

**DASTI, MURPHY, McGUCKIN, ULAKY
KOUTSOURIS & CONNORS**
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Attorneys for Defendant, Township of Lacey

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
TRENTON VICINAGE

HOLTEC INTERNATIONAL, HOLTEC
DECOMMISSIONING
INTERNATIONAL, LLC and OYSTER
CREEK ENVIRONMENTAL
PROTECTION, LLC,

Plaintiffs,

v,

TOWNSHIP OF LACEY, a body politic of
the State of New Jersey, and THE
TOWNSHIP OF LACEY PLANNING
BOARD,

Defendants.

CIVIL ACTION NO.: 3:20-cv-12773-MAS-
DEA

**CONSENT ORDER
DISMISSING LITIGATION WITH
PREJUDICE**

THIS MATTER was originally opened to the Court by Plaintiffs, Holtec International, Holtec Decommissioning International, LLC and Oyster Creek Environmental Protection, LLC ("Plaintiffs"), by and through Plaintiffs' counsel, Parker McCay P.A., seeking, *inter alia*, preliminary and permanent injunctive relief and declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202 (declaratory judgment) and 28 U.S.C. § 1651(a) (injunctive relief) based upon the facts alleged in Plaintiffs' Verified Complaint; and

WHEREAS, Defendant, the Township of Lacey ("Lacey Township"), by and through their counsel, Dasti, Murphy, McGuckin, Ulaky, Koutsouris and Connors, responded in opposition to Plaintiffs' request for preliminary and permanent injunctive relief and filed an Answer to Plaintiffs' Verified Complaint on October 23, 2020, in which they denied wrongdoing; and

WHEREAS, Defendant, the Township of Lacey Planning Board ("Planning Board"), by and through their counsel, Brady and Kunz, responded in opposition to Plaintiffs' request for preliminary and permanent injunctive relief and filed an Answer to Plaintiffs' Verified Complaint on October 22, 2020, in which it denied wrongdoing; and

WHEREAS, this Court issued an Order denying Plaintiffs' request for preliminary and permanent injunctive relief without oral argument on October 22, 2020, but retained jurisdiction to adjudicate the balance of all claims asserted by Plaintiffs in their Verified Complaint; and

WHEREAS, the parties have agreed to amicably and globally resolve this litigation, together with additional litigation pending in the Superior Court of New Jersey: (1) Township of Lacey, a body politic, and the Township Committee of the Township of Lacey v. Holtec International and Holtec Decommissioning International, OCN-C-76-20 ("Chancery Division Action") and (2) Holtec Decommissioning International v. Township of Lacey Planning Board, OCN-L-2165 ("Law Division Action"):

IT IS on this _____ day of _____, 2021, **ORDERED AND**

AGREED:

1. This Consent Order and the settlement terms contained and/or incorporated herein are expressly conditioned on the Planning Board approving the Settlement Agreement and Release referenced in paragraph two (2) below at a proposed

Whispering Woods hearing scheduled for December 14, 2020, and the Planning Board's issuance of a resolution companion thereto, and the running of the 45 day appeal period from the date of publication of said resolution without an appeal being filed.

2. The parties hereto shall be bound by and subject to all terms and conditions of the Settlement Agreement and General Release applicable to the Law Division Action, a copy of which is attached hereto and incorporated herein as **Exhibit A**.
3. The parties hereto shall be bound by and subject to all terms and conditions of an Amended Consent Order applicable to the Chancery Division Action, a copy of which is attached hereto and incorporated herein as **Exhibit B**.
4. The parties further agree:
 - a. Plaintiffs shall provide Defendants a copy of the annual report it prepares for the Bureau of Nuclear Engineering that addresses spent fuel conditions at Oyster Creek. Plaintiff shall provide this report to Defendants within 30 days of the Court entering this Consent Order, and on an annual basis each year thereafter as required by the Bureau of Nuclear Engineering; and
 - b. Plaintiffs shall obtain permits from Lacey Township for future construction related activities at Oyster Creek as and if required by Lacey Township ordinances; and
 - c. All claims and counter-claims that Plaintiffs and Defendants asserted herein, or that could have been asserted herein, are hereby dismissed with prejudice.

HON. MICHAEL A. SHIPP, U.S.D.C.

The parties consent to the form and entry of the within Consent Order:

FOR PLAINTIFFS:

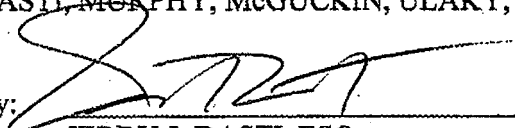
PARKER McCAY, P.A.

