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NEW JERSEY PINELANDS COMMISSION

PROFESSIONAL SERVICES CONTRACT AGREEMENT

THIS AGREEMENT, made the 21<sup>st</sup> day of June in the year One Thousand Nine Hundred and Ninety-Nine (1999)

BETWEEN

NEW JERSEY PINELANDS COMMISSION  
P.O. BOX 7  
NEW LISBON, NEW JERSEY 08064

hereinafter referred to as the "Commission."

AND

THE NATURE CONSERVANCY  
NEW JERSEY FIELD OFFICE  
ELIZABETH D. KAY ENVIRONMENTAL CENTER  
200 POTTERSVILLE ROAD  
CHESTER, NEW JERSEY 07930

hereinafter referred to as the "Conservancy."

WHEREAS, on June 19, 1995 the Cape May County Municipal Utilities Authority (CMCMUA) and the New Jersey Pinelands Commission entered into an agreement whereby the CMCMUA will be contributing \$2,250,000 to the Commission for the acquisition of conservation and recreation land in the Pinelands National Reserve (N.J.A.C. 7:50-6.75(i)7); and

WHEREAS, on April 1, 1996 regulations to implement this agreement went into effect; and

WHEREAS, the CMCMUA contribution will be paid in installments, to be received by the Commission on a quarterly basis each year for approximately seven years; and

WHEREAS, Section 502 of the National Parks and Recreation Act of 1978 (P.L. 95-625) and the Pinelands Protection Act (N.J.S.A. 13-18A-1 et seq.) authorize the Pinelands Commission to protect, preserve and enhance the Pinelands of New Jersey; and

WHEREAS, the CMCMUA contribution may be used to acquire conservation and recreation land in the Pinelands National Reserve, as represented on Plate 1 of the Comprehensive Management Plan, N.J.A.C. 7:50-5.3(a)1; and

WHEREAS, the Commission's executive director has discussed the best uses of the CMCMUA contribution with the Assistant Commissioner for Natural and Historic Resources, New Jersey Department of Environmental Protection; and

WHEREAS, the Commission's executive director also conducted a meeting with non-profit land conservation organizations to explore the best uses of the CMCMUA contribution, to which representatives of the New Jersey Audubon Society, Trust for Public Land, New Jersey Conservation Foundation and the Conservancy were invited; and

WHEREAS, the Commission's executive director has reported these discussions to the Commission; and

WHEREAS, the Commission has determined that \$400,000 shall be used as grants to assist local, non-profit conservation organizations, county governments or municipal governments acquire conservation or recreation land or interests therein within the Pinelands National Reserve and that the balance, \$1,850,000 plus any accumulated interest, may be used to assist one non-profit conservation organization acquire conservation or recreation land or interests therein which it will manage or which it will convey to qualified land managers or stewards, including but not limited to federal, state, county or municipal governments or non-profit land trusts; and

WHEREAS, at least \$180,000 of the total \$2,250,000 shall be spent for the purchase of land in Cape May County; and

WHEREAS, the Pinelands Protection Act, N.J.S.A. 18A-1 et seq., empowers the Pinelands Commission to enter into agreements or contracts; and

WHEREAS, the Conservancy is a private, non-profit land conservation organization incorporated in the District of Columbia, qualified to do business in New Jersey, and dedicated to protecting lands with conservation value; and

WHEREAS, since its founding in 1951, the Conservancy has protected more than 10 million acres across the United States; and

WHEREAS, the Conservancy's primary goal is to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive; and

WHEREAS, the Conservancy maintains permanent and temporary interest-bearing revolving funds used for land acquisition and management, which funds currently have a balance of approximately \$25,000,000; and

WHEREAS, the Conservancy will supplement the CMCMUA contribution with at least \$1,850,000 in cash or in the value of full or partial donations of land, this amount to be used in support of the acquisition program set forth in this agreement; and

WHEREAS, the Conservancy will underwrite the costs of all expenses incidental (including appraisals, surveys and title search) to its purchase of land pursuant to this agreement; and

WHEREAS, the Conservancy will underwrite the costs of all expenses incidental to its administration of the grant program established pursuant to this agreement; and

WHEREAS, the Commission has determined that the Conservancy is uniquely situated to provide the Commission with the services necessary to implement this agreement; and

WHEREAS, the New Jersey Department of the Treasury has approved a waiver of competitive advertising.

NOW, THEREFORE, it is agreed as follows:

I. PROJECT ADMINISTRATION

A. Responsibility for Project Administration

The Conservancy hereby accepts primary responsibility for the administration of the project funded by this Agreement in accordance with the terms and conditions of this Agreement, including any subagreements or subcontracts made by the Conservancy for accomplishing the objectives set forth in this Agreement.

B. Independent Principal

The Conservancy shall, at all times, act as an independent principal and not as an agent or employee of the Commission or the State.

C. Award of Contracts and Subcontracts

1. The Conservancy shall not subcontract with Commission funds provided through this Agreement.
2. The Conservancy shall award contracts and subcontracts otherwise associated with but not financed by this Agreement free from bribery, graft discrimination and other corrupt practices. The Conservancy shall bear the responsibility for the prevention, detection and cooperation in the prosecution of any such conduct. The Conservancy shall pursue available

judicial and administrative remedies, and take appropriate remedial action with respect to any allegations or evidence of such illegality or corrupt practices. The Conservancy shall notify the Commission immediately after such allegation or evidence comes to its attention, and shall periodically advise the Commission of the status and ultimate disposition of any such matter.

3. No official or employee of the Conservancy who is authorized in his or her official capacity to negotiate, make, accept or approve, or to take part in decisions regarding a contract or subcontract associated with this Agreement shall have any financial or other personal interest in any such contract or subcontract.

D. Anti-Collusion Clause

The Conservancy hereby warrants and represents that this Agreement has not been solicited or secured, directly or indirectly, in a manner contrary to the laws of the State of New Jersey, and that said laws have not been violated and shall not be violated as they relate to the procurement or the performance of this Agreement by any conduct, including the paying of consideration, contingent fees or gratuities of any kind, directly or indirectly, to any Commission employee, officer or official. For breach or violation of this warranty, the Commission shall have the right to terminate this Agreement and recover 1) all funds acquired by the Conservancy under this Agreement, except for costs and expenditures reasonably incurred by the Conservancy under this Agreement prior to termination, and 2) the full amount of such consideration, commission, percentage, brokerage fee, contingent fee or gratuity.

