

# Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5

Pursuant to 24 CFR 58.35(a)

**Responsible Entity:** New Jersey Department of Community Affairs, Richard Constable III, Commissioner

**Applicant Name:** Big Top Arcade, Inc. (Business/Corporate Name)

**Project Location:** 1020 Boardwalk (Street Address) Seaside Heights (Municipality) Ocean (County) NJ (State) 08751 (Zip) 60 (Block) 1 (Lot)

## FINDING:

- This categorically excluded activity/project converts to **EXEMPT** per Section 58.34(a)(12), because it does not require any mitigation for compliance with any listed statutes or authorities, nor requires any formal permit or license; **Funds may be committed and drawn down after certification of this part** for this (now) EXEMPT project; OR
- This categorically excluded activity/project cannot convert to Exempt status because one or more statutes or authorities listed at Section 58.5 requires formal consultation or mitigation. Complete consultation/mitigation protocol requirements, **publish NOI/RROF and obtain "Authority to Use Grant Funds"** (HUD 7015.16) per Section 58.70 and 58.71 before committing or drawing down any funds; OR
- This project is not categorically excluded OR, if originally categorically excluded, is now subject to a full Environmental Assessment according to Part 58 Subpart E due to extraordinary circumstances (Section 58.35(c)).

## CERTIFICATIONS:

Kristen J. Maines,  
Deputy Program Manager  
Gannett Fleming, Inc

July 24, 2014

Preparer Name and Agency

Preparer Signature

Preparer Completion Date

RE Certifying Officer Name

RE Certifying Officer Signature

RE CO Signature Date

**Funding Information:**

Grant Number	HUD Program	Funding Amount
B-13-DS-34-0001	Stronger NJ Small Business Loan (reimbursement)	\$1,286,300.00

**Estimated Total HUD Funded Amount:**

\$1,286,300.00

**Estimated Total Project Cost [24 CFR 58.32(d)]: (HUD and non-HUD funds)**

\$1,792,877.44

**Statement of Purpose and Need for the Proposal [40 CFR 1508.9(b)]:**

This application is for reimbursement funding involving the completed renovation of a commercial structure located at 1020 Boardwalk in Seaside Heights, NJ. The purpose of the project was to improve the existing 6,400 square foot boardwalk-level complex into a first class family entertainment center. Total cost of project was estimated at \$1,792,877.44, with requested EDA loan funding of \$1,286,300.00.

**Description of the Proposed Project [24 CFR 50.12 & 58.32, 40 CFR 1508.25]:** ( Include all contemplated actions that are logically either geographically or functionally a composite part of the project, regardless of the source of funding. As appropriate, attach maps, site plans, renderings, photographs, budgets, and other descriptive information.)

The project involved the clean out and gutting of a two story 80-foot by 80-foot concrete commercial building on the boardwalk at 1020 Boardwalk, Seaside Heights, Ocean County, NJ. No change occurred to the existing structure footprint and no additional elevation of the existing building was completed.

Building components (internal and external) were removed down to the poured concrete and block superstructure. An extensive mold remediation was completed throughout the entire building. New construction included: electrical system including new transformer, complete plumbing system, HVAC, and six 10x20 steel commercial security rollup doors with electric motors and man doors. All concrete cracks and fissures were repaired, new tile and carpet flooring was installed, the building interior and exterior was painted, and new interior and exterior signage and props were installed. A new 6,400-square foot roof system was also installed.

The site is served by public drinking water supply (Seaside Heights Water Department) and public sewer (Ocean County Utilities Authority). Trash pick-up is through the town. Electric service is provided by the Seaside Heights Electric Department and the building is heated by natural gas.

**STATUTORY CHECKLIST** [24 CFR 50.4, 24 CFR 58.5]

**DIRECTIONS – For each authority, check either Box “A” or “B” under “Status.”**

**“A box”** The project is in compliance, either because: (1) the nature of the project does not implicate the authority under consideration, or (2) supporting information documents that project compliance has been achieved. In either case, information must be provided as to WHY the authority is not implicated, or HOW compliance is met; OR

**“B box”** The project requires an additional compliance step or action, including, but not limited to, consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measure, or obtaining of license or permit.