By: 
RICHARD W. HUNT, ESQ.

Dated: 12.15.20

FOR DEFENDANT TOWNSHIP OF LACEY:

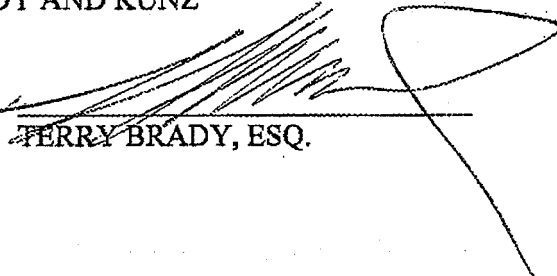
DASTI, MURPHY, McGUCKIN, ULAKY, KOUTSOURIS, and CONNORS

By: 
JERRY J. DASTI, ESQ.

Dated: 12/14/20

FOR DEFENDANT TOWNSHIP OF LACEY PLANNING BOARD:

BRADY AND KUNZ

By: 
PERRY BRADY, ESQ.

Dated: 12/14/2020

EXHIBIT A

RECITALS

WHEREAS, Holtec was and is the owner of a tract of land located at 741 Route 9, Forked River, County of New Jersey, and State of New Jersey, and designated on the official tax map of the Township of Lacey as Block 1001, Lot 4.02, Forked River, New Jersey; and

WHEREAS, the Township of Lacey Planning Board is a public entity established by the Township of Lacey to administer and determine certain land use development/zoning applications pursuant to the Municipal Land Use Law (MLUL) N.J.S.A. 40:55D-1, et seq.; and

WHEREAS an application was filed by Holtec for approval of a Minor Site Plan pursuant to N.J.S.A. 40:55D-46 and 46.1 and Section 285-10 of the Township of Lacey Land Use and Development Ordinances (TLLUO) ("Application") for Block 1001, Lot 4.02 as set forth on the Tax Maps of the Township of Lacey ("Lacey"). The site in question is located in the M-100 Industrial Zone and is governed by the Land Use criteria as set forth in Section 335-65.1 of the TLLUO at 741 Route 9 in the Forked River section of Lacey, within the Oyster Creek Nuclear Power Generating Station; and

WHEREAS, the Application sought Minor Site Plan approval to move a security fence around the perimeter of the spent nuclear fuel storage area, construct a transfer pit and a driveway to accommodate the independent spent nuclear fuel storage area and to place twenty (20) additional prefabricated temporary vertical spent nuclear fuel storage modules on the existing storage pad. It should be noted that the Lacey Township Planning Board approved 48 storage modules in 1994 and 2010, respectively. Of those modules, 34 storage modules are in use and are at capacity. Holtec sought to add 34 new vertical storage modules -14 previously

approved , but with vertical orientation and 20 new vertical storage modules for a total of 68 spent fuel storage modules to be located on the site; and

WHEREAS, the Board accepted jurisdiction of the Application based on the August 3, 2020, review letter from Board Engineer, Bruce A. Jacobs, P.E., P.P., C.M.E. of Gravatt Consulting Group (“Jacobs”), which confirmed that the Application proposed was a permitted use and required no variances or design waivers. Application was deemed complete by the Board at the August 10, 2020 hearing; and

WHEREAS, Holtec’s presentation of the merits of the Application continued at the August 10, 2020 hearing, and continued at a special hearing on August 24, 2020; and

WHEREAS, during the August 24, 2020 hearing, Holtec submitted into evidence the following documentation for consideration by the Board:

- A-1 Site Plan for Independent Spent Fuel Storage Installation, prepared by Bahram Farzaneh of French & Parrello Associates, dated February 2, 2019, last revision dated August 11, 2020;
- A-2 Witness biographies, prepared by Holtec, undated;
- A-3 Power Point Presentation, dated August 10, 2020; and
- A-4 Responses to Board Engineer’s Completeness and Technical Review Letter #1 and #2, prepared by Holtec, dated August 3, 2020, which had requested answers and response to the following:
 - 1. Provide qualified expert testimony regarding the need for the expansion of the spent fuel storage area. Are the existing storage modules at capacity? Will the proposed expansion be of adequate size to meet the needs of the facility for the duration of the plant decommissioning?
 - 2. Is the expansion design consistent with the design of the previous spent fuel storage area? Does the spent fuel storage expansion design meet current NRC regulations?