II. SCOPE OF WORK

- A. The Conservancy shall complete this project in accordance with this Agreement, including the following Schedules, which are hereby incorporated into and made a part of this Agreement:

Schedule A	Land Acquisition Program Guidelines
Schedule B	Acquisition Criteria
Schedule C	Pre-Approved Acquisition Sites
Schedule D	Grant Fund Administration Guidelines
Schedule E	Deed of Conservation Easement

- B. The Conservancy shall use all funds acquired under this Agreement to 1) purchase conservation or recreation land or land interests in the Pinelands National Reserve for its own management or for transfer to organizations identified in Section III E of this Agreement in accordance with the Land Acquisition Program payment provisions of Section III-C of this Agreement, the Land Acquisition Program Guidelines in Schedule A of this Agreement, the Acquisition Criteria outlined in Schedule B of this Agreement and the list of Pre-Approved Acquisition Sites set forth in Schedule C of this Agreement and 2) establish and oversee the Grant Board, process grant applications, and administer and disburse grants to eligible recipients in accordance with the decision and selection process of the Grant Board, in accordance with the Grant Fund Administration Guidelines, Schedule D of this Agreement.
- C. Should the Conservancy be interested in purchasing, a site utilizing funds provided under this agreement but not identified on the list of Pre-Approved Acquisition Sites (Schedule C), the Conservancy shall provide the executive director of the Commission with a brief written description and evaluation of the site and a brief written statement of the reasons that support its purchase. The Commission shall, within 90 days of the Conservancy's written submission, decide whether the Conservancy should pursue the purchase.
- D. In no instance shall the Conservancy acquire land or land interests utilizing funds provided under this agreement in excess of appraised fair market value unless such excess amount is funded exclusively with Conservancy funds.
- E. Before acquiring any land or interests therein within the Pre-Approved Acquisition Sites, Schedule C of this Agreement, the Conservancy shall consult with the Department of Environmental Protection to determine the Department's interest in acquiring or managing the property in question. If a mutual decision is reached for the Conservancy to purchase the property and thereafter convey it to the Department of Environmental Protection, the cost to the Department of Environmental Protection shall, in no case, exceed the direct costs of the Conservancy's acquisition plus applicable incidental costs of the purchase. Should the Conservancy wish to convey any remaining or other interest in the acquired property to another organization, it shall be conveyed to one or more of the following organizations, subject to the same cost limitations as would apply if the property were conveyed to the Department of Environmental Protection:
1. The U.S. Department of Interior, Fish and Wildlife Service;
  2. The New Jersey Natural Lands Trust;
  3. One of the seven Pinelands National Reserve counties;

4. Any of the 56 Pinelands National Reserve municipalities; or
  5. Any other qualified non-profit stewardship agency or organization approved in writing by the Commission.
- F. At the time of purchase, the Conservancy shall convey a conservation easement to the State, which shall be in substantially the same form as the Deed of Conservation Restriction of Schedule E of this Agreement, on any land not conveyed to the Department of Environmental Protection pursuant to Section IIE of this Agreement and all land acquired by other organizations pursuant to the grant program of this Agreement.
- G. Purchases of land or land interests under this Agreement shall be completed to the extent feasible within ten (10) years of the date of the execution of this Agreement. **Should** an extension of this time be necessary, a request for extension shall be made in writing by the Conservancy to the executive director of the Commission at least 90 days prior to the end of this period.

### III. PROJECT FUNDING

#### A. Provision of Funds

1. The Commission shall, subject to the availability of funds specifically available for and in accordance with the terms and conditions of this Agreement, provide the Conservancy with a sum of \$2,250,000, plus any accrued interest, for the actual and reasonable costs incurred by the Conservancy during the execution of this Agreement.
2. In no event may payments to the Conservancy pursuant to any section of this Agreement exceed the balance of the Reserve Account established pursuant to Section IIID. of this Agreement at the time the payment request is received.

#### B. Use of Commission Funds

1. Any funds received by the Conservancy from the Commission under this Agreement shall be deposited in an interest bearing account until expended, the principal and interest from which shall be used only for the purposes described in this Agreement. The Conservancy agrees that if it uses funds received from the Commission under this Agreement for any purpose other than those specified and approved in this Agreement, then the Commission may recover all such funds with interest calculated in accordance with R. 4:42-11 of the New Jersey Court Rules.

2. The Conservancy shall use at least \$180,000 of the Commission's funds for the purchase of land or interests therein within that portion of Cape May County which is located within the Pinelands National Reserve. Although this obligation may be satisfied in whole or in part through the use of all or a portion of the \$400,000 allocated herein for the Grant Program, the Conservancy warrants that it shall expend the full \$180,000 for the purchase of land or interests therein within Cape May County should the Grant Program not fulfill all or any portion of the obligation, whether or not that failure is due to a lack of approved grants in Cape May County, the non-performance of a grantee or any other reason.

C. Use of Proceeds

1. Any proceeds received by the Conservancy from a subsequent transfer of property it acquires pursuant to Section IIE of this Agreement shall be retained by the Conservancy, deposited in an interest bearing account and, with the interest, used only for the purposes described in this Agreement. The Conservancy agrees that if it uses these proceeds for any purpose other than those specified and approved in this Agreement, then the Commission may recover all such proceeds with interest calculated in accordance with R. 4:42-11 of the New Jersey Court Rules.
2. Within 30 days of its receipt of any proceeds, the Conservancy shall notify the Commission of the amount. These proceeds and accrued interest shall be used to offset payments from the Reserve Account in accordance with Section IIIE of this Agreement.

D. Reserve Account--Land Acquisition Program and Grant Fund

1. CMCMUA contributions shall be deposited by the Commission in an interest bearing Reserve Account, which funds shall be used in accordance with this Agreement. Deposits shall be made within 30 days of the Commission's receipt of a contribution.
2. All income from the Reserve Account shall be retained in the Account and thereafter used in accordance with this Agreement.

E. The Nature Conservancy Land Acquisition Costs

1. Funds provided to the Conservancy under this Agreement for its acquisition of land shall be used solely for the acquisition of land and

interests therein not to exceed fair market value as determined pursuant to Schedule A of this Agreement.

2. Any and all incidental costs of the acquisitions shall be borne by the Conservancy and may not be used to calculate the Conservancy's contribution pursuant to Section III F of this Agreement.
3. The Commission shall, upon written request to the executive director of the Commission, provide the Conservancy with funds to cover the cost of an acquisition prior to closing. Any such request of the Conservancy shall be made no later than thirty (30) calendar days prior to the proposed closing date and shall include a copy of an executed contract of sale to purchase the land, as well as a notice of the proposed closing date. Upon receipt of such request and provided that the terms of this Agreement are otherwise met, the executive director shall provide to the Conservancy the requested amount no later than fifteen (15) calendar days prior to the proposed closing date. Within 15 fifteen (15) calendar days after the closing, the Conservancy shall provide to the Commission evidence, in accordance with Section III E. 4. below, of its cost for the purchase of the land or interests therein.
4. In order for the Conservancy to be reimbursed for the costs of acquiring land or interests therein pursuant to this Agreement, the Conservancy shall submit to the executive director such documentation as the executive director finds to be reasonably necessary to substantiate the costs.