**IMPORTANT:** Compliance documentation consists of verifiable source documents and/or relevant base data. Appropriate documentation must be provided for each law or authority. Documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and studies that are not otherwise generally available for public review shall be included in the ERR. Refer to HUD guidance for more information.

Statute, Authority, Executive Order, Regulation, or Policy cited at 24 CFR §50.4 & 58.5	STATUS		Compliance Documentation
	A	B	
<p><b>1. Air Quality</b> [Clean Air Act, as amended, particularly sections 176(c) &amp; (d), and 40 CFR 6, 51, 93]</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>According to the U.S. Environmental Protection Agency (EPA) Nonattainment Areas Map, Ocean County has been designated a nonattainment or maintenance area for three NAAQS pollutants (SBL38623_AirQualityMap_SBL_TO1022):</p> <ul style="list-style-type: none"> <li>• a moderate attainment area for 8-hour ozone (1997 Standard)</li> <li>• a marginal attainment area for 8-hour ozone (2008 Standard)</li> <li>• a non-classified maintenance area for carbon monoxide</li> </ul> <p>There will be temporary, unavoidable increases in particulate matter levels during proposed construction activities. While air quality will be temporarily affected, the project will adhere to state air quality standards (NJAC 7:27-1 et seq.). Air quality effects will be mitigated to the extent feasible.</p> <p>NJDEP has determined that activities under the CDBG-DR program are below the de minimus thresholds of the Federal General Conformity regulations and are presumed to conform to the State Implementation Plan. The project will meet applicable emission standards and regulations contained in the State Air Pollution Control Code, and will not have an adverse effect on the air quality (SBL38623_RevisedGeneralConformityApplicabilityAnalysis_SBL_TO1022).</p>
<p><b>2. Airport Hazards</b> (Clear Zones and Accident Potential Zones) [24 CFR 51D]</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The project site is not located within any Clear Zones or Accident Potential Zones (SBL38623_AirportClearZonesandAccidentPotentialZonesMap_SBL_TO1022) nor is it located within 15,000 feet of a military airport or 2,500 feet of a civilian airport (SBL38623_AirportHazardsMap_SBL_TO1022), so no airport hazard effects are expected.</p>
<p><b>3. Coastal Zone Management</b> [Coastal Zone Management Act sections 307(c) &amp; (d)]</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>The New Jersey Coastal Area Facility Review Act (CAFRA) of 1973 established the CAFRA zone and boundaries within New Jersey, implementing the requirements of the federal Coastal Zone Management Act (CZMA) of 1972 (16 U.S.C. § 1451 et seq). Certain</p>

