

EXHIBIT C



BOARD OF TRUSTEES
Buildings and Grounds Committee Agenda Items

To: Board of Trustees
From: Office of the President
Date: March 17, 2010

The following Buildings and Grounds Committee item is recommended to the Ocean County College Board of Trustees for approval at its meeting on **March 22, 2010**:

1. Recommend acceptance of the Facilities Engineering and Operations Status Report for February 28, 2010 (**Exhibit C-1**)
2. Recommend approval of a Development, Construction, and Joint Use Agreement between the Ocean County Board of Chosen Freeholders and Ocean County College for the Mill Creek Park Sailing Center in Berkeley Township, New Jersey, subject to final review by the New Jersey Department of Environmental Protection (**Exhibit C-2**)

EXHIBIT C-1



OFFICE OF FACILITIES ENGINEERING AND OPERATIONS

Year to Date Project Status Report for February 28, 2010

NOTE THAT DEFICIENCIES HAVE BEEN UPDATED BASED ON OUR MAY 2008 FACILITIES AUDIT

Status of Facilities Projects

Capital Construction: New Construction or the addition of building area or volume. Includes civil amenities such as new parking, roadways or infrastructure.

Capital Improvement: Projects which improve, enhance or update existing building structures. Includes code compliance upgrades, ADA improvements.

Capital Renewal: Projects which correct unacceptable conditions caused by worn-out building components - building components that have exceeded their useful life cycle or will exceed their useful life cycle in the foreseeable future. Includes replacements in kind of building materials and equipment of equal quality and function.

Deferred Maintenance: Projects necessary due to postponed or past due maintenance. Includes curable physical deterioration where the repair is reasonable and economically feasible. Includes operational repairs caused by failure of building components such as roof leaks, broken door hardware, damaged paint, ceilings, carpet, etc.

Facilities Project Status Report.xls

Status of Current Capital Construction Projects

EXHIBIT C-1

New Construction or the addition of building area or volume. Includes civil amenities such as new parking, roadways or infrastructure.

Account Number	Project Description	Phase	Funds Approved	Project Budget	Total Committed	Project Balance	Current Status	Completion Date
44-0-1-00000-14037	New Academic Building	8	Chapter 12	\$11,969,600	\$11,969,608	-\$8	Project completed.	9/1/2009
44-0-1-00000-14035	Arts and Community Center Addition Phases I and II.	6	Chapter 12	\$12,925,493	\$11,555,938	\$1,369,555	Final Punch list.	4/30/2010
44-0-1-00000-14057	Arts and Community Center Theater Renovation and Cultural Center Addition.	5	County and Fund Balance	\$4,500,000	\$4,204,459	\$295,541	Construction underway by Gingerelli Brothers Construction	9/1/2010
44-0-1-00000-14042	Mill Creek Sailing Center	1	Citta Foundation	\$800,000	\$48,006	\$751,994	Waiting for public hearing.	TBD
	Master Plan for Kean construction on OCC campus.	8	Master Plan Founded by County	\$0	\$0	\$0	Project completed.	9/30/2009
11-6-1-40105-70501	Phase 1 of Campus camera surveillance installation which is limited to parking lots.	7	Fund Balance	\$150,000	\$0	\$150,000	Added to Security Assessment project.	TBD
11-6-1-401065-70501	Exterior loudspeaker notification system installation.	8	Fund Balance	\$110,000	\$0	\$110,000	Project completed.	10/15/2009
44-0-1-00000-14006	Electronic Sign at Campus Entrance	8	Fund Balance	\$103,000	\$118,593	-\$15,593	Project completed.	9/30/2009
	TOTALS			\$30,558,093	\$27,896,604	\$2,661,489		

PHASE KEY

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| 1 Planning | 5 Construction |
| 2 Program | 6 Punch list |
| 3 Design | 7 Inactive |
| 4 Bidding | 8 Completed |

Status of Future Capital Construction Projects

EXHIBIT C-1

New Construction or the addition of building area or volume. Includes civil amenities such as new parking, roadways or infrastructure.

Account Number	Project Description	Phase	Date Required	On Schedule	Funds Approved	Project Budget	Total Committed	Project Balance	Current Status
	College Center Addition	1	TBD	N/A	No	\$22,000,000	\$0	\$22,000,000	Preliminary planning stage.
	Campus telecommunications emergency backbone.	7	TBD	N/A	No	\$550,000	\$0	\$550,000	
	Hiering Science Building Lab Rooms 124 and 227 Improvements.	7	TBD	N/A	Partial Kean Contribution	\$0	\$0	\$0	On hold.
44-0-1-00000-14064	Kean at Ocean Cogeneration feasibility study.	3	3/1/2009	Yes	Accounting Ordinance	\$5,000,000	\$400,330	\$5,599,670	Design consulting services awarded to Concord Engineering.