F. The Nature Conservancy Contribution to Land Acquisition Program

1. Amount of the Conservancy Contribution
  - a. The Conservancy shall, during the term of this Agreement, contribute at least \$1,850,000 toward the acquisition of land or interests therein as specified in Schedules B or C of this Agreement. This contribution may be satisfied through cash payments for land purchases or partial or full donations of land, provided that all contributions shall be for lands qualifying for purchase pursuant to this Agreement.
2. Evidence of Contribution
  - a. On or before March 31 of each year, the Conservancy shall submit to the executive director of the Commission evidence of the Conservancy's contribution to land acquisition costs during the



preceding calendar year. This amount shall be in addition to the Reserve Account payments to the Conservancy and shall equal no less than 50% of the amount recovered by the Conservancy from the Reserve Account for costs during the preceding calendar year.

- b. Evidence of the Conservancy's contribution shall consist of such documentation that the executive director of the Commission finds to be reasonably necessary to substantiate the contribution.

G. Grant Fund Costs

1. Funds provided to the Conservancy under this Agreement for grants to other organizations shall be used solely for those grants.
2. Any and all incidental costs associated with the Conservancy's administration of the grant program shall be borne by the Conservancy *and may not be used to calculate the Conservancy's contribution pursuant to Section III F of this Agreement.*
3. The Conservancy may request the Commission to provide funds to cover the cost of a grant funded acquisition prior to closing in accordance with Section III E. 3. of this Agreement.
4. In order for the Conservancy to be reimbursed for the costs of grants to other organizations, the Conservancy shall submit to the executive director such documentation as the executive director finds to be reasonably necessary to substantiate the costs

IV. RECORDS AND AUDIT

- A. The Conservancy shall, and shall require its contractors and subcontractors for this project to submit all records, materials, certifications, reports, and information in the manner requested by the Commission.
- B. The Conservancy shall maintain complete and adequate financial records relating to this project sufficient to allow the Conservancy to prepare, in accordance with generally accepted accounting principles, financial statements of all costs incurred by the Conservancy in the execution of an expenditure of funds under this Agreement. All financial records of the Conservancy relating to this project shall conform to generally accepted accounting principles. In addition, the Conservancy shall require that the financial records of its contractors and subcontractors relating to this project conform to generally accepted accounting principles.

- C. The Conservancy, its contractors and subcontractors shall provide the Commission, through any authorized representative, reasonable and practicable access to and the right to examine all records, books, papers or documents reasonably related to this project financed by this Agreement and to any work being performed under this Agreement, at any stage during the performance of this Agreement and for a period of at least three (3) years after the termination of this Agreement in order to allow the Commission to 1) conduct a closeout audit prior to the final payment, 2) determine the effectiveness of the financial management system and internal control procedures that have been established to meet the terms and conditions of this Agreement, and 3) verify that accounts and financial statements fairly present the results of the Conservancy's operations under this Agreement.
- D. The Conservancy shall conduct, and submit to the Commission within 90 days of the close of its fiscal year, annual audits of the expenditure of funds under this Agreement in conformance with the Single Audit Act, Federal OMB Circular A-133: "Audits of Non-profit Organizations," and State OMB Circular 87-11: "Single Audit Policy." Such audit reports shall also address the Conservancy's compliance with the material terms and conditions of this Agreement and applicable statutes, rules and regulations. The Commission reserves the right to adjust, if necessary, the disbursement of funds under this Agreement as a result of its review of the Conservancy's annual audit reports.
- E. The Conservancy shall submit to the Commission a map of each property acquired pursuant to this Agreement. The map must be a mylar overlay registered to a 1991 ortho-photo quarter quad with the parcel boundary mapped within 20 feet of its true ground location using a standard .01 technical pencil.

V. INDEMNIFICATION

- A. The Conservancy shall, for itself, its successors and assigns, defend, indemnify, protect, and save harmless the State and the Commission and hereby releases the State and the Commission, their agents, servants, and employees from and against any and all suits, claims, losses, demands or damages of whatever kind or nature arising out of or claimed to arise out of any act, error, or omission of the Conservancy, its agents, servants, employees, contractors and subcontractors in the performance of this Agreement and any work approved by the State or Commission pursuant to this Agreement. The Conservancy shall, at its own expense, appear, defend and pay all charges for attorneys and all costs and other expenses arising from such suit or claim incurred in connection therewith and shall not settle or adjust such suit or claim without the written approval of the State or Commission as appropriate. If any judgment shall be rendered against the State or Commission for which indemnification is provided under this

Paragraph, the Conservancy shall, at its own expense, satisfy and discharge the same.

- B. The State or Commission shall, as soon as practicable after a claim has been made against it arising out of the performance of this Agreement, give written notice thereof to the Conservancy along with full and complete particulars of the claim. If the suit is brought against the State or Commission or any of their agents, servants or employees, the State or Commission shall expeditiously forward or have forwarded to the Conservancy every demand, complaint, notice, summons, pleading, or other process received by the State, the Commission or their representatives.
- C. It is expressly agreed and understood that any approval by the Commission of work performed by the Conservancy under this Agreement shall not operate to limit the Conservancy's obligations assumed in this section or in the other provisions of this Agreement. It is further expressly agreed and understood that the indemnification provided by the Conservancy under this section does not extend to acts or omissions occurring with respect to a particular land or land interest purchased by the Conservancy with funds provided under this Agreement at any time after the transfer to the State and a qualified organization of the land or land interests in accordance with Section IIE of this Agreement.

## VI. TERMINATION

- A. The Conservancy may unilaterally rescind this Agreement at any time prior to the commencement of negotiations for the purchase of the first property. After commencement, the Conservancy may not terminate, modify or rescind this Agreement without the express written approval of the Commission. Any attempt by the Conservancy to terminate, modify or rescind this Agreement after commencement without the express written approval of the Commission shall constitute a material breach of this Agreement and shall subject the Conservancy to any and all appropriate penalties at law.
- B. In the event of default of this Agreement, the Commission shall have the right to terminate this Agreement forthwith after providing 30 days written notice and reasonable opportunity to cure to the Conservancy. Any one or more of the following events shall constitute an event of default by the Conservancy:
  - 1. If any representation or warranty made herein or any certifications, reports, plans, financial statements or other information furnished in connection with this Agreement proves to be materially false or misleading;