		<p>activities undertaken within the CAFRA zone are regulated by the NJDEP.</p> <p>The project site is located within the CAFRA Zone (SBL38623_CoastalZoneManagementActMapCAFRA_SBL_TO1022). However, the NJDEP Division of Land Use Regulation has determined that the action is not regulated under the Coastal Permit Program and no additional consultation or approval is required (SBL38623_DEP_DLUR_CoastalJurisdictionalDetermination_SBL_TO1022).</p> <p>The project is not located within the regulated boundaries of the Upland Waterfront Development Zone or the Hackensack Meadowlands (SBL38623_CoastalZoneManagementActMapCAFRA_SBL_TO1022).</p>
<p><b>4. Contamination and Toxic Substances</b> [24 CFR 50.3(i) &amp; 58.5(i)(2)]</p>	<p><input checked="" type="checkbox"/></p>	<p><input type="checkbox"/></p> <p>The project site is not included in a State or Federal Hazardous Waste sites database and no recognized environmental conditions were identified through site reconnaissance.</p> <p>The project site may be within the 3,000-foot radius of a Hazardous Waste cleanup site, Landfill, solid waste cleanup site or Hazardous Waste facility that handles hazardous materials or toxic substances, however, all sites that were determined by NJDEP to be “non-threatening” to the potential HUD project are not depicted on the NJ HUD Environmental Review Tool 2.1 map. Only sites determined to be “threatening” by the NJDEP are depicted on the map (SBL38623_ToxicHazardousandRadioactiveSubstanceMap_SBL_TO1022). There are no “threatening” sites identified within 3,000 feet of the project site.</p> <p>The applicant has attested that no asbestos containing materials (ACM) were removed during the renovation of the project (SBL38623_Asbestos_ApplicantInfo_SBL_TO1022).</p> <p>HUD’s Lead Safe Housing Rule at 24 CFR Part 35 does not apply to commercial buildings.</p> <p>The property is located in Seaside Heights Borough, Ocean County which is designated as a municipality having a Tier 3 (low) radon potential (SBL38623_RadonPotential_SBL_TO1022). No radon impacts would occur and no testing or mitigation is required.</p>
<p><b>5. Endangered Species</b> [Endangered Species Act of 1973, particularly section 7; 50 CFR 402]</p>	<p><input checked="" type="checkbox"/></p>	<p><input type="checkbox"/></p> <p>Consultation with the US Fish and Wildlife Service (USFWS) was completed through a review of the iPaC landscape explorer tool to obtain a preliminary USFWS species list for the project area (SBL38623_USFWS_EndangeredSpeciesReview_SBL_TO1022). The report identified two federally threatened species potentially in the vicinity of the project: piping plover and seabeach amaranth.</p> <p>Review of the NJDEP HUD Environmental Review Tool 2.1 (SBL38623_EndangeredSpeciesMap_SBL_TO1022) did not indicate the presence of piping plover habitat or any other federal or state listed endangered species.</p> <p>Consultation with the NJDEP Natural Heritage Program (NHP) requested a search of the Natural Heritage Database, the Landscape Project habitat mapping, and Biotics Database. The NHP response indicated no records of rare plant and animal species and ecological communities on the site (SBL38623_NaturalHeritage_Response_SBL_TO1022).</p> <p>Seabeach amaranth occurs on barrier island beaches just above the</p>

			<p>high tide line, growing on nearly pure sand substrate. As the project area is a developed, urbanized area with no habitat capable of supporting seabeach amaranth, no impacts to amaranth are expected.</p> <p>The project will have No Effect on any federal or state-listed species. Based on coordination with federal and state agencies and assessment of effects, compliance with the ESA is complete and no additional consultation is required.</p>
<p><b>6. Environmental Justice</b> [Executive Order 12898]</p>	<p><input checked="" type="checkbox"/></p>	<p><input type="checkbox"/></p>	<p>Executive Order (EO) 12898 requires Federal agencies to consider and addresses disproportionately high and adverse human health or environmental effects on minority and low-income populations resulting from their actions. Minority population percentages in the vicinity of the project range from 0-20%, while low-income population percentages range from 10-20%. (SBL38623_EnvironmentalJusticeMap_PercentMinority_SBL_TO1022 SBL38623_EnvironmentalJusticeMap_PercentPoverty_SBL_TO1022)</p> <p>The project involves reimbursement of business owner costs for renovation of an existing facility. The project would not generate adverse resource or health effects or adversely impact residential, commercial, or community facilities or services which may be of importance to environmental justice populations.</p> <p>Thus, the project would not generate disproportionately high and adverse environmental impacts on environmental justice populations (SBL38623_EnvironmentalJustice_Checklist_SBL_TO1022).</p>
<p><b>7. Explosive and Flammable Operations</b> [24 CFR 51C]</p>	<p><input checked="" type="checkbox"/></p>	<p><input type="checkbox"/></p>	<p>The proposed action is in compliance with 24 CFR Part 51 Subpart C. As a result of this proposed action, the number of dwelling units on the proposed action site would not increase.</p>
<p><b>8. Farmland Protection</b> [Farmland Protection Policy Act of 1981, particularly sections 1504(b) &amp; 1541; 7 CFR 658]</p>	<p><input checked="" type="checkbox"/></p>	<p><input type="checkbox"/></p>	<p>The project area is urbanized with no associated agricultural lands. According to the NJDEP HUD Environmental Review Tool, the project area is not located on land classified as containing Prime Farmland Soils (SBL38623_FarmlandProtectionMap_SBL_TO1022). The soils on the property are not designated as agricultural land or prime agricultural soils and the project is located in the Census-designated New York-Newark, NY-NJ-CT urbanized area. Therefore, the requirements of the federal Farmland Protection Policy Act (FPPA) are not applicable to the project.</p>
<p><b>9. Floodplain Management</b> [24 CFR 55; Executive Order 11988, particularly section 2(a)]</p>	<p><input type="checkbox"/></p>	<p><input checked="" type="checkbox"/></p>	<p>Pursuant to 24 CFR 55 and EO 11988, the proposed project was evaluated to determine potential effects within a flood hazard area. The project is located in the 100-year floodplain (Zone V) on the FEMA Preliminary Flood Insurance Rate Map (FIRM). (SBL38623_FloodplainMgmtandFloodInsuranceNFIPNotInFloodwayMap_SBL_TO1022).</p> <p>An 8-step floodplain analysis that complies with 24 CFR 55 and EO 11988 was completed (SBL38623_FloodplainAnalysis_SBL_TO1022). The analysis determined the proposed action is the most practicable alternative for meeting the needs of the project while minimizing impacts to the floodplain. As the vast majority of Seaside Heights and the boardwalk commercial area is within the 100-year floodplain, no comparable alternative locations are available and the proposed action is the most practicable alternative for addressing needed business and community economic revitalization.</p>