PHASE KEY

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| 1 Planning | 5 Construction |
| 2 Program | 6 Punch list |
| 3 Design | 7 Inactive |
| 4 Bidding | 8 Completed |

Status of Capital Improvement Projects

EXHIBIT C-1

Projects which improve, enhance or update existing building structures. Includes code compliance upgrades, ADA improvements.

Account Number	Project Description	Phase	Funds Approved	Project Budget	Total Committed	Project Balance	Current Status	Completion Date
	TOTAL TEN YEAR PROJECTED DEFICIENCY 10/2000 - \$4,532,910, 5/2008 - \$7,500,000	Note 1						
44-0-1-00000-14036	W. Kable Russell Building roof replacement.	7	No	\$2,700,000	\$0	\$2,700,000	Design completed. Waiting for funding	TBD
44-0-1-00000-14066	W. Kable Russell Building window replacement.	5	Yes	\$180,000	\$102,220	\$77,780	Construction scheduled for March 2010.	4/30/2010
44-0-1-00000-14054	HHP Building - Installation of automatic chlorination system	8	Yes	\$80,000	\$80,772	-\$772	Project Completed.	12/30/2009
11-7-1-41500-70910	Campus entry lake outflow repairs.	4	Plant Reserves	\$65,000	\$29,000	\$36,000	RFP for construction being developed.	4/30/2010
92-8-1-93521-71302	Sambo/Citta Arboretum. PTK project.	8	Private Donors thru Foundation	\$378,000	\$378,000	\$0	Project completed.	8/30/2008
11-7-1-41800-71818	Campus wide energy management upgrade.	5	Plant Reserves	\$3,000,000	\$2,478,225	\$521,775	All major buildings are completed. Lighting upgrades 80% completed	4/15/2010
44-0-1-00000-14056	HHP Gymnasium air conditioning installation.	4	Yes	\$150,000	\$9,800	\$140,200	Design completed. Preparing bid specs and construction documents.	7/1/2010
11-7-1-41500-70920	Maintenance Building Wash down Area as mandated by the state.	8	Yes	\$85,000	\$67,000	\$18,000	Project completed.	12/15/2009
44-0-1-00000-14001	Administration Ground Floor Alterations.	4	Plant Reserves	TBD	\$0	\$0	Soliciting bids for construction.	5/15/2010
44-0-1-00000-14059	Facilities Warehouse Addition.	6	Plant Reserves	\$975,000	\$940,356	\$34,644	Construction completed. Awaiting TCO.	4/15/2010
11-6-1-40105-70501	Campus wide Security Assessment.	3	Yes	\$25,000	\$0	\$25,000	Reviewing report.	5/15/2010
44-0-1-00000-14058	Fiber Optic Ring Enhancement	8	Plant reserves	\$640,000	\$648,079	-\$8,079	Project Completed.	9/30/2009
11-6-1-40105-70501	Campus Map Upgrade	8	Yes	\$15,000	\$15,000	\$0	Project Completed.	7/30/2009
44-0-1-00000-14063	Kinesiology Lab Conversion - HPEC	7	Yes	\$230,000	\$23,245	\$206,755	Project Cancelled.	4/30/2010

EXHIBIT C-1
Completion

Account Number	Project Description	Phase	Funds Approved	Project Budget	Total Committed	Project Balance	Current Status	Date
44-0-1-00000-14065	IT Building Power/HVAC/Furniture Upgrade	3	Yes	\$1,200,000	\$113,590	\$1,086,410	Design being finalized for RFP.	8/30/2010
	TOTALS			\$9,723,000	\$4,885,287	\$4,837,713		

PHASE KEY

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| 1 Planning | 5 Construction |
| 2 Program | 6 Punch list |
| 3 Design | 7 Inactive |
| 4 Bidding | 8 Completed |

Status of Capital Renewal Projects

EXHIBIT C-1

Projects which correct unacceptable conditions caused by worn-out building components - building components that have exceeded their useful life cycle or will exceed their useful life cycle in the foreseeable future. Includes replacements in kind of building materials and equipment of equal quality and function.

Account Number	Project Description	Phase	Funds Approved	Project Budget	Total Committed	Project Balance	Current Status	Completion Date
	TOTAL TEN YEAR PROJECTED DEFICIENCY 10/2000 - \$2,614,250, 5/2008 - \$11,000,000.	Note 1						
44-0-1-00000-14052	Administration Building elevator replacement.	8	College Fund Reserves	\$145,000	\$152,100	-\$7,100	Project Completed.	1/30/2010
44-0-1-00000-14048	Planetarium Upgrade	5	County Support	\$2,531,500	\$2,546,508	-\$15,008	Construction ongoing.	5/1/2010
Foundation Funding	Planetarium Theater Equipment Upgrade	5	Private Donors	\$1,500,000	\$1,450,000	\$50,000	Construction in progress.	5/1/2010
	TOTALS			\$4,176,500	\$4,148,608	\$27,892		

NOTE 1: Projected ten year deficiencies are based on Facilities Audits completed October 2, 2000 and May 1, 2008 by Entech Engineering.

