



UNION COUNTY IMPROVEMENT AUTHORITY

1499 US Highway One, North, 3rd Floor
Rahway, New Jersey, 07065
www.ucimprovementauthority.org
(732) 382-9400 (732) 382-5862 fax

Resolution No. 50-2017

Date: July 12, 2017

RESOLUTION OF THE UNION COUNTY IMPROVEMENT AUTHORITY AUTHORIZING AWARD OF CONTRACT TO PINNACLE FOR CONSTRUCTION MANAGEMENT REALTED TO IMPROVEMENT TO OAK RIDGE PARK IN CLARK, NEW JERSEY

APPROVED AS TO FORM:
Lisa M. da Silva, RMC
Clerk of the Authority

APPROVED AS TO SUFFICIENCY OF FUNDS
☒ YES ☐ NO ☐ NONE REQUIRED
UNION COUNTY IMPROVEMENT AUTHORITY

Lisa M. da Silva

M. B. O.

	PRESENT	ABSENT	AYE	NAY	ABSTAIN	MOTION	SECOND
<i>Bornstad, Treasurer</i>	✓		✓			✓	
<i>D'Elia</i>	✓		✓				
<i>Hockaday</i>		✓					
<i>Huff</i>	✓		✓				
<i>Lattimore</i>		✓					
<i>Salerno, Secretary</i>	✓		✓				
<i>Szpond</i>	✓		✓				✓
<i>Rountree, Vice Chairwoman</i>	✓				✓		
<i>Scutari, Chairman</i>	✓		✓				

**RESOLUTION OF THE UNION COUNTY IMPROVEMENT AUTHORITY
AUTHORIZING AWARD OF CONTRACT TO PINNACLE FOR CONSTRUCTION
MANAGEMENT RELATED TO IMPROVEMENT TO OAK RIDGE PARK IN CLARK,
NEW JERSEY**

WHEREAS, a regular meeting of the Union County Improvement Authority (the "Authority") was held on July 12, 2017; and

WHEREAS, pursuant to N.J.S.A. 40:37A-55(t), a county improvement authority is empowered to enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the authority subject to the "Local Public Contracts Law," N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, pursuant to N.J.S.A. 40A:11-5(1)(a)(i), any contract, purchase or agreement, the subject matter of which consists of professional services is an exception to the public bidding requirements of the Local Public Contracts Law; and

WHEREAS, it is necessary for the Authority to obtain professional construction management services (the "Services") related to improvements to Oak Ridge Park in Clark, NJ; and

WHEREAS, the Services are an exception to the public bidding requirements of the Local Public Contracts Law as a professional service; and

WHEREAS, in accordance with N.J.S.A. 19:44A-20.4 et seq., the Authority undertook a fair and open process and advertised a request for qualifications for the provision of the Services; and

WHEREAS, the Authority by Resolution No. 7-2017 qualified Pinnacle Consulting and Construction Services to provide such services; and

WHEREAS, the Authority by Resolution No. 8-2017 appointed Pinnacle Consulting and Construction Services to perform construction management services related to improvements to Oak Ridge Park in Clark, NJ

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE MEMBERS OF THE UNION COUNTY IMPROVEMENT AUTHORITY AS FOLLOWS:

1. The Authority hereby approved a contract award to Pinnacle Consulting and Construction Services to perform construction management services related to improvements to Oak Ridge Park in Clark, NJ for an amount not to exceed \$555,533.00;
2. The Authority authorizes the Executive Director execute a contract with Pinnacle Consulting and Construction Services, similar to a form attached hereto, setting forth the terms of the provision of the Services. Such execution by the Executive Director shall be deemed approval by the Authority and no further action or approval shall be required.
3. The Clerk of the Authority is directed to publish a notice of contract award in the official newspapers in accordance with N.J.S.A. 40A:11-5(1)(a)(i).