			The existing structure is characterized as elevated based on the existing flood insurance policy documentation (SBL38623_FloodInsurancePolicy_SBL_TO1022). Existing insurance is based on pre-Sandy floodplain elevation (SBL38623_PreSandyFloodplainMap_SBL_TO1022) associated with the "AE" zone which had a base flood elevation of 9 feet. The insurance certificate notes an elevation difference of -2 between the BFE and the height of the structure (i.e., structure is at 11 feet, two feet above BFE). No additional elevation of the existing structure was completed.
<b>10. Historic Preservation</b> [National Historic Preservation Act of 1966, particularly sections 106 & 110; 36 CFR 800]	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The project area is not located within a Historic Property Exemption Zone ("Green Zone") (SBL38623_HistoricPreservationExemptionZoneMap_SBL_TO1022). Consultation with the New Jersey State Historic Preservation Office concluded that a "No Historic Properties Affected" finding was applicable for the project (SBL38623_SHPO_Response_SBL_TO1013). Section 106 compliance for the project is complete and no further consultation is required.
<b>11. Noise Abatement and Control</b> [Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR 51B]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	HUD's noise policy at 24 CFR Part 51 is not applicable to assistance that has the effect of restoring facilities substantially as they existed prior to the subject disaster. Therefore, no adverse noise impacts are associated with the project.
<b>12. Sole Source Aquifers</b> [Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR 149]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The project site lies within the NJ Coastal Plain Aquifer System (SBL38623_SoleSourceAquiferMap_SBL_TO1022). The existing project is located in an urbanized coastal community and serviced with public drinking water (Seaside Heights Water Department) and public sewer (Ocean County Utilities Authority). The project will not change existing impervious coverage of the site. Therefore, there will be no net effect to aquifer recharge as a result of project completion. Furthermore, the project has no potential to impact ground water during or after construction and will therefore has not potential to create a significant hazard to public health. The project is therefore exempt from Sole Source Aquifer review by the U.S. Environmental Protection Agency.
<b>13. Wetlands Protection</b> [24 CFR 55, Executive Order 11990, particularly sections 2 & 5]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No jurisdictional wetlands (federal or state) are located within or adjacent to the project area. (SBL38623_WetlandsProtectionMap_SBL_TO1022).
<b>14. Wild and Scenic Rivers</b> [Wild and Scenic Rivers Act of 1968, particularly section 7(b) & (c); 36 CFR 297]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The project is not located within 1/4 mile of a designated Wild and Scenic River (WSR) stream bank and will have no adverse effect on protected WSRs. The closest designated WSR is approximately 46 miles from the project site. Additionally, the project site is not located within a one-mile radius of a WSR or its tributaries (SBL38623_WildandScenicRiversMap_SBL_TO1022). Therefore, consultation and review by the National Park Service is not required.

