit a proposal and establishes requirements for such requests, including the applicability to all potential lessees;

**N.J.A.C. 19:40-1.7 Prices** – Requires that proposals shall include all material price information required by the notice which shall remain effective for 90 days after the opening date, subject to any negotiations conducted in accordance with N.J.A.C. 19:40:1.13;

**N.J.A.C. 19:40-1.8 Withdrawal of proposal** – Establishes factors upon which a potential lessee may request the withdrawal of a proposal, including instances in which the potential lessee(s) or the Authority discover a material error in a proposal;

**N.J.A.C. 19:40-1.9 Correction of pricing error** – Identifies the circumstances under which the Authority shall correct a pricing error in a leased space proposal;

**N.J.A.C. 19:40-1.10 Verification of proposal** – Concerns means by which the Authority may seek to verify the accuracy and responsiveness of a proposal, including contacting the potential lessee's surety companies, financial institutions, prior lessees or visiting the potential lessee's place of business and property sites;

**N.J.A.C. 19:40-1.11 Rejection, of all proposals, re-advertisement and termination** – Establishes reservation of right of the Authority to reject all proposals and to either re-advertise or terminate an advertised opportunity to lease upon certain instances;

**N.J.A.C. 19:40-1.12 Evaluation** – Identifies that proposals shall be evaluated based on the provisions of the subchapter and determined to be responsive to all material elements as set

forth in the notice and as referenced in the section;

**N.J.A.C. 19:40-1.13 Negotiations** – Clarifies that the Authority may negotiate terms with potential lessee(s) and may exclude from negotiations any and/or all proposals based on initial submissions;

**N.J.A.C. 19:40-1.14 Recommendation, review and award** – Establishes the process for the recommendation, review and award of lease and lease agreements;

**N.J.A.C. 19:40-1.15 Challenges** – Provides that written notice shall be given to all potential lessees of the particular lease proposal to be approved by the Board; other potential lessees shall be entitled to review proposals submitted by other potential lessees as well as the Authorities comparative summary of proposals received; and, challenges may be submitted to the notice of intent to award a particular lease within date certain and according to the provisions of the section; and

**19:40-1.16 Documents considered public information** – Clarifies that all documents submitted by potential lessees, excluding certain documents exempted by statute, shall be considered public information.

**Recommendation:**

The Members of the Board are requested to approve the proposed new rules and authorize staff to submit the rules for publication in the New Jersey Register, subject to final review and approval by the office of the Attorney General and the Office of Administrative Law (OAL).



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Bruce Steadman

ATTACHMENT: Real and Personal Property Leasing – Proposed New Rules

Prepared by: Jacob Genovay, Odis Jones & Katie Hedden

**OTHER AGENCIES  
FORT MONMOUTH ECONOMIC REVITALIZATION AUTHORITY**

**Real and Personal Property Leasing**

**Proposed New Rules: N.J.A.C. 19:40-1**

Authorized By: Fort Monmouth Economic Revitalization Authority, Bruce Steadman, Director.

Authority: N.J.S.A. 52:27I-18 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2011-

Submit written comments by \_\_\_\_\_, 2011:

Bruce Steadman, Director  
Fort Monmouth Economic Revitalization Authority  
2-12 Corbett Way  
Suite C  
Eatontown, NJ 07724

The agency proposal follows:

**Summary**

The Fort Monmouth Economic Revitalization Authority (“FMERA” or “Authority”), pursuant to P.L. 2010, c.10 (N.J.S.A. 52:27I-18 et seq.), is responsible for the efficient redevelopment and reuse of Fort Monmouth. In furtherance of its mission, FMERA is proposing these rules to establish procedures for the lease of real property and accompanying personal property. The following summarizes the contents of each section of the proposal:

**N.J.A.C. 19:40-1.1 Applicability and Scope** – Addresses the statutory authority and summarizes the scope and purpose of the subchapter;

**N.J.A.C. 19:40-1.2 Definitions** – Defines certain terms used in the subchapter, incorporates terms used in the Fort Monmouth Economic Revitalization Authority Act, and provides additional terms included governing the lease of real and accompanying personal property at Fort Monmouth;



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**N.J.A.C. 19:40-1.3 Advertising process** – Outlines procedures for the public notice and contact of potential lessees for the lease of real and accompanying personal property at Fort Monmouth;

**N.J.A.C. 19:40-1.4 Proposal request** – Establishes the required information and procedures for the notice of opportunity for a lease of a particular parcel or building;