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**AGREEMENT
BY AND BETWEEN
UNION COUNTY IMPROVEMENT AUTHORITY
AND
PINNACLE CONSULTING AND CONSTRUCTION SERVICES, INC

FOR CONSTRUCTION MANAGEMENT SERVICES RELATED
TO IMPROVMENTS TO OAK RIDGE PARK, CLARK, NEW JERSEY**

THIS AGREEMENT made and entered into this day of 2017, by and between the **UNION COUNTY IMPROVEMENT AUTHORITY**, a public body corporate and politic of the State of New Jersey, pursuant to and in accordance with the County Improvement Authorities Law, constituting chapter 183 of the Pamphlet Laws of 1960 of the State, as amended and supplemented from time to time (the "Act"), with offices located at 1499 U.S. Highway 1 North, Rahway, New Jersey hereinafter referred to as **Authority** and Pinnacle Consulting and Construction Services, Inc. having its principal place of business at One Gateway Center, Suite 2600, Newark, NJ 07102 hereinafter referred to as **Vendor**.

WITNESSETH that the **Authority** and the **Vendor**, for the consideration hereinafter mentioned, mutually covenant and agree as follows:

1. SCOPE OF WORK The Authority shall enter into an Agreement with **Vendor** for the sum not to exceed \$555,533.00 and **Vendor** shall furnish all of the services and where applicable, all material, equipment and supplies and perform all of the labor, in a good and workmanlike manner, in accordance with their _____, 2017 revised project proposal and the Scope of Revised Project both of which are annexed hereto as Appendix A, and incorporated herein as part of this Agreement and collectively with this Agreement referred to as the "contract documents". **Vendor** shall do everything required by such contract documents.

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Further, the **Vendor** agrees to comply with all Federal and State and local laws applicable to this Agreement

2. DATES OF CONTRACT

This Agreement shall commence on upon execution of said contract and shall terminate upon completion of project as determined by the **Authority**.

3. CONFIDENTIALITY OF DOCUMENTS

All data and documentation arising out of the performance of this contract are the property of the **Authority**. Any data or documentation whose premature disclosure would be detrimental to the **Authority** shall remain confidential and shall only be released to authorized personnel, in accordance with the Open Public Records Act and the Open Public Meetings Act.

4. INSURANCE

On or before commencing the work the **Vendor** shall file with the **Authority** evidence of insurance coverage. The policy shall state "All bodily injury and property damage arising out of continuous or repeated exposure to substantially the same general conditions is to be considered as arising out of one occurrence". Coverage shall be effective and continuous for the entire term of the Agreement. The **Authority** shall be named as additional insured on the policy.

The **Authority** requires all **Vendors** to be able to comply with the following insurance requirements. The **Vendor** must accept the applicable insurance requirements, as set forth below, as part of any contract awarded to it by the **Authority**.

INSURANCE REQUIREMENTS APPLICABLE TO ALL VENDORS:

A Certificate of Insurance shall be filed with the **Authority** prior to commencement of the work. This Certificate shall contain a provision that insurance afforded under the policies

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will not be canceled without at least 30 days prior written notice being given to the **Authority** and name the **Authority** as additional insured.

1. Automobile Liability Insurance in an amount of not less than \$1,000,000.00 combined single limit for bodily injury and property damage liability. A certificate of such current insurance shall be provided to the **Authority** and shall reflect the provision of at least 30 days notice to the **Authority** before any major cancellation or major change may be made in the policy.
2. Workers Compensation Insurance insuring the obligation of the Contractors and all subcontractors under the New Jersey Workers Compensation and Occupational Disease Laws as respects work performed under this Contract. Insurance shall be extended to include any obligations under "the United States Longshoremen's and Harbor Workers Act" or any maritime Act, when applicable.
3. General Liability Insurance shall be provided on a Comprehensive General Liability Form with a Combined Single Limit of \$1,000,000.00 per Occurrence for Bodily Injury Liability and Property Damage Liability and shall include the interest of the **Authority** with Respect to work emanating from the Contract with the **Authority**. This instance shall include the following:
 - (a) Personal Injury Liability,
 - (b) Blanket Contractual Liability applying to assumption of liability under any written, Contract,
 - (c) Products and/or Completed Operations Liability

5. INDEMNIFICATION

The **Vendor's** liability to the **Authority** and its employees in third party suits shall be as follows:

- a. Indemnification for Third Party Claims - The **Vendor** shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the **Authority** and its employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith which shall arise from or result directly or indirectly from the work and/or materials supplied under this **Agreement**.
- b. The **Vendor** further agrees that this indemnification includes: claims and damage to property and bodily injury, sickness, disease or death to persons or injury to or destruction of tangible property, including the work itself, and the loss of use resulting therefrom, or the loss of use of tangible property which has not been physically injured or destroyed, which may arise out of or be caused by the actions, activities or omissions of the **Vendor's** employees, subcontractors and agents in connection with the performance of the work as outlined in this Agreement.
- c. The **Vendor's** indemnification and liability under subsection (a) is not limited by, but is in addition to the insurance obligations herein.