2. If the Conservancy fails to observe and/or perform any covenant, condition, or requirement of this Agreement, and such failure continues for a period of 30 days after receipt by the Conservancy of written notice by the Commission specifying the nature of the failure and requesting that it be remedied, or if by reason of the nature of such failure the same cannot be remedied within 30 days, the Conservancy fails to proceed with reasonable diligence after receipt of notice to cure same;
  3. If the Conservancy applies for or consents to the appointment of a receiver, trustee or liquidator of it or all or a substantial part of its assets, admits in writing its inability to pay its debts as they mature, makes a general assignment for the benefit of creditors, is adjudicated bankrupt or insolvent, or files a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors to take advantage of any insolvency law or any answer admitting the material allegations of a petition filed against it in any bankruptcy, reorganization or insolvency proceedings, or corporate or other action shall have been taken by it for the purpose of effecting any of the foregoing; or an order, judgment or decree is entered, without the approval or consent of the Conservancy, by any court of competent jurisdiction, approving a petition seeking reorganization of, or appointing a receiver, trustee or a liquidator of the Conservancy or of all or substantially all of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of sixty (60) consecutive days; or
  4. Non-compliance by the Conservancy with the terms and conditions of this Agreement.
- C. If termination for default by the Conservancy is effected by the Commission, the Commission may recover any funds that have been provided to but not expended by the Conservancy under this Agreement, but 1) no amount shall be allowed for unperformed services or other work, and 2) in addition to the recovery of funds hereby appropriated, the Conservancy shall compensate the Commission for any additional costs, including attorneys fees, incurred by the Commission because of the default of the Conservancy and/or its contractor. The equitable adjustment for any termination shall provide payment to the Conservancy for work performed and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the Conservancy relating to commitments which had become firm prior to the termination.
- D. Upon receipt of notice of a termination action under this section, the Conservancy shall 1) promptly discontinue all affected activity (unless the notice provides otherwise), and 2) after expiration of the 30 day written notice and opportunity to

cure afforded under Section VI-B of this Agreement, deliver or otherwise make available to the Commission all data, drawings, specifications, reports, estimates, and such other information and materials as may have been accumulated by the Conservancy in performing this Agreement, whether completed or in progress.

- E. Upon termination of this Agreement under this section, the Commission at its sole option may take over the work and/or may award to another party a contract to complete the project outlined in this Agreement.

## VII. REMEDIES

- A. In addition to any other rights or remedies available to the Commission or the State pursuant to law or equity, in the event of default by the Conservancy the Commission or the State may take one or more of the following actions:
  - 1. Issue a notice of default;
  - 2. Withhold funds under this Agreement;
  - 3. Order suspension of this project;
  - 4. Terminate or annul the Agreement in accordance with the notice and cure provisions of Section VI of this Agreement; and
  - 5. Demand immediate repayment in accordance with Section VI-C of this Agreement of all funds advanced by the Commission but not expended by the Conservancy under this Agreement.
- B. No remedy herein conferred or reserved by the Commission or the State is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement now or hereafter existing at law or in equity or by statute. No delay or omission by the Commission or the State in exercising any right or power accruing upon any default of this Agreement by the Conservancy shall either impair any such right or power or be construed as a waiver thereof, but rather, any such right and power may be exercised from time to time and as often as the Commission or the State may deem expedient. In order to entitle the Commission or the State to exercise any remedy reserved to it in this section, the Commission or the State shall send a notice describing the default to the Conservancy.
- C. In the event that the Conservancy defaults under any of the provisions of this Agreement and the Commission or the State requires and employs attorneys or the

services of the Attorney General's Office, or incurs other expenses for the collection of payments due or the enforcement or performance or observance of any obligation or agreement by the Conservancy arising under this Agreement and the Commission or the State prevails in such collection or enforcement actions, the Conservancy shall on demand pay to the Commission or the State the reasonable amount of attorneys fees and other expenses incurred by the Commission or the State.

- D. This Agreement shall not be construed to require the Commission or the State to do any act whatsoever or exercise any diligence whatsoever to mitigate damages to the Conservancy if any event of default occurs under this Agreement.

## VIII. MISCELLANEOUS

### A. Law Governing Contract

This Agreement shall be governed and construed, and the rights and obligations of the parties hereto shall be determined, in accordance with the laws of the State of New Jersey, including, but not limited to the Tort Claims Act, N.J.S.A. 59:1-1 et seq. and the Contractual Liability Act, N.J.S.A. 59:13-1 et seq.

### B. Choice of Forum

Unless otherwise provided in this Agreement, all claims, counterclaims, disputes and other matters in question between the Commission and the Conservancy arising out of, or relating to, this Agreement or the breach of this Agreement shall be decided in a court of competent jurisdiction within the State of New Jersey.

### C. Assignment of Contract

This Agreement may not be assigned by the Conservancy, whether in whole or in part.

### D. Amendment

The Conservancy and the Commission agree that this Agreement may be amended, supplemented, changed, modified or altered only upon mutual written agreement between the parties.

E. Succession; Binding Agreement

Except as otherwise set forth herein, all of the terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Conservancy and the Commission.

F. Merger

This Agreement, including all exhibits attached hereto, constitutes the entire Agreement between the Conservancy and the Commission, and all prior understandings, agreements, and representations have been and are hereby merged herein.

G. Waiver

The waiver by either party of any breach of this Agreement shall not be construed as or deemed to be a waiver of any subsequent breach of the same or any other covenants, conditions, or terms of this Agreement.

H. Severability

If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance or event is determined to be invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement, or the application of such term or provision to other persons or circumstances, shall not be affected and each term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

I. Good Faith Cooperation

The parties hereby specifically agree to cooperate in good faith in the execution of all duties and obligations under this Agreement and in the resolution of all disputes under this Agreement.

IX. NOTIFICATION OF PARTIES

The Conservancy and the Commission agree that all submissions, approvals and notices which may be required under this Agreement shall be forwarded by certified mail, return receipt requested, and addressed as follows:

TO COMMISSION: Executive Director  
New Jersey Pinelands Commission  
P.O. Box 7  
New Lisbon, New Jersey 08064

TO THE CONSERVANCY: New Jersey Field Office  
Elizabeth D. Kay Environmental Center  
200 Pottersville Road  
Chester, New Jersey 07930

X. RESOLUTION OF APPROVAL

The Board of Directors of the Conservancy shall adopt a resolution authorizing the execution of this Agreement by the Conservancy. Such resolution shall be appended to this Agreement and made a part of this Agreement.