PHASE KEY

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| 1 Planning | 5 Construction |
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Projects necessary due to postponed or past due maintenance. Includes curable physical deterioration where the repair is reasonable and economically feasible. Includes operational repairs caused by failure of building components such as roof leaks, broken door hardware, damaged paint, ceilings, carpet, etc.

Account Number	Project Description	Phase	Funds Approved	Project Budget	Total Committed	Project Balance	Current Status	Completion Date
	TOTAL TEN YEAR PROJECTED DEFICIENCY 10/2000 - \$1,922,740, 5/2008 - \$3,100,000	Note 1						
	Maintenance compound paving repairs and installation of new paving.	7	No	\$0		\$0	Ocean County Road Department project request.	TBD
	HHP Building paving repairs and installation of new paving behind building.	7	No	\$0		\$0	Ocean County Road Department project request.	TBD
	Nursing Building HVAC replacement and installation of DDC controls.	8	College Fund Reserves	\$475,000	\$0	\$475,000	Work completed under the Campus wide energy management upgrade project.	10/15/2009
	Instructional Building interior renovations and upgrades.	7	No	\$4,800,000	\$0	\$4,800,000	Architectural conceptual design completed. Waiting for funding.	TBD
44-0-1-00000-14019	Title V Clean Air Act compliance, environmental audit, and other environmental services.	8	Fund Balance Set Asides	\$50,000	\$24,292	\$25,708	Title V permit is complete.	10/15/2009
	HHP Natatorium upgrades and ADA compliance.	7	No	\$1,200,000	\$0	\$1,200,000	Waiting for funding.	TBD
44-0-1-00000-14061	Tennis Courts	8	Fund Balance	\$930,000	\$901,835	\$28,165	Completed	12/1/2009
44-0-1-00000-14067	Athletic Complex	3	Fund Balance	\$5,000,000	\$90,970	\$4,909,030	Design being finalized for RFP.	TBD
44-0-1-00000-14050	Parking Lot #2 expansion.	8	Fund Balance	\$1,200,000	\$1,000,758	\$199,242	Project Completed	8/30/2009
	CCTR, window sill repair fan coil unit covers	4	Fund Balance Set Asides	\$1,500	\$0	\$1,500	No bids received. Will be rebid after engineering review.	4/31/2010
	HPEC, ADA parking	3	Fund Balance Set Asides	\$4,100	\$0	\$4,100	Added to the County paving project.	TBD
	Fire seal Russell Building interior wall penetrations	4	Fund Balance Set Asides	\$10,046	\$0	\$10,046	No bids received. Will be rebid after engineering review.	4/31/2010
	Instructional Building pipe and insulation repairs.	4	Fund Balance Set Asides	\$16,434	\$0	\$16,434	No bids received. Will be rebid after engineering review.	4/31/2010

Account Number	Project Description	Phase	Funds Approved	Project Budget	Total Committed	Project Balance	Current Status	Expiration Date
	CCTR window sill and fan coil units repairs	4	Fund Balance Set Asides	\$10,684	\$0	\$10,684	No bids received. Will be rebid after engineering review.	4/31/2010
	NURS restroom exhaust fan replacement	4	Fund Balance Set Asides	\$2,200	\$0	\$2,200	No bids received. Will be rebid after engineering review.	4/31/2010
	Air handler coil replacement - Library	8	Fund Balance Set Asides	\$16,100	\$17,160	-\$1,060	Completed	12/30/2009
	HPE Center offices rooftop HVAC replacement	8	Fund Balance Set Asides	\$17,525	\$17,525	\$0	completed	12/30/2009
	Replacement of Liebert HVAC unit in IT Bldg.	3	Fund Balance Set Asides	\$60,000	\$0	\$60,000	Part of IT Building Upgrade Project.	8/30/2010
	TOTALS			\$13,793,589	\$2,052,540	\$11,741,049		

NOTE 1: Projected ten year deficiencies are based on Facilities Audits completed October 2, 2000 and May 1, 2008 by Entech Engineering.

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EXHIBIT C-2

DEVELOPMENT, CONSTRUCTION, AND JOINT USE AGREEMENT

THIS DEVELOPMENT, CONSTRUCTION, AND JOINT USE AGREEMENT ("Agreement") is made and entered into this 22nd day of March, 2010, by and between the OCEAN COUNTY BOARD OF CHOSEN FREEHOLDERS (hereinafter the County), with principal offices located at the Administration Building, 101 Hooper Avenue, Tom River, NJ 08753 and the OCEAN COUNTY COLLEGE (hereinafter the College), a public educational institution established and organized under the laws of the State of New Jersey, with principal offices located at College Drive, P.O. Box 2001, Toms River, New Jersey 08754.