6. INDEPENDENT VENDOR STATUS

The **Vendor** and its employees, vendors, subcontractors, agents and representatives are, for all purposes arising out of the Agreement, independent contractors and not employees of the **Authority**. It is expressly understood and agreed that the **Vendor** and its employees, vendors, subcontractors, agents and representatives' shall in no event, as a result of the Agreement, be entitled to any benefit to which **Authority** employees are

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entitled, including but not limited to, overtime retirement benefits, worker's compensation benefits and injury leave or other leave benefits.

6. TERMINATION OF CONTRACT FOR CAUSE

If, through any cause, the successful **Vendor** fails to fulfill in timely and proper manner its contractual obligations in this project, or if the **Vendor** violates any of the warranties or stipulations of its contract, the **Authority** will thereupon have the right to terminate such contract by giving ten (10) days written notice to the **Vendor** of the deficiency and right to cure same, termination and cause therefore, and specifying the effective date of such termination. In the event the contract is terminated, all finished and unfinished documents, data, studies and reports prepared by the **Vendor** under its contract shall, at the option of the **Authority**, become the **Authority's** property and the **Vendor** shall be entitled to reimbursement for any satisfactory work completed up to the date of the event which is the cause of the termination.

7. TERMINATION OF CONTRACT WITHOUT CAUSE

This agreement may be terminated by thirty (30) days prior written notice from the **Authority** at any time. In the event the contract is terminated all finished and unfinished documents, data, studies and reports prepared by the **Vendor** under its contract shall, at the option of the **Authority**, become the **Authority's** property and the **Vendor** shall be entitled to reimbursement for any satisfactory work performed up to the date of termination.

8. CHANGES AND MODIFICATIONS

The parties may from time to time during the term of the Agreement make changes, extensions of time or other modifications to the Agreement. Such modifications

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shall only be made in writing and by mutual agreement. Any such changes shall be agreed to by the Director of the applicable department.

9. SEVERABILITY

If any of the provisions of the contract are invalid or unenforceable, such invalidity will not void the entire contract, but rather the entire contract shall be construed as if not containing the particular invalid or unenforceable provision(s), and the rights and obligations of the parties shall be construed and enforced accordingly.

Notwithstanding the above, the **Vendor** shall not be relieved of liability to the **Authority** for damages sustained by the **Authority** by virtue of any breach of the contract.

10. PAYMENT

The **Authority** shall pay this **Vendor** for the work specified by the Agreement a sum not to exceed \$ 555,533.00. Unless otherwise stated, in the specifications, payment requests shall be submitted to the respective Authority every thirty (30) days. The payment request shall sufficiently detail the work performed, services provided or goods delivered and provide the necessary documentation of same.

Payment to the Vendor is to be made within forty-five (45) days after the receipt of Vendor's invoice and properly executed **Authority** voucher.

11. FORCE MAJEURE

Neither party shall be liable to the other for failure to perform its obligations under this Agreement due to fire, flood, strikes or other industrial disturbances, accidents, war, riot, insurrection or other causes beyond the control of the parties.

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12. DISCRIMINATION

This **Vendor** acknowledges that he, has a copy of the New Jersey Law Against Discrimination and of the Rules and Regulations thereon issued by the Division of Civil Rights, and shall fully comply therewith as applicable.

13. AFFIRMATIVE ACTION

See Exhibit A attached

14. BUSINESS REGISTRATION CERTIFICATE

In accordance with P.L. 2004, chapter 2004, no contract shall be entered into by the **Authority** unless the Vendor provides a copy of its business registration in accordance with the following schedule:

- (1) In response to a request for bids or a request for proposals, at the time a bid or proposal is submitted; or
- (2) For all other transactions, before the issuance of a purchase order or other contracting document. In its sole discretion, the contracting unit may waive this requirement if a business registration has been previously provided to the contracting agency.