Date: 6/21/99

Michael Cotanic  
The Nature Conservancy

Date: 5/14/99

Daniel R. Kelleher  
Daniel Kelleher, Chairman  
New Jersey Pinelands Commission

REVIEWED AND APPROVED  
AS TO FORM:

Peter Verniero  
Attorney General of New Jersey

By: Richard P. Clugni  
Deputy Attorney General



## SCHEDULE A

### LAND ACQUISITION PROGRAM GUIDELINES

#### I. Land Acquisition Protocol

- A. In order to ensure that funds provided for land acquisition under this Agreement are used for the permanent protection of land, the Conservancy shall complete the following steps as part of each purchase of land which it undertakes:
1. The Conservancy shall determine if the purchase is consistent with the Acquisition Criteria (Schedule B of this Agreement);
  2. The Conservancy shall conduct appraisals as required by the Appraisal Guidelines (see Section II of this Schedule A);
  3. If the proposed purchase site is on the List of Pre-Approved Acquisition Sites (Schedule C of this Agreement), the Conservancy shall consult with the Department of Environmental Protection to determine, in accordance with Section IIE of this Agreement, how best to proceed with the acquisition.
  4. If the proposed purchase site is not on the List of Pre-Approved Acquisition Sites (Schedule C of this Agreement), the Conservancy shall obtain written approval from the Commission in accordance with Section IIC of this Agreement prior to commencing acquisition negotiations; and
  5. If the Conservancy is to retain the property or transfer its interest to an approved organization pursuant to Section IIE of this Agreement, a conservation easement shall be conveyed to the State in accordance with Section IIF and Schedule E of this Agreement.

#### II. Appraisal Guidelines

- A. The Conservancy shall undertake appraisals on land or land interests in accordance with the following:
1. In undertaking fair market value (FMV) appraisals of lands or land interests, the Conservancy shall contract with an appraiser who is included on the list of certified appraisers utilized by the Green Acres Program of the Department of Environmental Protection.

2. The Conservancy shall commission one FMV appraisal on all lands or land interests valued at Four Hundred Ninety Nine Thousand, Nine Hundred Ninety Nine Dollars and Ninety Nine Cents (\$499,999.99) or less. The Conservancy shall commission two (2) independent FMV appraisals for all lands or land interests valued at Five Hundred Thousand Dollars (\$500,000.00) or more.
3. In instances where two (2) FMV appraisals are required and the final values differ by no more than ten percent (10%) of the value of the lesser appraisal, the Conservancy shall select the midpoint between the two (2) as the appropriate statement of the property's FMV. Should the difference between the two (2) values exceed ten percent (10%) of the value of the lesser appraisal, the Conservancy shall submit the two (2) appraisals to an independent, third party, DEP certified appraiser, who shall determine fair market value for the purposes of this Agreement.
4. The Conservancy shall forward copies of all appraisals to the Commission upon request.
5. All appraisals shall include a base map or documentation of land utilization factors, including fresh and tidal wetlands, riparian claims, steep slopes, municipal zoning and land use regulations, ownership, and legal/physical access.
6. Where applicable, appraisals shall distinguish the residual value of State riparian lands or tidal claims. The value of said lands and/or claims shall be deducted from the consideration paid to landowners, in order to ensure that State-awarded funds are not used for the acquisition of land or land interests owned or held in trust by the State of New Jersey.

### III. Coordination with the Commission

Prior to commencing acquisition negotiations for any Pinelands Commission designated site on the List of Pre-Approved Acquisition Sites, Schedule C of this Agreement, the Conservancy shall contact the Commission for preliminary information concerning the site.

## SCHEDULE B

### ACQUISITION CRITERIA

In its purchase of land or interests in land under this Agreement, the Conservancy agrees to be guided by the following Acquisition Criteria. Criteria #1 is mandatory and the Conservancy agrees to give priority to meeting Acquisition Criteria #2. The Acquisition Criteria are as follows:

1. Except as provided in Section IIIB of this Agreement, the Conservancy shall spend at least \$180,000 of the Reserve Account for land or land interest purchases in Cape May County.
2. As a general policy, the Conservancy shall seek to purchase sites which are critical for the survival of threatened or endangered plants and animals or which contain rare natural communities.
3. The Conservancy shall give priority to purchasing land or interests in land on the list of Pre-Approved Acquisition Sites, Schedule C of this Agreement, over purchasing property not pre-approved for acquisition.
4. The Conservancy shall maximize the cost effectiveness of land and land interest purchases under this Agreement. The Conservancy shall give preference to donations and acquisitions that involve payment of less than fair market value over fair market value purchases. In no instance shall the Conservancy acquire land or land interests in excess of appraised fair market value unless such excess amount is funded exclusively with Conservancy funds.
5. The Conservancy shall give priority to purchasing land or land interests adjacent to open space owned by a governmental agency or a non-profit conservation organization.
6. The Conservancy shall give consideration to purchasing land or land interests that will reduce or eliminate development potential in Pinelands Preservation or Forest Areas.

## SCHEDULE C

### PRE-APPROVED ACQUISITION SITES

The following sites, as depicted on the attached map titled "CMCMUA Acquisition Fund Program: Potential Acquisition Areas" and dated September, 1997, have been pre-approved for acquisition under this Agreement and do not require site-specific approval from the Commission pursuant to Section II-C of this Agreement prior to the Conservancy's commencement of acquisition negotiations:

#### A. Pinelands Commission Designated Sites

1. Southern Forest Region, comprising approximately 18,000 acres.
2. Wading River Ecosystem, comprising approximately 19,000 acres.

#### B. Other Sites

1. Manapagua Lowlands B2
2. Blacks Branch B3
3. Pole Bridge Branch B2
4. Berkeley Triangle - Manchester North B5
5. Berkeley Triangle - Manchester East B5
6. Berkeley Triangle - Crossley RR Corridor Macrosite B4
7. Berkeley Triangle - Retreat B5
8. Forked River Mountain Macrosite
9. Forked River Pond B3
10. Middle Branch Forked River B2
11. Manahawkin Lake Macrosite B2
12. Chatsworth Goose Pond B3
13. Spring Hill Plain B2

14. Bear Swamp Hill B2
15. West Plains B1
16. Oswego River Lowlands Macrosite B1
17. West Branch Wading River B1
18. Batsto Macrosite B1
19. Wading River Tidal Marsh B3
20. Dans Island B3
21. Ballanger Creek B3
22. Coastal Plain Ponds Complex - concentration of B1, 2 and B3 sites
23. Hospitality Branch B3
24. Winslow Pond B2
25. Reega B2
26. Weymouth Ave Pond B3
27. St. James Pond B3
28. Five Acre Pond B3
29. Woodbine Bog B2
30. Woodbine Pond B2
31. Great Cedar Swamp Macrosite B3
32. Eldora Nature Preserve B3
33. Delaware Bayshores Macrosite B2
34. Cape May Corridor Macrosite B3
35. Magnolia Lake Site B3

36. Bucks Avenue Site B2
37. Manumuskin River Macrosite B2

## SCHEDULE D

### GRANT FUND ADMINISTRATION GUIDELINES

#### I. Scope of Grant Fund Administration

##### A. The Nature Conservancy

The Conservancy's responsibilities regarding the administration of the Grant Fund shall consist of:

1. The establishment and oversight of the Grant Board in accordance with Section II of these Guidelines; and
2. The processing, administration and disbursement of grants to eligible recipients in accordance with the decision and selection process of the Grant Board.