3. ZB Resolution 93-40 noted that representatives of the design of the facility, Pacific Nuclear, indicated that the design lifetime was determined to be 50 years. Provide qualified expert testimony regarding the design and the design lifetime of the storage containers in 2010 and the design lifetime of the proposed storage modules?
4. ZB Resolution 93-40 referenced that the dry storage facilities will only be licensed for a maximum of 20 year. Has this license been renewed? If so, what is the date of expiration?
5. ZB Resolution 93-40 Condition 9 states that all spent dry fuel storage rods must be removed from the concrete modules once a permanent federal storage repository is available in accordance with regulation provided by law. Please provide qualified expert testimony on when this might occur. Also provide testimony as to whether this site will become a permanent rather than a temporary fuel storage facility
6. ZB Resolution 93-40 Condition 12 states that no radioactive material from off-site shall be stored at Oyster Creek site. Provide qualified expert testimony that this condition will remain and that the site is not to be used to store spent fuel from other facilities?
7. A qualified expert shall describe the process for transferring spent fuel rods to the storage modules. Will non-spent rods be stored in these modules?
8. Provide qualified expert testimony that the storage modules are adequately designed and anchored to withstand the effects of hurricanes, flooding, and other natural disasters.
9. Also provide qualified expert testimony regarding site security, safety to public from exposure to radiation, acts of terrorism, etc.

10. Provide the following information to the Township Planning Board:
 - i. Resumes for all expert witnesses;
 - ii. Lifetime expectancy of the storage modules;
 - iii. NRC reports/permits for rod storage;
 - iv. Specification for storage modules; and
 - v. Rendering of structures/storage modules.

11. Will the storage casks be filled and placed on Pad 3 in the specified sequence as recommended in the Detailed ISFSI SSI Analysis for Oyster Creek?; and

WHEREAS, the Planning Board Engineer Jacobs prepared two reports to the Board including, but not limited to, the August 3, 2020 review letter and a letter dated August 21, 2020, which have been previously made part of the record; and

WHEREAS, Holtec also provided the following documentation to the Board for its review and consideration prior to the August 24, 2020 hearing. These documents include the following:

- (a) ISFSI SSI Analysis, prepared by Holtec, undated;
- (b) Concrete Testing Requirements for site construction, prepared by Holtec, dated July 21, 2020;
- (c) Rebar Design & Inspection Procedure, prepared by Holtec, dated February 6, 2020;
- (d) Oyster Creek ISDSI Expansion Construction Specification, prepared by Holtec, undated;
- (e) Final Safety Analysis Report, prepared by Holtec, dated June 18, 2019; and

WHEREAS, after Holtec presented testimony from its experts, as well as submission of the above documentation for the Board's consideration, upon Motion duly made by the

Board Members, the Application was denied unanimously by the Board; and

WHEREAS, the Board's denial of the Application was memorialized by the Board's adoption of Resolution No. 20-SP-07, which was adopted by the Board at the September 14, 2020 hearing; and

WHEREAS, Holtec thereafter initiated litigation entitled Holtec Decommissioning International v. Township of Lacey Planning Board on September 16, 2020, with Docket No. OCN-L-2165-20 (the Litigation); and

WHEREAS, the parties have engaged in settlement negotiations through their counsel and have agreed to settle the Litigation in accordance with the terms and conditions more particularly set forth herein; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein and as set forth in detail herein, the parties agree as follows:

AGREEMENT

I. MINOR SITE PLAN APPLICATION

The parties do hereby agree as follows:

1. The Planning Board hereby approves the Application subject to the conditions contained herein and hereby vacates and rescinds the denial of the Application and the Resolution memorializing said denial. The Board acknowledges that the Board has had an opportunity to review all exhibits previously entered into evidence in this matter by Holtec and the Board, which are set forth at length above. The Board also had the opportunity to

review all prior transcripts of the August 10, 2020 and August 24, 2020 hearings that have been placed in the Board's file prior to the this hearing. The Application, including all exhibits and transcripts referenced above, has also been made available for review by the public per the requirements of the MLUL. The Approval of the Minor Site Plan shall be consummated upon the adoption of a written resolution by the Planning Board granting the Application in full as it relates to the agreements and conditions as set forth herein, which resolution shall incorporate the terms of this Agreement, shall be prepared prior to the Whispering Woods Hearing, and shall be adopted on the date of the Whispering Woods Hearing (the "Approval Resolution").