**N.J.A.C. 19:40-1.5 Proposal submission** – Establishes the requirements for submittal of proposals, including payment of ten percent of first year's rent which shall be held as a deposit and applied to rental payments for the accepted proposal, and returned to all others;

**N.J.A.C. 19:40-1.6 Extension of time to submit proposal** – Authorizes the Director, at the request of a potential lessee, to extend the time to submit a proposal and establishes requirements for such requests, including the applicability to all potential lessees;

**N.J.A.C. 19:40-1.7 Prices** – Requires that proposals shall include all material price information required by the notice which shall remain effective for 90 days after the opening date, subject to any negotiations conducted in accordance with N.J.A.C. 19:40:1.13;

**N.J.A.C. 19:40-1.8 Withdrawal of proposal** – Establishes factors upon which a potential lessee may request the withdrawal of a proposal, including instances in which the potential lessee(s) or the Authority discover a material error in a proposal;

**N.J.A.C. 19:40-1.9 Correction of pricing error** – Identifies the circumstances under which the Authority shall correct a pricing error in a leased space proposal;

**N.J.A.C. 19:40-1.10 Verification of proposal** – Concerns means by which the Authority may seek to verify the accuracy and responsiveness of a proposal, including contacting the potential lessee's surety companies, financial institutions, prior lessees or visiting the potential lessee's place of business and property sites;

**N.J.A.C. 19:40-1.11 Rejection, of all proposals, re-advertisement and termination** – Establishes reservation of right of the Authority to reject all proposals and to either re-advertise or terminate an advertised opportunity to lease upon certain instances;

**N.J.A.C. 19:40-1.12 Evaluation** – Identifies that proposals shall be evaluated based on the provisions of the subchapter and determined to be responsive to all material elements as set forth in the notice and as referenced in the section;

**N.J.A.C. 19:40-1.13 Negotiations** – Clarifies that the Authority may negotiate terms with potential lessee(s) and may exclude from negotiations any and/or all proposals based on initial submissions;

**N.J.A.C. 19:40-1.14 Recommendation, review and award** – Establishes the process for the recommendation, review and award of lease and lease agreements;

## DRAFT

**N.J.A.C. 19:40-1.15 Challenges** – Provides that written notice shall be given to all potential lessees of the particular lease proposal to be approved by the Board; other potential lessees shall be entitled to review proposals submitted by other potential lessees as well as the Authorities comparative summary of proposals received; and, challenges may be submitted to the notice of intent to award a particular lease within date certain and according to the provisions of the section; and

**19:40-1.16 Documents considered public information** – Clarifies that all documents submitted by potential lessees, excluding certain documents exempted by statute, shall be considered public information.

As the Authority has provided a 60-day comment period in this notice proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The proposed new rules are intended to encourage the use of existing structures at Fort Monmouth and, in so doing, preserve the existing local residential or commercial real estate markets and prioritize job creation and economic activity at Fort Monmouth.

### **Economic Impact**

The proposed new rules, which govern the lease of real and personal property at Fort Monmouth, are intended to have a positive fiscal impact for the host municipalities through the preservation and use of existing structures and property at Fort Monmouth. The proposed new rules will require that all proposals shall include payment of ten percent of first year's rent which shall be held as a deposit and applied to rental payments for the accepted proposal, and returned to all others. The Authority is not able to estimate the impact of the requirement, which will vary based on the size (square foot and/or acreage) of the actual lease opportunities.

### **Federal Standards Statement**

A Federal standards analysis is not required because the new rules are not subject to any Federal requirements or standards.

### **Jobs Impact**

The proposed new rules may result in stimulating the creation of new private sector jobs and/or maintaining private sector jobs at Fort Monmouth and in the surrounding host municipalities.

### **Agriculture Industry Impact**

The proposed new rules will have no impact on the agriculture industry of the State of New Jersey.

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## Regulatory Flexibility Analysis

The proposed new rules may directly impact businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. where a small business is interested in a lease opportunity of real and accompanying personal property at Fort Monmouth. The Authority however, does not believe that the proposed new rules, which establish procedures for the lease of property, impose any additional reporting, recordkeeping, or other compliance requirements on small business, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

## Smart Growth Impact

The proposed new rules, which govern the lease of real and accompanying personal property at Fort Monmouth, may achieve smart growth and implement the State Development and Redevelopment Plan where leasing opportunities support development of centers and/or sustainable development in the host municipalities comprising Fort Monmouth.

## Housing Affordability Impact

The proposed new rules may increase an indeterminate amount of housing units, including multi-family rental housing and for sale housing in the host municipalities, where lease opportunities involve residential or mixed-use projects at Fort Monmouth. The number of any housing units, as well as any increase or decrease in the average cost of housing affected by the new rules may not be estimated, because the actual lease opportunities are not known.