WITNESSETH

WHEREAS, the County has ownership, supervision and control over Mill Creek County Park located in Berkeley Township, Ocean County, New Jersey (hereinafter Mill Creek Park); and,

WHEREAS, the College, at its sole cost and expense and subject to the terms hereof, is desirous of constructing a sailing center and related improvements upon/within Mill Creek Park as depicted in and in keeping with that Site Plan (Exhibit A) and Schematic Drawings (Exhibit B) attached hereto and made a part hereof (hereinafter the Project); and,

WHEREAS, the parties hereto desire to enter into this Agreement;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, the County and the College do hereby mutually undertake, promise and agree, each for itself and its successors and assigns, as follows:

RECITALS, CAPTIONS AND HEADINGS

1. The recitals set forth above are incorporated herein by reference. Any captions or headings to the numbered paragraphs of this Agreement are included for

the purpose of easy reference and shall not be relied upon or interpreted as having any impact upon the covenants and agreements herein contained.

**THE DEVELOPMENT PROCESS, CONSTRUCTION AND
OWNERSHIP OF THE PROJECT AND RELATED
IMPROVEMENTS AS CONSTRUCTED**

2. The College, at its sole costs and expense, will prepare and submit to the County or its authorized agents, for its review and final approval, all development and permit applications and related documents, amendments and/or supplements thereto, as may be needed to develop and complete construction of the Project.

3. The County, through its Director of the Ocean County Department of Parks and Recreation or as the County may otherwise deem appropriate, will be designated as the applicant on all such development applications and permit requests.

4. The County and its officers, agents and employees agree to reasonably cooperate with the College in an effort to obtain all required permits and approvals from all appropriate governmental or quasi-governmental agencies.

5. The College shall be solely responsible for all cost and expense arising from/relating to obtaining such required permits and approvals from all such appropriate governmental or quasi-governmental agencies.

6. Upon the issuance of all required permits and approvals to construct the Project, the College, upon notice to the County, and at the College's sole cost and expense, shall proceed with construction of the Project in accordance with the approved Site Plan, drawings and related documents. During said construction, the County, at its sole cost and expense, shall have the right to perform inspections of the Project as it may deem necessary and appropriate. The College shall take such action as may be necessary and appropriate to assure that all construction is approved by the building and code officials having jurisdiction over the Project and as may be otherwise required by all

appropriate governmental or quasi-governmental agencies.

7. During the term of the construction of the Project, the College and its contractors, at their cost and expense, shall maintain the following insurance coverage and provide proof thereof to the County prior to the beginning of such construction:

- a) **Workers' Compensation:** Statutory limits in compliance with the Workers' Compensation Laws of the State of New Jersey.
- b) **General Liability:** A minimum limit of liability of \$1 million per occurrence for bodily injury and property damage, \$2 million general aggregate liability, to which the New Jersey Department of Environmental Protection shall be named as an additional insured,.
- c) **Business Automobile Liability:** A minimum limit of liability of \$1 million per occurrence for bodily injury and property damage. This insurance must include coverage for owned, hired and non-owned automobiles.
- d) **Errors and Omissions:** A minimum limit of liability of \$1 million per occurrence.

8. The County, in consideration of the covenants and agreements set forth herein to be kept and performed by the College, does hereby grant to the College, its agents, employees, contractors and subcontractors, the right, privilege, and easement to reasonably, as shall be determined by the County, enter upon and have access to Mill Creek Park during the construction of the Project for the accommodation of construction equipment, materials, contractors and subcontractors. The temporary easement granted herein is for the sole and express purpose of facilitating the construction of the Project and shall expire upon the earlier of the Project's completion or the termination of this Agreement as provided for herein.

9. Subject to the terms of this Agreement, the County shall gain full right, title and interest in all improvements to Mill Creek Park as constructed as part of the

Project, in whole or in part, contemporaneous with such construction, and the College shall provide, execute and/or file any document confirming such full right, title and interest as may be at any time deemed necessary and appropriate by the County.

10. Upon issuance of all required certificates of approval, certificates of occupancy and or other document as may be required by any governmental or quasi-governmental agency in order to commence with the use, occupancy and/or enjoyment of the Project, the College shall submit to the County a Notice of Completion of Construction, which shall confirm same and upon which shall commence the College's joint use thereof in keeping with the terms of this Agreement.

11. Prior to the submission of the Notice of Completion of Construction, the College will cause to be removed from the property all debris, surplus materials and construction equipment and leave the premises in a neat, presentable condition.

12. The College shall pursue the construction of the project with diligence so as to cause the Notice of Completion to be submitted not later three hundred and sixty-five (365) days from the date of this Agreement, subject however to unavoidable delays due to strikes, act of God, inability to obtain labor or materials, governmental restrictions, enemy action, civil commotion, fire, unavoidable casualty or any similar causes accepted by the County as being beyond the control of the College.