2. The Planning Board hereby grants the minor site plan approval for the Property in accordance with the standard of review required for a minor site plan pursuant to N.J.S.A. 40:55D-5 and 40:55D-46.1, as well as Section 285-10 of the TLLUO. The Parties agree that the approvals granted herein are expressly conditioned and contingent upon the following:

- (a) All terms and conditions as outlined in the Consent Order attached hereto as Exhibit "A" entered into between the Parties relating to an accompanying lawsuit entitled *Holtec International, Holtec Decommissioning International, LLC, and Oyster Creek Environmental Protection, LLC v. Township of Lacey and Township of Lacey Planning Board*, United States District Court for the District of New Jersey, Trenton Vicinage, Civil Action Docket No. 3-20-cv-12773-MAS-DEA ("Federal Court Litigation"). All relevant portions of the Consent Order that relate to the within action are incorporated herein by reference.
- (b) All terms and conditions as outlined in the Consent Order attached hereto as Exhibit "B" entered between the Parties relating to an accompanying lawsuit entitled *Township of Lacey, a body politic, and The Township Committee of the Township of Lacey v. Holtec International and Holtec Decommissioning International*, Superior

Court of New Jersey, Chancery Division, Ocean County, Docket No. OCN-76-20 ("Chancery Court Litigation"). All relevant portions of the Consent Order that relate to the within action are incorporated herein by reference.

- (c) Holtec and Planning Board agree and recognize that the Agreement respecting approval of Application is subject to a hearing before the Planning Board consistent with *Whispering Woods at Bamm Hollow, Inc. v. Township of Middletown Planning Board*, 220 N.J. Super. 161, A.2d 770 (Law Division 1987), 531 hereinafter referred to as "Whispering Woods Hearing". In the event that the Planning Board does not approve this Agreement, this Agreement and any other parties' negotiations related to the same shall not be admissible in any pending litigation.
- (d) Holtec and the Planning Board acknowledge and agree that the approvals granted hereunder are subject to appeal in accordance with N.J. Court Rule 4:69-6(B)(3) and the time limits set forth therein. This Agreement is not binding on Holtec and/or the Planning Board until such time as the appeal period set forth in Rule 4:69-6(B)(iii) has expired without an appeal having been filed. In the event an appeal is filed in the Superior Court, and such appeal results in overturning the approvals granted herein, Holtec shall have the right to reinstate the Litigation, Federal Court Litigation and Chancery Court Litigation.

3. The Parties agree that the approvals granted herein are expressly conditioned and contingent upon the following:

- (a) Holtec represents the following:
 - i. There are presently 4,507 fuel assemblies at the site, consisting of 2,074 fuel assemblies in 34 dry casks on ISFSI and 2,433 fuel assemblies in the spent fuel pool.
 - ii. Note: The number of fuel assemblies in each cask are not always equal and calculated using a proprietary "fuel loading engineering analysis." This analysis is based on the heat generation of each assembly, its time spent in the fuel pool, and its power history while in the reactor. From this analysis the specific number of casks needed is generated. Based upon these

calculations Holtec represents that 34 casks will be sufficient to hold the 2433 fuel assemblies as indicated.

- iii. The spent Fuel in wet storage will be transferred to dry storage by approximately 12/31/2021 utilizing up to 34 dry casks per the site plan as submitted to the Board.
- (b) Holtec utilizes the footprint as proposed on the site plan for positioning the casks to minimize radiation on the pads. This location/ design concept is presently being utilized at the Pilgrim Nuclear Power plant in Cape Cod, Massachusetts and has been approved by the NRC.
- (c) Holtec agrees to copy the Township on all sampling, testing and spill reports when they are sent to the NRC in a format that can readily be accessible for public view, if the same are permitted to be accessible by the public as permitted by law.
- (d) Holtec shall provide daily update on weekdays upon request by the Township. Township shall call Jeffrey Dostal, or his designee.
- (e) Holtec represents and confirms that under no circumstances will spent nuclear fuel generated off of the Property be brought into Lacey Township or stored at the Oyster Creek property and their facility.
- (f) Holtec shall provide copies of approvals from the Department of Environmental Protection and from the NRC, as long as said approvals are accessible to the public as permitted by law.
- (g) Holtec shall provide copies of reports from spills that have occurred on the Oyster Creek site.
- (h) Holtec shall provide the contact information of its Liason contact person with the NRC who Township Officials can reach out to in the event of any questions or issues that arise.