##### B. Commission

The Commission's responsibilities regarding the administration of the Grant Fund shall consist of the disbursement of \$400,000 from the Reserve Account.

#### II. Grant Board

A. The Conservancy shall establish a Grant Board to review and approve grants from the Reserve Account.

B. The Grant Board shall consist of three (3) members as follows:

1. The chairman of the Pinelands Commission or his/her designee;
2. The assistant commissioner for Natural and Historic Resources, Department of Environmental Protection, or his/her designee;
3. The Vice President and State Director, New Jersey Field Office of The Nature Conservancy or his/her designee.

C. On or before December 31 of each year, the Commission shall advise the Conservancy of the amount of money in the Reserve Account. On or before January 31 of each year, the Conservancy shall advise the Grant Board of the

proportion of that amount which will be made available for grants. The Grant Board shall determine how much, if any, of that money shall be made available for grants, decide on an appropriate grant cycle, and establish reasonable minimum or maximum grant amounts.

- D. The Grant Board shall adopt procedures for the evaluation of grant applications. At a minimum, such procedures shall provide for the consideration of the eligibility criteria in Section III of these Guidelines. The Grant Board may establish additional eligibility criteria not inconsistent with this Agreement.
- E. In determining which grants shall be authorized, the Grant Board shall seek to assure that each grant is compatible with and promotes implementation of the Pinelands Comprehensive Management Plan.
- F. An affirmative vote of at least two members of the Grant Board shall be required for the Grant Board to take official action.

### III. Grant Eligibility Guidelines

- A. Grants may be awarded only for the purchase of conservation or recreation land or interests therein within the Pinelands National Reserve. At the time of purchase, the grant recipient shall convey a conservation easement, in substantially the same form as Schedule E of this Agreement, to the State in the name of the Department of Environmental Protection. It shall be enforceable by the Pinelands Commission.
- B. Grants may not be used for costs incidental to cost of purchasing the property.
- C. Grants for less than 100% of the purchase costs are encouraged; however, these grants can not be used by the grant recipient to match other state funds.
- D. Grants may be awarded to:
  - 1. Non-profit organizations that have provided to the Conservancy proof of federal tax exempt status under Section 501(c)3 of the Internal Revenue Code and copies of the organization's Articles of Incorporation, Constitution or By-Laws verifying that the organization's purpose is to purchase and manage conservation land; and
  - 2. Any county or municipal government located in whole or in part in the Pinelands National Reserve.



- E. Grants may be made to the same organization more than once if that organization has demonstrated to the reasonable satisfaction of the Conservancy that previous grants received from the Land Acquisition Escrow Account were adequately administered.

IV. Fiscal Management

- A. Grants totaling \$400,000 shall be made within eight (8) years of the date of this Agreement. Should a request for extension of this time be warranted, a request for extension shall be made in writing by the Conservancy at least 90 days prior to the end of this period. If eligible grant applications for the total amount are not received within the period, the Conservancy may utilize any remaining amount to support its land acquisition program, as authorized in this Agreement.
- B. The Conservancy shall be responsible for the efficient and orderly use of funds provided to grant recipients in accordance with the requirements of this Agreement.

V. Oversight of Grant Board Activities

All actions of the Grant Board in the administration of the Grant Fund, including the administration of grants authorized by the Grant Board, shall be subject to the Conservancy's oversight.

SCHEDULE E

DEED OF CONSERVATION RESTRICTION

THE NATURE CONSERVANCY,  
a nonprofit organization of  
the State of New Jersey,

Grantor

TO

THE STATE OF NEW JERSEY,  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Grantee

Dated:

## DEED OF CONSERVATION RESTRICTION

This Deed of Conservation Restriction is made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, between The Nature Conservancy ("Grantor"), a charitable conservancy as defined in N.J.S.A. 13:8B-2, whose post office address is 200 Pottersville Road, Chester, New Jersey, 07930, and the State of New Jersey, Department of Environmental Protection ("DEP"), having its principal office located at 401 East State Street, Trenton, New Jersey, 08625 ("Grantee").

**TAX MAP REFERENCE.** Grantor owns in fee simple certain lands in the Township of \_\_\_\_\_, County of \_\_\_\_\_, which lands are known as Block \_\_\_\_\_, Lot \_\_\_\_\_ on the Tax Map of \_\_\_\_\_ Township, \_\_\_\_\_ County; and which lands are more fully described on Schedule A attached hereto and incorporated by this reference ("Property").

**PURPOSE.** It is the purpose of this Deed of Conservation Restriction to ensure: 1) that the Property will be retained forever in a natural, scenic, and open condition; 2) that the Property will be used only for recreation and conservation purposes, as defined, in the Open Space Preservation Bond Act of 1989, L. 1989, c. 183, in the Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992, L. 1992, c. 88, in the Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995, L. 1995, c. 204 (collectively, "Bond Act"), and in any regulations promulgated pursuant to the authority of the Bond Act ("Regulations"), now codified in N.J.A.C. 7:36-1.1 et seq.; 3) that the Property will be open and accessible for public use and enjoyment for such purposes or for the purposes described below after the caption "Use of Property;" and 4) the prohibition of any use of the Property that will significantly impair or interfere with the recreation and conservation values of the Property or otherwise be inconsistent with the Pinelands Comprehensive Management Plan ("Plan"), codified in N.J.A.C. 7:50-1.1 et seq.

**TRANSFER OF OWNERSHIP.** Grantor, for an in consideration of \_\_\_\_\_, and pursuant to its agreement with the New Jersey Pinelands Commission, hereby transfers, assigns, and grants to Grantee, its successors, and its assigns, a conservation restriction on the Property for the purpose of restricting its use to recreation and conservation purposes, as those purposes are defined and described above.

**PROMISES BY GRANTOR.** Grantor, for itself, its successors, and its assigns, agrees to maintain, protect, and use the Property only for recreation and conservation purposes. Grantor, its successors, and its assigns shall not sell, lease, exchange, or donate the Property except to the State, federal government, a local government unit, or other qualified, tax exempt, nonprofit organization. No such conveyance shall be effective without the prior written approval of the Pinelands Commission or its designated representative ("Commission"). The Property shall remain subject to this Deed of Conservation Restriction after any approved conveyance.