Further, a subcontractor shall provide a copy of its business registration to the Vendor who shall forward it to the contracting agency. No contract with a subcontractor shall be entered into by any contractor under any contract with a contracting agency unless the subcontractor first provides proof of valid business registration. The, contracting agency shall file all business registrations received by the contracting agency with other procurement documents related to the contract.

The **Vendor** shall maintain and submit to the **Authority** a list of subcontractors and their addresses that may be updated from time to time during the course of the contract

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performance. A complete and accurate list shall be submitted before final payment is made for goods provided or services rendered or for construction of a construction project under the contract.

15. COMPLIANCE WITH STATUTE

It is understood and agreed that should N.J.S.A. 10:2-1 et seq; N.J.S.A 24:10-57.1 and N.J.S.A 57.2; 34:11-56.25; N.J.S.A 40A:11-18 or N.J.S.A 52:33-1, together with any amendment or supplement thereto, be applicable to this contract and should said statute not be complied with, then this contract shall be voidable at the option of the **Authority**.

16. OPEN PUBLIC RECORDS ACT ("OPRA")

Pursuant to the Open Publics Record Act, N.J.S.A. 47:A-1.1 et seq. ("OPRA"), all information and documentation received in response to this Request for Quotations documents will become the property of the **Authority**. As such, your contract documents will be considered public information and will be available for review by individuals or agencies who request same from the **Authority** unless you affirmatively allege an exception to OPRA applies. It will be your responsibility to defend your position in the appropriate agency or court. Redaction, as a means of preventing disclosure of sensitive information may be available if your contract documents are requested pursuant to OPRA.

17. INSPECTIONS AND RECORDS

The **Vendor** shall maintain accounting records in a manner so as to enable the **Authority** to easily audit and examine any books, documents, papers, and records maintained in support of the Agreement. Such records shall consist of sufficient documentation to support all invoices and shall adhere to customary and accepted accounting practices. The **Vendor** agrees that the **Authority** shall have the right to

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examine any of the **Vendor's** records that are directly related to this Agreement. All such documents shall be made available to the **Authority** for inspection and/or copying at its request and upon not less than three (3) business days and shall be clearly identifiable as pertaining to this Agreement. The **Authority** may, at its option, retain at its expense, a certified public accounting firm of its own choice to conduct periodic audits.

Pursuant to N.J.A.C. 17:44-2.2, "the **Vendor** shall maintain all documentation related to products, transactions or services under this Agreement for a period of five (5) years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller or the County upon request."

If requested, the **Vendor** shall deliver to the **Authority** all background material prepared or obtained by the **Vendor** relating to the performance of this Agreement.

Background material is

defined as original work papers, notes and drafts prepared by the **Vendor** and all, data related to the services being rendered, including electronic data processing forms, computer programs, computer files, pamphlets, and other literature.

18. CLAIMS

The **Vendor** agrees to furnish the **Authority** with evidence that all claims, either for damages, material furnished or labor supplied, have, been satisfied and paid in full.

19. WITHHOLDING PAYMENT

The **Vendor** acknowledges that the **Authority** may at its option withhold payment pursuant to N.J.S.A. 40A:11-1 et seq., on said work, and/or the Contract until such claims, if any, for damages that may arise in connection herewith shall have been settled and liquidated by the **Vendor**.

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20. GENERAL NOTICE

All notices required pursuant to this Agreement shall be in writing and addressed to the parties at their respective addresses as set forth below. All such notices shall be deemed duly given if personally delivered or if deposited in the United States mail, registered or certified, return receipt requested. Notices as provided herein do not waive service of summons or process.

AUTHORITY:

UCIA
Executive Director
1499 U.S. Highway 1 North
Rahway, New Jersey

VENDOR:

Pinnacle Consulting and Construction
Services, Inc
One Gateway Center, Suite 2600
Newark, New Jersey 07102

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21. GOVERNING LAWS AND JURISDICTION

This agreement shall be governed by and construed under the laws of the State of New Jersey. The **Vendor** irrevocably agrees that, subject to **Authority's** sole and absolute election, any action or proceeding in any way, manner or respect arising out of the Agreement, or arising from any dispute or controversy arising in connection with or related to the Agreement, shall be litigated only in the courts having status within the State of New Jersey, and the **Vendor** consents and submits to the jurisdiction of any local, state or federal court located within such City, County and State.