- (i) Holtec shall provide copies of all NJDEP approvals regarding the monitoring and testing that has occurred at the Oyster Creek site since the inception of Holtec's ownership of the property and shall provide historical documentation that is in possession of Holtec.
- (j) Holtec shall provide a copy of all Industrial Site Remediation Act ("ISRA") sampling plans that are accessible by the public.
- (k) Holtec agrees to maintain a spare cask in the Camden, New Jersey manufacturing facility located at 2500 South Broadway, Camden, New Jersey designated for use at the Oyster Creek facility if needed. The parties understand and agree that this component is valued at approximately \$10,000,000.00, and must be maintained by Holtec at the Camden facility under proper conditions and cannot be stored at the Oyster Creek facility.
- (l) Both Holtec and the Planning Board fully understand and agree that it will be in the public's best interest to remove the spent nuclear fuel from the site. To that extent, both the Planning Board/Township and Holtec will assist each other at no cost to the Township to support Holtec's development and approval of a CISF site in New Mexico to help assist Holtec in moving the spent nuclear fuel from Lacey Township to a permanent storage facility. Holtec and the Planning Board/Township agree that they shall reach out to all local, county, state and congressional officials to assist Holtec with the ultimate goal of approval of a CISF facility in New Mexico which will accomplish the removal of the fuel components from this site.
- (m) Holtec shall cooperate with and support Lacey Township's application for a redevelopment grant with regard to the Oyster Creek Property.

4. Holtec and the Planning Board acknowledge and agree that a copy of this Settlement Agreement, along with the Consent Orders referenced herein shall be delivered to the Planning Board secretary and the Municipal Clerk to be available to be reviewed by members of the public ten (10) days prior to the scheduled Whispering Woods Hearing of December 14, 2020.

5. The parties agree that the Board shall conduct a Whispering Woods Hearing to review the within Settlement Agreement and terms and conditions of the attached Consent Orders at which time the Board can vote to approve and/or disapprove this Settlement Agreement. The Board shall also entertain comments from the general public regarding the terms and conditions of this Settlement Agreement and shall afford the public an opportunity to comment on the same.

II. CONVENANT TO DISMISS LITIGATION AND OTHER LEGAL ACTIONS

The Parties agree to dismiss the Litigation with prejudice and without costs upon adoption of the Approval Resolution and the appeal period running without an appeal being filed. Notwithstanding the foregoing, the Superior Court of New Jersey shall retain jurisdiction of this matter for purposes of enforcing this Agreement and the settlement reached between the parties. Contemporaneously with the execution of this Agreement, the parties shall execute the Stipulation of Dismissal with Prejudice attached hereto as Exhibit "C" which shall be filed in the Court in which the Litigation is pending within five (5) days following the successful completion of the Whispering Woods Hearing referenced in Section I of this Agreement and adoption of the Approval Resolution and the applicable appeal

period running without an appeal being filed. If in the event the Planning Board does not approve this Agreement, grant approval of the site plan, and adopt the Approval Resolution after the Whispering Woods Hearing, the Stipulation of Dismissal shall not be filed with the Court.

III. GENERAL RELEASE

Holtec instituted the Litigation seeking a Court Order vacating the actions of the Planning Board and alleging damages for claims as set forth in their pleadings in this Litigation, including, but not limited to, claims for monetary damages, attorney's fees and costs, and in consideration of the terms and conditions set forth herein, Holtec, its successors, assigns and stockholders, hereby voluntarily waive and generally release and discharge Releasees from any and all rights or claims that Holtec may have against Releasees, for any and all reasons, including, but not limited to, claims of failure to utilize the proper standard of review; failure to adopt an Approval Resolution; making an arbitrary, capricious and unreasonable decision; violation of Holtec's constitutional rights to substantive and procedural due process and equal protection; violations of the New Jersey Civil Rights Act; and violations of Section 1983 of the Federal Civil Rights Act. Holtec specifically waives any claims which were or could have set forth in the Litigation, that its successors, assigns and, stock holders, may have against Releasees for compensatory or punitive damages or other legal or equitable relief of any type of description, as well as any rights that Holtec may have under:

- The Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. as amended;
- The Civil Rights Act of 1991;

- Sections 1981-1988 of Title 42 of the United States Code, as amended;
- The New Jersey Civil Rights Act, N.J.S.A. 10:5-1 et seq.;
- Any other federal, state or local civil or human rights law or any other local, state or federal law, regulation or ordinance;
- Any public policy, contract, tort or common law; or
- Any allegation for costs, fees or other expenses including attorney's fees incurred in the lawsuit or in any of these matters.