## Smart Growth Development Impact

The proposed new rules are intended to advance the lease of real and accompanying personal property which may include commercial and/or residential components in the host municipalities comprising Fort Monmouth. The number of housing units, as well as any increase or decrease in the average cost of housing affected by the proposed new rules, may not be estimated, because the actual uses are not known.

**Full text** of the proposed new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

## SUBCHAPTER 1. REAL AND PERSONAL PROPERTY LEASING

### 19:40-1.1 Applicability and scope

The Fort Monmouth Economic Revitalization Authority is promulgating these rules to govern the lease of real property and accompanying personal property as part of its mission in planning and implementing the redevelopment and reuse of Fort Monmouth and pursuant to authorization under P.L. 2010, c.51 (N.J.S.A. 52:27I-18).

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## 19:40-1.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Authority” means the Fort Monmouth Economic Revitalization Authority.

“Board” means the Board of the Fort Monmouth Economic Revitalization Authority.

“Director” means the Director of the Fort Monmouth Economic Revitalization Authority.

“FMERA” means the staff responsible for carrying out the policies, mission and purpose of the Fort Monmouth Economic Revitalization Authority.

“Plan” means the Fort Monmouth Reuse and Redevelopment Plan prepared and adopted by the Authority’s predecessor authority.

“Real Estate Committee” means the Real Estate Committee of the Fort Monmouth Economic Revitalization Authority.

## 19:40-1.3 Advertising process

(a) FMERA shall advertise a notice of each opportunity for the lease of real and accompanying personal property on its website, on the NJ State business portal and place an advertisement for same in the “Public/Legal Notice section of the Star Ledger, the Asbury Park Press and possibly other regional newspaper(s).

(b) In addition, FMERA may contact potential lessees directly to seek to increase the number of proposals received in response to an advertised opportunity to lease.

## 19:40-1.4 Proposal request

(a) The notice of opportunity to lease shall request proposals for a lease of a particular parcel or building which shall include the time, date and format in which the proposal is to be submitted. The notice shall also include a name and phone number or other contact information potential lessees can use to obtain additional information about the leasing opportunity.

(b) Material terms of the lessor-lessee relationship (such as lease duration; rent concessions for tenant improvement allowance or initial rent-free period, if any; rent escalation; responsibility for paying taxes, utilities and insurance; indemnification/limits on indemnification of the Authority; limits on direct liability; consequences upon default by lessee), shall be provided to potential lessees either through the advertisement for notice of opportunity to lease, a specimen form of lease agreement, or on the Authority’s website.

## 19:40-1.5 Proposal submission

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(a) All proposals shall be submitted on or before the specified time and date required by the public notice and contain all information requested by FMERA. Unless otherwise specified in the notice, a proposal shall not be submitted by telephone, facsimile, or other electronic means.

(b) All proposals shall include a certified, cashiers or bank check made payable to the Authority in the amount of ten percent of the first year's rent, which shall be held by the Authority as a deposit and applied to the rental payments for the accepted proposal, and returned to all others.

### 19:40-1.6 Extension of time to submit proposal

The Director may extend the time for opening at the request of a potential lessee who notifies FMERA that he or she intends to submit a proposal and gives valid reasons why he or she will not meet the formal opening date. The potential lessee making this request shall do so in writing and specify the length of additional time requested. The written request must be received by FMERA no later than one week prior to the deadline. If granted, extensions of time for opening of proposals shall be applicable to all potential lessees and shall be posted on the Authority's website. All proposals shall be held and remain sealed until the expiration of the time extension granted by the Director.

### 19:40-1.7 Prices

(a) A proposal shall include all material price information required by the notice. Prices shall be typewritten, photocopied, or written in ink or some other indelible substance.

(b) Unless the notice states otherwise, the prices submitted shall remain effective for 90 days after the opening date, subject to any negotiations conducted in accordance with N.J.A.C.

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### 19:40-1.8 Withdrawal of proposal

(a) Prior to the opening of the proposals, a potential lessee may, for any reason, request the withdrawal of his or her proposal. The request shall be made in writing to FMERA and shall be signed by a person authorized to submit the proposal (such as the owner or owner's designated representative, or an attorney or real estate broker with written permission to negotiate and act as attorney in fact for owner). Proof of authorization shall accompany the request.