JOINT USE AGREEMENT

The Premises

13. Upon the submission of the Notice of Completion of Construction by the College to the County, in keeping with this Agreement and in accordance with the provisions herein, the County shall allow to the College the joint use of the

Sailing Center Building, as depicted in Exhibit B hereto (hereafter The Premises), as follows:

a. The College shall have such rights within and access to the approximately 1,500 square foot Boat Storage Facility as necessary and reasonable to store in, remove from and return to same the College's approximately twenty-four (24) fourteen foot (14') 420 class crew boats or such other similar boats having approximately the same dimensions. In this regard, the County shall maintain all right, title and interest in the Boat Storage Facility, along with the use of and access to same, for storage of boats or otherwise, so long as such use/access does not unreasonably interfere with the College's rights within and access to the Boat Storage Facility as set forth above.

b. The College shall have such rights within and access to the Office, the Outdoor Education Meeting Room, the Restroom and the Porch as may be allowed in keeping with such scheduled use thereof as shall be determined by the County through its Department of Parks and Recreation. In this regard, the College shall have a scheduling preference, as deemed appropriate by the Department of Parks and Recreation, in order that the College may make reasonable use of the Outdoor Education Meeting Room for indoor training and related activities.

c. The College shall have the right in common with other members of the public to use all other related facilities and amenities of Mill Creek Park, including by way of possible examples and not by limitation, parking areas, launch areas, docks and access roads. The College shall have a preference, as deemed appropriate by the Department of Parks and Recreation, and in accordance with their approved practice schedule for use of the docks for loading and unloading of the boats before and after scheduled said practice sessions.

d. The activities conducted by the College in keeping with the Joint Use Agreement shall be governed by and the College shall otherwise comply with the requirements of N.J.A.C. 7:36-25.13, et. seq., as amended, as well as any deed restrictions pertaining to Mill Creek Park.

The Initial Term and Options for Renewal

14. The Term and under the Joint Use Agreement, is as follows:

a. The Term shall be for a period of twenty-five (25) years. The Term shall commence on the date that the College submits to the County the Notice of Completion of Construction as provided for above (hereinafter the Commencement Date). The Initial Term shall terminate on December 31st of the twenty-fifth (25th) year following the Commencement Date (hereinafter the Termination Date), subject to the College's exercise of the options as provided below.

b. Upon the expiration of the Term, all rights, duties and responsibilities between the parties as provided for herein shall expire.

c. Any changes, modifications, or request for additional terms are subject to and conditioned upon the approval of the New Jersey Department of Environmental Protection in keeping with the provisions of N.J.A.C. 7:36-25.13 (b) 5, et. seq., as amended.

Condition, Maintenance and Repair

15. The Premises shall be made available by the County to the College in keeping herewith in an "AS IS" condition, the County makes no representations and/or warranties as to the physical condition or quality of The Premises and the College is not relying on any representations by the County, its officers, agents, or employees as to the condition or quality of The Premises.

16. The County shall be responsible for the general care, maintenance and repair of The Premises during the Initial Term or any renewals thereof, including but

not limited to the roof system, the HVAC system and utilities (i.e. water, sewer, electric and garbage removal), while the College shall be responsible for such clean-up/repair as may be necessary to return The Premises to substantially the same condition in which it was found prior to any given use thereof by the College, including but not limited to that resulting from vandalism or other damage caused by the College's guests, invitees, agents or employees.

Billboards, Signs, Plaques or Placards

17. The College will not suffer or permit to be maintained upon The Premises, or upon any improvements thereon, any billboards, signs, plaques or placards, except those which have prior written approval of the County, which approval shall not be unreasonably withheld.

Compliance with Law

18. The College and the County shall comply with all Federal, State, County or Local laws, rules, ordinances and regulations which may now or hereafter apply to the use and occupancy of The Premises as hereunder provided.

Default and Holdover

19. If the College defaults in the observance or performance of any material provision of this Agreement, and such default continues for a period of sixty (60) days after the County shall have given notice to the College specifying the default and requesting same be cured, the County may terminate this Agreement upon an additional thirty (30) days notice. If the default is cured prior to the expiration of the thirty (30) day period, the Agreement shall remain in full force and effect. The Agreement may not be terminated if College is in the process of reasonably curing the default.

20. If the County defaults on any term of this Agreement and fails to cure the default within the thirty (30) days after the College shall have given notice to the County specifying the default, the College may terminate this Agreement.

21. The foregoing rights to termination upon default shall be in addition to any other legal or equitable right or remedy possessed by either party and not specifically denied it by any other term or provision of this Agreement.

22. In the event the College shall hold over and remain in possession of The Premises after the expiration of the Initial Term and renewal periods, without any written extension thereof, such holding over shall not be deemed to operate as a renewal or extension of this Agreement.

Assignment or Transfer

23. The Joint Use Agreement is for the exclusive use and benefit of the College and may not be either assigned or transferred by the College.