These claims shall be referred to as the "Released Claims".

IV. RELEASE INCLUDES UNKNOWN CLAIMS- MUTUAL RELEASES

1. The Parties mutually understand and agree that the Released Claims are intended to and do include any and all claims of every nature and kind whatsoever (whether known, unknown, suspected, or unsuspected and whether pursuant to any law or cause of action presently in effect or which may be enacted or created in the future) which they have up until the full execution of this agreement.

2. The Parties further acknowledge that they may hereafter discover facts different from or in addition to those which they now know or believe to be true with respect to the Released Claims and agrees that, in such event, this Agreement shall nevertheless be and remain effective in all respects, notwithstanding such different or additional facts, or the discovery thereof; the Released Claims do not release the Parties or immunize the Parties from future actions or violations that occur after the full execution of this agreement.

3. The Parties represent and acknowledge (a) that they and their attorneys have conducted whatever investigation was deemed necessary by them and their attorneys to ascertain all facts and matters related to this Agreement; (b) that they have consulted with and received advice from legal counsel concerning this Agreement; and (c) that they are not

relying in any way on any statement or representation by Holtec or the Planning Board or their attorneys, except as expressly stated herein, in reaching their decision to enter into this Agreement.

V. NO ADMISSION OF LIABILITY

The parties understand and agree that this Agreement is a release of disputed claims and does not constitute an admission of liability on the part of Holtec or the Planning Board as to any matters whatsoever and that Holtec and the Planning Board merely intend by this Agreement to avoid further litigation and eliminate further professional fees and costs related to said litigation.

VI. MODIFICATION

No provision of this Agreement may be changed, altered, modified or waived except in writing signed by Holtec and a duly authorized representative of the Planning Board which writing shall specifically reference this Agreement and the provision which the parties intend to waive or modify.

VII. SEVERABILITY

In the event any provision of this Agreement should be held to be unenforceable, each and all of the other provisions of this Agreement shall remain in full force and effect.

VIII. ATTORNEYS' FEES, COSTS AND EXPENSES

The parties acknowledge that they shall bear their own responsibility for any and all costs, expenses or attorney's fees incurred in connection with the Application or the Litigation and that neither party shall suffer liability for the costs, expenses and attorneys'

fees incurred by the other party or to be incurred in connection with the Whispering Woods Hearing. Each party shall incur their own expenses in that regard, except as set forth in the Consent Orders which are attached hereto and made a part of this Agreement.

IX. ENTIRE AGREEMENT

The parties hereto acknowledge that this Agreement constitutes a full, final, and complete settlement of their differences and supersedes and replaces any and all other written or oral exchanges, agreement, understandings, arrangements, or negotiations between or among them relating to the subject matter hereof, and affirmatively state that there are no other prior or contemporaneous agreements, exchanges, representations, arrangements, or understandings, written or oral, between or among them relating to the subject matter hereof other than those as set forth herein, and that this Agreement contains the sole and entire Agreement between them with respect to the subject matter hereof. The parties hereto further acknowledge and agree that language proposed for, deleted from, or otherwise changed in the various drafts of this Agreement, but not included herein shall not be considered in any way in the interpretation and Application of this Agreement and shall not in any way affect the rights and obligations of the parties hereto.

X. APPLICABLE LAW AND MUTUAL SUBMISSION TO JURISDICTION

This Agreement shall be construed and enforced according to the laws of the State of New Jersey.

XI. COUNTERPARTS ACCEPTABLE

This Agreement may be executed in two or more counterparts, each of which shall be

deemed to be an original but all of which together shall constitute one and the same instrument.

(Signatures to Follow)

IN WITNESS WHEREOF, the undersigned have executed this Settlement Agreement
and General Release on the date shown below.

THE LACEY TOWNSHIP PLANNING BOARD

By: [Signature]

Date: 12/17/2020

Title: Planning Board Chairman

Sworn and subscribed to before me on
this 17th day of December, 2020.

[Signature]
Notary Public

SUSAN E. CONNOR
ID # 2426609
Notary Public of New Jersey
My Commission Expires 10/26/2022

HOLTEC DECOMMISSIONING INTERNATIONAL

By: [Signature]

Date: 12/16/20

Sworn and subscribed to before me on
this 16th day of December, 2020.