22. WAIVER

No term or provision of the Agreement shall be deemed waived and no breach consented to unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. The waiver of any such provision shall not be a waiver of the provision itself nor a waiver or consent to any subsequent breach. The

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headings of articles, paragraphs and sections in the Agreement are included for convenience only and shall not be considered by either party in construing the meaning of this Agreement.

23. ENTIRE AGREEMENT

It is expressly agreed that the provisions set forth in the specifications and this Agreement constitute all the understandings and agreements between the parties. Any prior agreements, promises, negotiations, or representations not expressly set forth here or in the specifications are of no force and effect.

24. ASSIGNMENT

The successful **Vendor** is prohibited from assigning, transferring, conveying, subletting or otherwise disposing of its agreement or its rights, title, obligation or interest therein to any other person, company or corporation without prior written consent and approval of the **Authority**. If such a transfer without consent occurs, the **Authority** may refuse to carry out its contract with either the Assignor or Assignee, and reserves all rights of action for breach of the contract.

25. SUBCONTRACTING

The subcontracting of this project will not be permitted without the expressed written consent of the **Authority**.

26. PRICE CHANGES

All prices shall be firm and not subject to increase during the period of this contract.

27. COOPERATION WITH OTHER VENDORS

The **Vendor** shall fully cooperate with other **Vendors** of the **Authority**, the **Authority's** employees, or the employees of others as may be required by circumstances or directed by the **Authority**.

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28. LICENSES AND PERMITS

Vendor shall be responsible to apply for and obtain all necessary permits and licenses unless the specifications require the **Authority** to obtain such permits and licenses for the performance of **Vendor's** services.

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IN WITNESS WHEREOF, the parties hereto have, either individually or by their duly authorized representative, set their hands and seals the day and year first above written.

ATTEST:

UNION COUNTY IMPROVEMENT
AUTHORITY

LISA DaSILVA, CLERK
UCIA

BY: _____
DANIEL P. S ULLIVAN
Executive Director

APPROVED AS TO FORM:

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DAVID MINCHELLO, ESQ.
UCIA General Counsel

ATTEST:

Pinnacle Consulting and Construction
Services,

Corporate Secretary / Notary Public

Authorized Signatory

Print Name

Print Title

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EXHIBIT A
(REVISED 4/10)

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127) N.J.A.C. 17:27
GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice; to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted Authority employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age; race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval
Certificate of Employee Information Report
Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at www.state.nj.us/treasury/contract/compliance).

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

APPENDIX A SCOPE OF REVISED PROJECT

This appendix to the Amendment to the County-UCIA Shared Services Agreement sets forth the parties understanding of the scope of this amended project.

- (I) The indoor ice rink that had been a part of the parties' previous understanding of the scope of this project has been deleted from the project in its entirety,
- (II) The construction of a college level track and athletic field suitable for soccer and lacrosse that conforms to N.C.A.A. standards, located on the site that has been selected for it and reviewed by the Authority; see appended diagram. The track (which has eight lanes) and field will have artificial turf; lights; parking; bleachers and press box; and a 3,000 square foot multi-purpose building with storage, public bathrooms, team locker room facilities and a possible concession area.
- (III) Improvements to existing - and the installation of new - paved bike/pedestrian pathways.
- (IV) Restoration of a Great Lawn to be used as an outdoor amphitheater.
- (VJ) Oak Ridge Park is listed on the National and State Registry of Historic Sites, and thus is governed by the regulations of the New Jersey Office of Historic Preservation (SIPOJ. This project will include a renovation of the interior of the Historic Homestead that sits on this property (see Appendix B),
- (VI) The foregoing Scope of Revised Project is subject to further review by the New Jersey Department of Environmental Protection, including but not limited to, its Green Acre and SHPO subsections, Consequently, it is understood by the parties that modifications to this Scope of Project may be required in future.