**24 CFR 58.6 CHECKLIST [24 CFR 50.4, 24 CFR 58.6]****1. AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES NOTIFICATION [24 CFR Part 51.303(a)(3), D]**

Does the project involve the sale or acquisition of property located within a Civil Airport Runway Clear Zone or a Military Airfield Clear Zone?

**No.** Cite or attach Source Documentation:

See SBL38623\_AirportClearZonesandAccidentPotentialZonesMap\_SBL\_TO1022 and SBL38623\_AirportHazardsMap\_SBL\_TO1022.

[Project complies with 24 CFR 51.303(a)(3).]

**Yes.** Notice must be provided to the buyer. The notice must advise the buyer that the property is in a Runway Clear Zone or Clear Zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information, and a copy of the signed notice must be maintained in the ERR.

**2. COASTAL BARRIERS RESOURCES ACT [Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 USC 3501)] Is the project located in a coastal barrier resource area?**

**No.** Cite or attach Source Documentation: The project is not located within a regulated System unit or an Otherwise Protected Area boundary of the Coastal Barrier Resources Act. Further consultation with the USFWS is not required. [Proceed with project.]

See SBL38623\_CoastalBarrierResourcesActMap\_SBL\_TO1022.

**Yes.** Federal assistance may not be used in such an area.

**3. FLOOD DISASTER PROTECTION ACT [Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 (42 USC 4001-4128 and 42 USC 5154a)]**

Does the project involve acquisition, construction, or rehabilitation of structures located in a FEMA-identified Special Flood Hazard Area (SFHA)?

**No.** Cite or attach Source Documentation: \_\_\_\_\_  
[Proceed with project.]

**Yes.** Cite or attach Source Documentation:

The project lies within a FEMA-identified floodplain (V) and will involve construction within a special flood hazard area (see SBL38623\_FloodplainMgmtandFloodInsuranceNFIPNotInFloodwayMap\_SBL\_TO1022).

Is the community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?

**Yes. Flood Insurance under the National Flood Insurance Program must be obtained.** If HUD assistance is provided as a grant, insurance must be maintained for the economic life of the project and in the amount of the total project cost (or up to the maximum allowable coverage, whichever is less). If HUD assistance is provided as a loan, insurance must be maintained for the term of the loan and in the amount of the loan (or up to the maximum allowable coverage, whichever is less). A copy of the flood insurance policy declaration must be kept on file in the ERR.

See SBL38623\_FloodInsurancePolicy\_SBL\_TO1022.

**No. Federal assistance may not be used in the Special Flood Hazard Area.**

## **Summary of Findings and Conclusions**

### **Field Inspection** (Date and completed by):

April 8, 2014 by Richard Grubb and Associates, under contract to Gannett Fleming, Inc.

### **Summary Statement of Findings and Conclusions:**

The proposed action involved the renovation of an existing commercial business located along the boardwalk in Seaside Heights, Ocean County, NJ. No changes to the building footprint or size occurred; all work involved interior renovations and the replacement of exterior signs and props.

Completion of this categorical exclusion environmental review and associated consultation confirms that the proposed project would not have a significant environmental impact and that further assessment is not necessary. HUD funding of the proposed action will not have a significant impact on the quality of the human environment.

**Required Mitigation and Project Modification Measures:** [24 CFR 58.40(d), 40 CFR 1505.2(c), 40 CFR 1508.20] (Recommend feasible ways in which the proposal or its external factors should be modified in order to minimize adverse environmental impacts and restore or enhance environmental quality.)

No mitigation or project modifications are applicable.