[Signature]
Notary Public

Erika Grandrimo
NOTARY PUBLIC
STATE OF NEW JERSEY
MY COMMISSION EXPIRES January 17, 2022

EXHIBIT B

**DASTI, MURPHY, McGUCKIN, ULAKY
KOUTSOURIS & CONNORS**
JERRY J. DASTI, ESQ. [I.D. No. 005441973]
620 W. Lacey Road
P.O. Box 1057
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(609) 971-1010 FAX (609) 971-7093
Email: jdasti@dmmlawfirm.com
Attorneys for Defendant, Township of Lacey

TOWNSHIP OF LACEY, a body politic,
and THE TOWNSHIP COMMITTEE OF
THE TOWNSHIP OF LACEY,

Plaintiffs,

vs.

HOLTEC INTERNATIONAL and
HOLTEC DECOMMISSIONING
INTERNATIONAL,

Defendants.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
OCEAN COUNTY

DOCKET NO. OCN-C-76-20

CIVIL ACTION

AMENDED CONSENT ORDER

THIS MATTER being originally opened to the Court by Dasti, Murphy, McGuckin, Ulaky, Koutsouris and Connors, Attorneys for Plaintiffs, Jerry J. Dasti, Esq., seeking preliminary and permanent restraints pursuant to R. 4:52, based upon facts set forth in Plaintiffs' Verified Complaint; and

WHEREAS, defendants Holtec International and Holtec Decommissioning International, represented by Parker McCay, as attorneys for both defendants, responded and filed an Answer on June 30, 2020; and

WHEREAS, this Court issued an Order Imposing Restraints on June 2, 2020 (the "Order"), temporarily enjoining Defendants Holtec Decommissioning International ("HDI") and

Holtec International from continuing any and all work at the Oyster Creek Nuclear Generating Facility ("Oyster Creek"), unless or until permits are provided to Plaintiffs documenting that the work being undertaken is permitted by the appropriate regulatory authority; and

WHEREAS, this Court also ordered a preliminary injunction hearing to take place on July 2, 2020; and

WHEREAS, in accordance with the Order, Defendants provided Plaintiffs, and the Court, with the license and related approvals and jurisdictional information issued by the Nuclear Regulatory Commission ("NRC") for Oyster Creek, and other NRC documents related to decommissioning of the facility by letter dated June 3, 2020; and

WHEREAS, upon Plaintiffs' request, Defendants promptly arranged a site visit by Plaintiffs' representatives at the facility on June 8, 2020;

WHEREAS, pursuant to the Order, Defendants filed and served their opposition to Plaintiffs' request for injunctive relief on June 24, 2020; and

WHEREAS, pursuant to a July 17th Consent Order (the "Consent Order"), Plaintiffs and Defendants agreed, without admitting or conceding to any fact or argument, that it was in the parties' and the public's best interests to make good faith efforts to resolve this matter without further judicial intervention; and

WHEREAS, the Township of Lacey agreed that it would be available and would make its staff available to participate, review and make recommendations to facilitate the processes referenced in the Consent Order; and

WHEREAS, in the interests of resolving this matter, the parties agreed that: (a) Defendant HDI would submit a minor site plan approval application, and (b) Plaintiffs would consider and render a decision upon such application no later than the Township Planning Board meeting on

August 10, 2020, provided Defendant HDI had complied with the notice requirements of the Municipal Land Use Law ("MLUL") and the hearing was concluded; and

WHEREAS, Holtec did so submit an application for minor site plan approval which was deemed complete on August 10, 2020; and

WHEREAS, on August 24th, the Planning Board denied the application for minor site plan; and

WHEREAS, on September 14, 2020, the Planning Board adopted Resolution of Denial #20-SP-07, memorializing the denial of Holtec's minor site plan application; and

WHEREAS, Holtec then filed litigation in the United States District Court for the District of New Jersey (Holtec International, Holtec Decommissioning International, LLC and Oyster Creek Environmental Protect, LLC. v. Township Of Lacey, and The Township Of Lacey Planning Board, Case 3:20-cv-12773-MAS-DEA) claiming that the Township impermissibly exceeded its jurisdiction, and that the relevant activities being undertaken and scheduled to be undertaken at the site, were the subject of NRC jurisdiction, licensure, and oversight, and that the Township's actions in usurping this jurisdiction and attempting to obstruct said activities amounted to a constitutional deprivation damaging Holtec, in which Holtec's application for a Temporary Restraining Order was denied but the Court retained jurisdiction of the Complaint; and