Grantor covenants that it shall not permit any of the following activities on the property:

- 1) Removal or destruction of any tree, shrub, or other vegetation now existing on the Property except as permitted by the Plan and if: a) necessary or convenient for use of the Property for the recreation and conservation purposes, or b) the preservation of plant and animal species and natural communities as described in this Deed of Conservation Restriction.
- 2) Excavation, dredging, removal, or placement of topsoil, sand, gravel, loam, rock or other mineral substance from or on the Property, except as permitted by the Plan and if necessary or convenient for use of the Property for the restoration or support of recreation or conservation purposes described in this Deed of Conservation Restriction.
- 3) Construction of any building, structure, or road on the property, except as permitted by the Plan and if necessary or convenient for use of the Property for the recreation or conservation purposes described in this Deed of Conservation Restriction.
- 4) Dumping or placing of landfill material, trash, waste or unsightly or offensive materials on the Property, except clean landfill may be placed as permitted by the Plan and if necessary or convenient for use of the Property for the recreation and conservation purposes described in this Deed of Conservation Restriction.
- 5) Notwithstanding the foregoing, the Grantor may:
  - a) engage in such soil and water conservation practices or management activities as may be necessary to preserve, enhance, create or restore habitat for plant or animal species and/or natural communities, provided that such practices and activities protect the conservation values associated with the Property, and provided further that these practices and activities are undertaken in compliance with all relevant federal, state and local laws and regulations, including the Plan. These practices and activities may include, but need not be limited to: the removal of vegetation which poses a health or safety hazard; the removal of invasive or successional plant species; the undertaking of ecological burning designed to preserve, enhance, create or restore habitat for specific plant or animal species and/or natural communities; and the preservation, creation, enhancement and management of the hydrological regime needed to sustain specific plant or animal species and/or natural communities;
  - b) construct, maintain, improve, replace or repair roadways, bridges, paths and trails, fences, stiles, interpretive and directional signs and kiosks, and related and associated structures necessary for the public's recreation and conservation use, access, and convenience, in accordance with the Plan;

- c) reconstruct, maintain, replace or repair any existing building or other structure on the property which will be used for recreation and conservation purposes, including stewardship or management of the property, in accordance with the Plan;
- d) impose terms, conditions, and restrictions upon the use of the Property which are in addition to, or more restrictive than, this Deed of Conservation Restriction, provided that the Property will be open and accessible for public use and enjoyment and that any use of the Property will not significantly impair or interfere with the recreation and conservation values of the Property.

Grantor covenants that Grantor has done no act to encumber the Property other than convey this Deed of Conservation Restriction to the State of New Jersey.

RIGHTS OF GRANTEE AND THE NEW JERSEY PINELANDS COMMISSION. To accomplish the purpose of this Deed of Conservation Restriction the Grantor transfers, assigns, and grants the following rights to Grantee and the Commission:

- 1) to enter upon the Property at reasonable times in order to monitor Grantor's maintenance of the Property and compliance with the terms of this Deed of Conservation Restriction, provided that Grantee and Pinelands Commission shall not unreasonably interfere with Grantor's use and enjoyment of the Property;
- 2) to prevent any activity on, or use of, the Property that is inconsistent with the purpose of this Deed of Conservation Restriction and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

Grantor and Grantee agree that this Deed of Conservation Restriction imposes no restrictions on use of the Property by Grantor except as specifically set forth herein. Nothing contained herein shall be construed to interfere with the right of Grantor, its successors, or assigns, to utilize the Property subject to the terms and conditions of this Deed of Conservation Restriction.

REMEDIES. In the event of any violation of this Deed of Conservation Restriction, Grantee or the Pinelands Commission may institute suit or take any other action it deems necessary to enjoin such violation, and to require restoration of the Property to its prior condition and additionally to seek damages and costs incurred in bringing the action and curing the violation. Notwithstanding the RIGHTS OF GRANTEE AND THE NEW JERSEY PINELANDS COMMISSION referenced in the paragraph above, Grantee or the Pinelands Commission may enter upon the Property without notice to investigate any alleged violation of this Deed of Conservation Restriction. Grantor further agrees to pay whatever reasonable costs Grantee or the Pinelands Commission incurs in the successful enforcement of Grantor's

obligations pursuant to this Deed of Conservation Restriction, the Bond Act, and the Regulations.

USE OF PROPERTY. Grantor understands and intends that this Deed of Conservation Restriction will benefit the public by virtue of preserving the Property in its natural state. Grantor intends to maintain and use the Property for the preservation of plant and animal species and natural communities. Permitted activities may include hiking, bird watching, nature study and wildlife photography. In addition, use of this Property may involve appropriate research and educational programs focusing on the plant and animal species and natural communities found at this Property.

PUBLIC ACCESS. Public access shall be limited to non-vehicular use, with no fees, charges, memberships, provided, however, that the Grantor may utilize motorized vehicles in the management and maintenance of the Property. Grantor covenants to permit the public the greatest public access consistent with the use of the Property for the preservation and management of plant and animal species and natural communities. Access may be limited due to the delicate and sensitive nature of the plant and animal species and natural communities found on the Property.

RECORDATION AND CORRECTIVE INSTRUMENTS. Grantor agrees to record this instrument in the official records of the County of \_\_\_\_\_, State of New Jersey, as soon as possible after acquiring title to the Property. Grantee may re-record this instrument at any time it may deem necessary or convenient to preserve its rights pursuant to this Deed of Conservation Restriction. Grantor agrees to execute any corrective or additional instrument which Grantee and the Pinelands Commission determine may be necessary to secure its rights under this Deed of Conservation Restriction or fully to effectuate the purposes intended to be achieved by this Deed of Conservation Restriction.

EXECUTION SIGNATURES. This Deed of Conservation Restriction is signed and attested to by Grantor's proper and authorized officers, directors, or representatives as of the date written at the top of the first page.

GRANTOR:  
The Nature Conservancy

Attest:

By: \_\_\_\_\_  
Jeffrey S. Larson  
Assistant Secretary  
The Nature Conservancy

By: \_\_\_\_\_  
Michael Catania  
Vice President and State Director  
The Nature Conservancy

Dated: \_\_\_\_\_

ACKNOWLEDGMENT

STATE OF NEW JERSEY )  
COUNTY OF ) SS:

BE IT REMEMBERED, that on the \_\_\_\_ day of September, 1998, before me personally appeared Jeffrey S. Larson, who being duly sworn on his or her oath, deposes and makes proof to my satisfaction that he or she is the Secretary, or equivalent, of Grantor; that the execution and the making of this Deed of Conservation Restriction has been duly authorized by proper resolution of said Grantor; that the deponent knows the corporate seal of said Grantor, and the seal affixed to this instrument is such corporate seal; and that this Deed of Conservation Restriction was signed and delivered by Michael Catania, Vice President, as and for the voluntary act and deed of said Grantor, in the presence of the deponent.

\_\_\_\_\_  
(signature)

Sworn and subscribed to

before me this \_\_\_\_ day  
of \_\_\_\_\_, 1998.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(print name and title)



JUN 23 1999

CERTIFIED RESOLUTION  
PROTECTION OF PINELAND NATIONAL RESERVE  
NEW JERSEY

Pertinent excerpts from a Resolution approved by the Board of Governors of The Nature Conservancy, a nonprofit corporation existing under and by virtue of the laws of the District of Columbia, at their meeting held on September 24, 1998 and amended on February 5, 1999.

