

10028. RESOLUTION 09-47 - AUTHORIZING FIRST AMENDMENT TO AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE DELAWARE RIVER AND BAY AUTHORITY BUSINESS CENTRE

WHEREAS, The Delaware River and Bay Authority (the “Declarant”) is the owner of real property situate in Carney’s Point Township, Salem County, New Jersey, located within the Delaware River and Bay Authority Centre (the “Property”); and

WHEREAS, a portion of the Property has been developed to include office buildings and associated site improvements, with future development planned; and

WHEREAS, in connection with the commencement of development of the Property, a Declaration of Protective Covenants, Conditions, and Restrictions (“Declaration”), was established and created to ensure the development, design, construction, operation, maintenance, presentation and control of the Property; and

WHEREAS, the Declarant, pursuant to the terms of an Amended and Restated Declaration of Protective Covenants, Conditions, and Restrictions for the Delaware River and Bay Authority Business Centre (“Amended Declaration”), amended and restated the Declaration to expand its provisions; and

WHEREAS, the Declarant has been approached by Verizon Wireless with a proposal to acquire a portion of the Property (specifically comprised of 11.70 acres known as Block 192, Lot 3.03, on the Carney’s Point Tax Maps), for the purpose of constructing a regional communications center, which will necessitate the construction of a telecommunications tower on site; and

WHEREAS, pursuant to Resolution 09-02, the Executive Director was authorized to negotiate the terms and conditions of an Agreement of Sale with Verizon Wireless; and

WHEREAS, the Declaration does not address the parameters within which a telecommunications tower may be constructed on the Property; and

WHEREAS, in order to proceed with the sale with Verizon Wireless, the Declaration must be amended to address construction of a telecommunications tower on the Property; and

WHEREAS, pursuant to Section 11.2 of the Amended Declaration, the Declarant may, as the owner of no less than sixty-five percent (65%) of the total acreage of the Property, amend the Amended Declaration to make changes and clarifications thereto.

NOW, THEREFORE, BE IT RESOLVED, that the First Amendment to the Amended Declaration is hereby authorized and approved by the Executive Director and, with the

advice and consent of Counsel, the Chairperson, Vice Chairperson, and the Executive Director are hereby authorized to execute same.

A motion to approve Resolution 09-47 was made by Commissioner Traynor, seconded by Commissioner Smith, and approved by a roll call vote of 11-0.