INDEMNIFICATION AND INSURANCE

The College

24. The College covenants and agrees:

a. To indemnify and save harmless the County and its agents, officers and employees, and its successors and assigns, from and against all liability for any fines, claims, suits, demands, actions or causes of action of any kind and nature arising out of any violation of any Federal, State, County or local law, rule or regulation, or for personal injury or death, or property damage in any way arising out of or relating to any activity or operation of The Premises, while the College is utilizing The Premises; provided, however, that the College shall not be liable for any injury, damage or loss occasioned by any negligent acts or omissions, or willful misconduct of the County, its agents, contractors, or employees. The parties hereto shall give to the other prompt and timely notice of any claim made or suit instituted which, in any way, directly or indirectly, contingently or otherwise, affects or might affect either party.

b. That, with respect to The Premises and with all activities involved in connection with The Premises, insurance with companies licensed to do business in

the State of New Jersey shall be maintained in effect by the College during the Initial Term and any renewals thereof , as follows:

- a) **Workers' Compensation:** Statutory limits in compliance with the Workers' Compensation Laws of the State of New Jersey.
- b) **General Liability:** A minimum limit of liability of \$1 million per occurrence for bodily injury and property damage, \$2 million general aggregate liability, to which the New Jersey Department of Environmental Protection shall be named as an additional insured,.
- c) **Business Automobile Liability:** A minimum limit of liability of \$1 million per occurrence for bodily injury and property damage. This insurance must include coverage for owned, hired and non-owned automobiles.
- d) **Errors and Omissions:** A minimum limit of liability of \$1 million per occurrence.

c. That certificates(s) of insurance evidencing the existence of the above coverage in a form acceptable to the County shall be furnished to the County within ten (10) days after the Commencement Date or such Renewal Date(s) as may thereafter follow. Each such certificate shall contain or have attached a valid provision or endorsement that the policy may not be cancelled, terminated, or materially changed or modified without giving thirty (30) days written advance notice to the County. Each such certificate shall contain or have attached an additional endorsement providing that the insured's carrier shall not, without obtaining express advance permission for the County, raise any defense involving in any way the immunity of the County, its officers, agents or employees, the governmental nature of the County, or the provisions of any statutes respecting suits against the County.

d. That the insurance coverage specified above shall be reviewed annually and revised, if necessary, to provide insurance coverage and limitations consistent

with then generally acceptable standards in the insurance industry and otherwise acceptable to the County.

The County

25. The County covenants and agrees:

a. That the Project and all related improvements shall be insured by the County. The County shall provide evidence of such insurance prior to the Commencement Date and any renewals thereof. Such insurance shall name the New Jersey Department of Environmental Protection as an additional insured and shall provide coverage for loss or damage resulting from fire, vandalism, malicious mischief and all other perils customarily covered under a property damage insurance policy and, comprehensive public liability insuring against any liability arising under ownership, use and occupancy of The Premises.

b. In the event all or a portion of The Premises are destroyed by fire or other peril, the County shall make a reasonable and good faith effort to rebuild/ reconstruct/ restore The Premises to the condition which existed prior to such destruction, provided that the loss is a covered loss under the County's property damage insurance policy. The Joint Use Agreement shall be suspended during any period of time during which the College's use and enjoyment of the Premises is disrupted as a result of such destruction.

MISCELLANEOUS

26. In keeping with the provisions of N.J.A.C. 7:36-25.13(c), et. seq., as amended, should it be determined that the Project or the use thereof by the College as provided herein will have an adverse impact on the natural resources of Mill Creek Park, the College shall provide a proposed compensatory mitigation plan subject to the approval of the County and The New Jersey Department of Environmental Protection.

Challenge to/Set Aside of the Agreement

27. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of this Agreement and/or action taken pursuant to this Agreement, the parties hereby agree to fully cooperate in defending said action to uphold the validity and enforceability of this Agreement and any actions in furtherance thereof. Moreover, by executing this Agreement, the College, the County and their respective members, officers, agents and employees acknowledge the validity and enforceability of this Agreement and each agree to take no action which would directly or indirectly challenge or otherwise call into question the validity and enforceability of this Agreement or any portion thereof or any action taken in furtherance thereof.

28. If this Agreement is set aside by a court of competent jurisdiction, or if any material term of this Agreement is held to be invalid, void or unenforceable and the result of the holding is to impede the fulfillment of the intent and purposes of this Agreement, then, and in each such event, this Agreement shall terminate, whereupon all of the parties to this Agreement will have no obligations or liabilities to each other under this Agreement, and they will not be bound or prejudiced by any statements contained in this Agreement in any court proceedings or in any proceedings before any governmental or quasi-governmental bodies or instrumentalities.

Notices

29. Any Notice to the County provided for in this Agreement shall be sufficient if sent by certified mail or registered mail, postage prepaid, addressed to, For the County – Assistant Director of the Ocean County Department of Parks and Recreation, 1198 Bandon Road, Toms River, NJ 08753, with contemporaneous copy thereof, also by certified mail or registered mail, to the Ocean County Administrator at the Ocean County Administration Building, P.O. Box 2191, Toms River, NJ 08754 and, For the College – Assistant to the President of Ocean County College, P.O. Box 2001, Toms River, New Jersey 08754, or to such other respective address as the

parties may designate to each other, from time to time, in writing in the manner herein specified for the giving of notices.