The President is hereby authorized on behalf of The Nature Conservancy, or any subsidiary corporation of The Nature Conservancy currently established or to be established in the future, to:

1. Acquire and transfer any real estate in any transaction provided that the purchase price does not exceed Two Million Dollars....
8. This authority can only be delegated by the President to other staff of The Nature Conservancy as follows:
  - a. The President may delegate to the Executive Vice President all of the above authority subject to the condition that the authority hereby delegated under paragraphs 1 and 6 shall be limited to \$1,000,000;
  - b. Any authority delegated to the Executive Vice President may be further delegated by the Executive Vice President to the Vice President, US Conservation, ... subject to the condition that authority delegated under paragraphs 1 and 6 of the above project authority shall be limited to \$500,000;
  - c. Any authority delegated to the Vice President, US Conservation... may be further delegated ....
9. Any authority hereunder and delegated hereunder, unless otherwise stated, shall also include the authority to delegate to an person the ministerial duties of implementing any action taken pursuant to this resolution, including the execution, delivery, or acceptance of legal documents.

I HEREBY CERTIFY that due notice of said meeting was given to each member of said Board, that a quorum was present at said meeting, that said Resolution was authorized by the vote of at least 2/3 of the entire Board, and that said Resolution has not been amended or repealed.



AND I FURTHER CERTIFY that John Sawhill, President and Chief Executive Officer of The Nature Conservancy, delegated Real Estate Authority in accordance with paragraph 8. a., above to W. William Weeks, Executive Vice President of The Nature Conservancy, on September 30, 1998.

AND I FURTHER CERTIFY that W. William Weeks, Executive Vice President of The Nature Conservancy, delegated Real Estate Authority in accordance with paragraph 8. b., above to L. Gregory Low, Vice President, US Conservation, on September 30, 1998.

AND I FURTHER CERTIFY that L. Gregory Low, Vice President, US Conservation, delegated Real Estate Authority in accordance with paragraph 8. c., above to Susan Cary Nicholas, Vice President, East Division, on October 5, 1998.

AND I FURTHER CERTIFY that Susan Cary Nicholas, Vice President, East Division, delegated authority for the project outlined below to Michael Catania, Vice President and New Jersey State Director, on November 9, 1998.

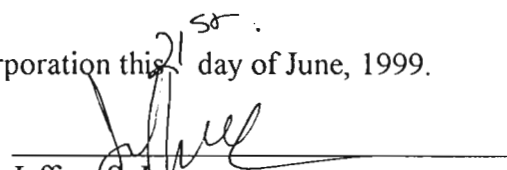
“To execute a Professional Services Contract Agreement with the New Jersey Pinelands Commission, which will provide the New Jersey Chapter of The Nature Conservancy with a \$1.85 million matching grant to purchase land at 37 pre-approved sites in the New Jersey Pinelands and the right to administer another \$400,000 in land acquisition grants to other non-profits and/or local governments.”

AND I FURTHER CERTIFY that Michael Catania, Vice President and New Jersey State Director, executed the Professional Services Contract Agreement on June 21, 1999.

AND I FURTHER CERTIFY that The Nature Conservancy, a nonprofit corporation incorporated under the laws of the District of Columbia, is currently a corporation in good standing under the laws of the District of Columbia, having filed, on record, all necessary required documents and reports as of this date.

AND I FURTHER CERTIFY that the above resolution and all delegations listed hereunder remain in full force and effect.

WITNESS my signature and seal of said corporation this <sup>21<sup>st</sup></sup> day of June, 1999.

  
\_\_\_\_\_  
Jeffrey S. Larson  
Assistant Secretary



NOV 12 1998

DELEGATION OF AUTHORITY  
New Jersey Pinelands Commission  
Professional Services Contract Agreement

I, Susan Cary Nicholas, Division Vice President, East Division of The Nature Conservancy, by the power vested in me as Division Vice President, do hereby delegate and authorize Michael Catania, Vice President and Executive Officer of The New Jersey Chapter of The Nature Conservancy, the authority to execute a Professional Services Contract Agreement with the New Jersey Pinelands Commission, which will provide the New Jersey Chapter of The Nature Conservancy with a \$1.85 million matching grant to purchase land at 37 pre-approved sites in the New Jersey Pinelands and the right to administer another \$400,000 in land acquisition grants to other non-profits and/or local governments.

This delegation and authorization shall remain in effect until revoked in writing; however, any subsequent revocation shall not affect the validity of acts taken or authorized by this delegation and authorization during its term.

Witness my hand this 9 day of November, 1998.

Susan Cary Nicholas  
Division Vice President  
East Division  
The Nature Conservancy



New Jersey Field Office  
Elizabeth D. Kay Environmental Center  
200 Pottersville Road  
Chester, New Jersey 07930-2432

(908) 879-7262  
Fax: (908) 879-2172  
e-mail: [www.tnc.org](http://www.tnc.org)

Resolution No. 99-5

RESOLUTION  
by the  
BOARD OF TRUSTEES  
New Jersey Chapter  
The Nature Conservancy

WHEREAS, Resolution No. 93-4 established a Conservation Committee of the Board of Trustees of the New Jersey Chapter of The Nature Conservancy, and charged this Committee with making recommendations to the full Board and providing advice in the areas of science, stewardship, protection and ecosystem conservation; and

WHEREAS, The Conservation Committee, at its meeting of June 9, 1999, discussed and reviewed the New Jersey Chapter's proposal to execute an agreement with the Pinelands Commission to acquire and manage land within the Pinelands National Reserve, utilizing funds provided by the Commission's agreement with the Cape May County Municipal Utilities Authority (CMCMUA), whereby the CMCMUA will be contributing the sum of \$2,250,000.00 for the acquisition of conservation and recreation land in the Pinelands National Reserve; and

WHEREAS, The Committee has determined that this agreement is consistent with the Conservancy's new plan for the North Atlantic Coast Ecoregion, as well as the Chapter's priorities for land acquisition in the Pinelands National Reserve, and that it represents a unique opportunity to work cooperatively with the Pinelands Commission and other conservation organizations to insure the protection of critical habitat in this pinelands area of New Jersey;


NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the New Jersey Chapter of The Nature Conservancy that:

1. The Board of Trustees, based upon the recommendation of the Conservation Committee, hereby endorses the agreement between The Nature Conservancy and the Pinelands Commission, and authorizes Michael Catania, the Vice President and State Director of the New Jersey Chapter of The Nature Conservancy, to execute this agreement as the authorized representative of the New Jersey Chapter of The Nature Conservancy.



2. A duly authenticated copy of this Resolution, signed by the Chairman of the Board and the State Director, shall be appended to the agreement with the Pinelands Commission.

Adopted: June 22, 1999

  
Elizabeth Merck, Chair

  
Michael Catania, State Director