(b) After the opening of the proposals, if either the potential lessee or FMERA discover a material error in a proposal, the potential lessee may request the withdrawal of the proposal. If the error is discovered by FMERA, the potential lessee will be notified in writing, and the potential lessee will have five business days from receipt of the notice to request withdrawal of the proposal. Any request to withdraw from the potential lessee shall be addressed to FMERA which will return the proposal if the potential lessee can demonstrate that he or she exercised reasonable care in preparing and submitting the proposal, and that it would be unconscionable

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for FMERA to enforce the proposed lease agreement. The decision to grant or deny any such request shall be at the sole discretion of the Director.

### 19:40-1.9 Correction of pricing error

(a) FMERA shall correct a pricing error in a leased space proposal under the following circumstances:

1. Unless the notice states otherwise, or the result would be unconscionable, where a leased space proposal contains a discrepancy between a unit price and a total price based on those units, the unit price shall govern. Where the proposal contains any other price discrepancy, FMERA shall determine the price if the leased space proposal contains clear evidence of the intended price.

### 19:40-1.10 Verification of proposal

FMERA may seek information outside of the proposal to verify the accuracy and responsiveness of the proposal, and whether the potential lessee is responsible. FMERA may request such information from the potential lessee, from public records, or from others familiar with the potential lessee or the space. Such information may clarify, but not modify, a lease proposal. Such investigation may include, but shall not be limited to, contacting the potential lessee's surety companies, financial institutions, prior lessees or visiting the potential lessee's place of business and property sites.

### 19:40-1.11 Rejection, of all proposals, re-advertisement and termination

FMERA reserves the right to reject all lease proposals and to either re-advertise or terminate an advertised opportunity to lease if FMERA determines that insufficient competition results from the initial advertisement, the price is unfavorable in the current market, or for any other reason in the best interests of the Authority or Fort Monmouth.

### 19:40-1.12 Evaluation

FMERA shall evaluate each lease proposal received in accordance with this subchapter and shall identify the proposal(s) determined to be responsive to all material elements set forth in the notice, including, but not limited to: rent rate per square foot, lease term, total tenant investment during lease term, estimate of jobs to be created or relocated to the parcel, the potential lessee's financial capacity to meet the proposed terms of the lease, use of leased space, impact to host municipality, and confirmation that the potential lessee's proposed use is consistent with the Plan.

### 19:40-1.13 Negotiations

FMERA may seek to obtain business terms that better suit the interests of the Authority and Fort Monmouth by negotiating with the one, two or three potential lessee(s) that submit the best

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lease proposal(s) in accordance with the above noted evaluation criteria. FMERA reserves the right to exclude from negotiations any and/or all proposals received based on the initial submissions.

### 19:40-1.14 Recommendation, review and award

(a) FMERA shall recommend to the Real Estate Committee the one potential lessee who will provide the lease agreement which is in the best interests of the Authority and Fort Monmouth considering price and other factors. FMERA may decide not to recommend any lease proposals to the Real Estate Committee.

(b) Upon recommendation of the Director and after review by the Real Estate Committee, the Board shall consider and give approval to award a lease.

(c) Upon approval by the Board of an award of lease, FMERA shall finalize the lease agreement which shall be executed by the Director.

### 19:40-1.15 Challenges

(a) FMERA shall give written notice to all potential lessees of the particular lease proposal approved by the Board prior to entering into a lease agreement. After notice of intent to award a particular proposed lease agreement has been given, potential lessees who submitted a proposal may review: (i) proposals submitted by other potential lessees and (ii) FMERA's comparative summary of proposals received. Challenges to the notice of intent to award a particular proposed lease agreement shall be submitted in writing to the Director within 10 business days from the date of the letter giving notice of intent to award and shall state with specificity all arguments, materials and/or other documents that may support the challenger's position that the proposed award should be overturned. The Director may extend the time for submitting a challenge on good grounds shown to the satisfaction of the Director in his/her sole discretion.

(b) If a challenge is timely received, the Director shall assign a hearing officer to review the challenge and make a final recommendation to the Board. The Director, in consultation with the hearing officer, has sole discretion to determine if an oral presentation by the challenger is necessary to reach an informed decision on the merits of the challenge. Challenges of the type described in this subchapter, for the purpose of this chapter, are not contested cases subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

### 19:40-1.16 Documents considered public information

After FMERA's issuance of notice to all potential lessees of intent to award the particular lease proposal approved by the Board, the documents submitted by potential lessees (excluding those items exempt from public access pursuant to N.J.S.A. 47:1A-1 et seq.) shall be considered public information, notwithstanding any disclaimers submitted by the potential lessees to the contrary.