WHEREAS, Holtec also filed litigation in Ocean County Superior Court by Prerogative Writ (Holtec Decommissioning International, v. Township of Lacey Planning Board, OCN-L-002165-20) appealing the Planning Board denial of the minor site plan; and

WHEREAS, the parties have now agreed to act in accordance with the terms of this Amended Consent Order; and

WHEREAS, the parties recognize the importance and timeliness of the spent fuel transfer campaign to the decommissioning process and related safety concerns at Oyster Creek , and the importance of moving the spent fuel from wet storage in the reactor building to dry storage, which process is scheduled to commence, with NRC oversight and licensure, on December 15th and agree to work together to ensure that any approvals will not be unreasonably withheld or delayed; and

WHEREAS, the parties have now agreed to attempt to amicably and globally resolve all litigation and all issues and disputes between them, by entering into Consent Orders in the respective matters, as set forth above and including this one which is currently dismissed without prejudice, through the process of a Whispering Woods hearing to take place at a Public Meeting of the Planning Board on December 14th, 2020;

IT IS on this 16th day of December, 2020, **ORDERED AND AGREED:**

1. That pursuant to the Consent Order dated July 17th, 2020, this matter is currently dismissed without prejudice, and shall be dismissed with prejudice upon the approval of the proposed Whispering Woods settlement on December 14th, 2020, with the Planning Board and the resolution companion thereto, and the running of the 45 day appeal period from the date of the publication of that resolution without an appeal being filed; and
2. Based upon the Planning Board's approval of the Whispering Woods settlement on December 14, 2020, t the Township shall promptly issue all permits, including

permits for the Cask Transfer Pit (CTP), and as necessary for the Spent Fuel Campaign. However, the Spent Fuel Campaign, scheduled to begin on December 15th, 2020, shall be allowed to move forward as scheduled, prior to the formal issuance of written permits by the Township, based on Planning Board approval of the Whispering Woods settlement on December 14, 2020; and

3. That the Township's Stop Work Order of March 27th 2020, and Holtec's appeal of that Stop Work Order, shall be withdrawn with prejudice; and
4. That upon approval of the Whispering Woods settlement and the running of the appeal period without challenge, Holtec shall make a one-time payment of \$35,000 to the Township to cover professional fees and costs related to this matter;
5. That Holtec agrees that it will have an emergency cask ready at its Camden Facility, specifically dedicated to use solely at Oyster Creek, which can be promptly transported to Oyster Creek. The value of this single cask is approximately \$10 million dollars; and
6. While the parties acknowledge that the Department of Energy, not Holtec, control the permanent disposition of spent fuel outside of Lacey Township, Holtec and Lacey agree to mutually cooperate to support Holtec's development and approval of a Consolidated Interim Storage Facility in New Mexico, including, but not limited to, assistance with public officials and public outreach, and in advocating for a permanent disposal site from the United States Department of Energy; and
7. That Holtec will consider granting the Lacey Township Official and/or Building Subcode Official(s) reasonable access to Oyster Creek if proper protocols are followed. Specifically, if the Lacey Township Construction Official and/or Building

Subcode Official(s) seek access they must make a written request and be cleared through all applicable security protocols, including but not limited to a physical search and drug testing; and

8. That Holtec will endeavor to fill the CTP, within 60 days after the Spent Fuel Campaign is completed and approved by the NRC.
9. That this matter shall be dismissed WITH PREJUDICE as to all claims filed by the Township or which could have been filed by the Township, upon the approval of the Whispering Woods settlement by the Planning Board, and the running of the 45 day appeal period without challenge.

/s/ Francis R. Hodgson
HON. FRANCIS R. HODGSON, JR., P.J.Ch.

The parties consent to the form and entry of the within order:

FOR PLAINTIFFS:

DASTI, MURPHY, McGUCKIN, ULAKY, KOUTSOURIS, and CONNORS

By:


JERRY J. DASTI, ESQ.

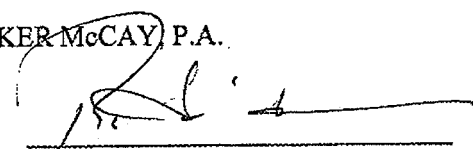
Dated:

12/34/20

FOR DEFENDANTS:

PARKER McCAY, P.A.

By:


RICHARD W. HUNT, ESQ.

Dated:

12-15-20