Waiver/Invalidity of Covenant, Condition or Provision

30. No waiver by either party of any default or breach of any covenant, condition or provision herein contained shall be treated as a waiver of any subsequent default or breach of the same or any other covenant, condition or stipulation hereof.

31. In the event any covenant, condition or provision herein contained is held to be invalid by any Court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained; provided that the validity of such covenant, condition or provision does not materially prejudice either party in its respective rights and obligations contained in the valid covenants, conditions or provisions of this Agreement.

Governing Law

32. This Agreement shall be governed by the laws of the State of New Jersey.

Authority and Understanding and Signatures

33. The County and the College warrant and covenant that they have full right and authority to enter into and execute this Agreement and grant all of the rights and privileges herein conferred and that the person executing this Agreement has full right and authority to bind the County and the College, respectively, to this Agreement.

34. All covenants and stipulations in this Agreement shall extend to and bind the legal representatives, successors, and assigns of the respective parties hereto.

35. By the signatures of their respective representatives set forth below, the County and the College each represent that each has carefully reviewed the terms and conditions of this Agreement and that each fully understands such terms and conditions as same apply to their rights, duties, responsibilities and activities as authorized and/or required by this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement of Lease to be duly executed as of the day and year first above written.

Attest:

OCEAN COUNTY BOARD OF
CHOSEN FREEHOLDERS

BETTY VASIL
Clerk of the Board

By:

JAMES F. LACEY, Director

Attest:

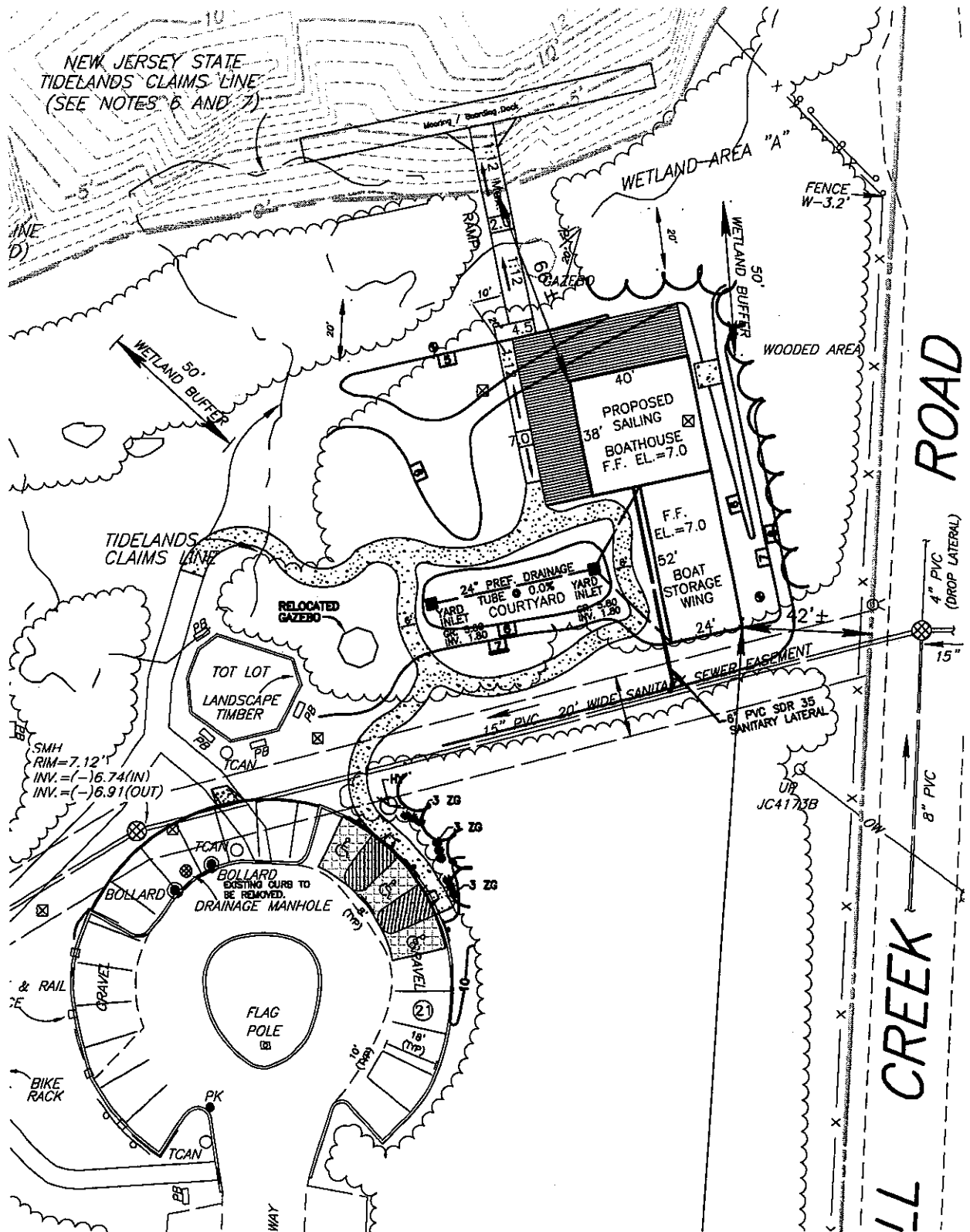
OCEAN COUNTY COLLEGE

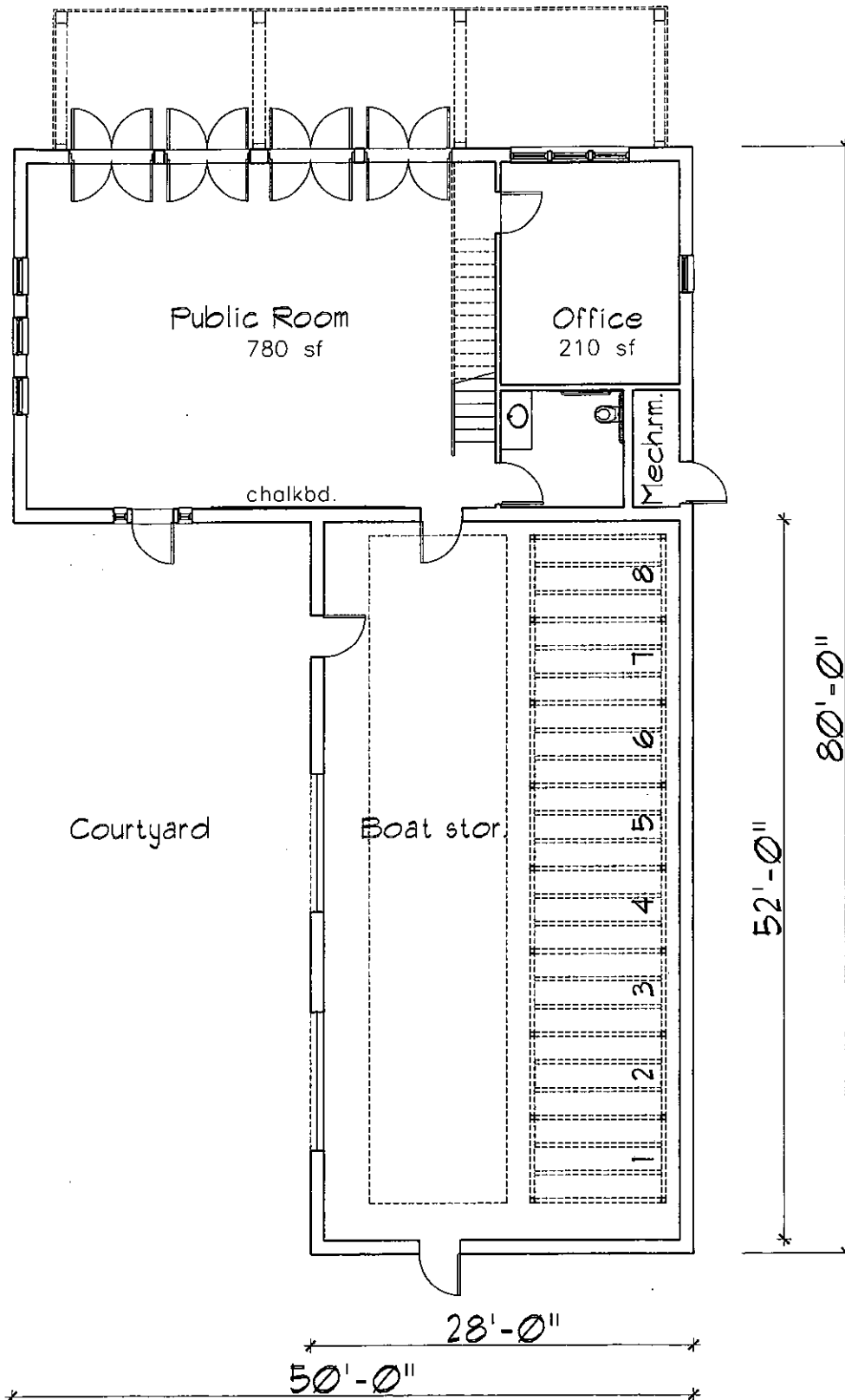
CONNIE BELLO
Executive Assistant to the President

By:

JON H. LARSON, Ph.D.
President

EXHIBIT A





OCEAN COUNTY PARKS DEPARTMENT SAILING CENTER
 4 March 2006
 ALTERNATE 1E - Ground Floor