



Fox Rothschild LLP  
ATTORNEYS AT LAW

Mail: P.O. Box 5231, Princeton, NJ 08543-5231

Princeton Pike Corporate Center  
997 Lenox Drive, Building 3  
Lawrenceville, NJ 08648-2311  
Tel 609.896.3600 Fax 609.896.1469  
www.foxrothschild.com

STEVEN S. GOLDENBERG  
Direct Dial: 609-896-4586  
Email Address: SGoldenberg@FoxRothschild.com

BOARD OF PUBLIC UTILITIES

MAY 10 2017

MAIL RECEIVED

May 8, 2017

**VIA FEDERAL EXPRESS**

Irene Kim Asbury, Secretary  
New Jersey Board of Public Utilities  
44 South Clinton Avenue  
Trenton, New Jersey 08625-0350

QD17050495

Re: I/M/O the Petition of Saint Peter's University Hospital, Inc. for a Declaratory Ruling Pursuant to N.J.S.A. 52:14B-8 and N.J.S.A. 2A:16-50 et seq.

Dear Secretary Asbury:

Enclosed are an original and four copies of a Verified Petition in the above matter. A check in the amount of \$25.00, payable to the Treasurer, State of New Jersey is also enclosed to cover the costs of filing.

By copy of this letter, copies of the Verified Petition are being forwarded this date via regular mail to all persons whose names appear on the attached distribution list.

Thank you for your anticipated courtesies.

Respectfully submitted,

Steven S. Goldenberg

CM's  
R. BOYLAN  
DAG  
RPA  
CLEAN ENERGY  
S. HUNTER  
M. SLATER

SSG:jfp  
Encl.

cc: Attached Distribution List  
Richard Mroz, President  
Joseph Fiordaliso, Commissioner  
Mary-Anna Holden, Commissioner  
Dianne Solomon, Commissioner  
Upendra Chivukula, Commissioner

A Pennsylvania Limited Liability Partnership

California Colorado Connecticut Delaware District of Columbia Florida  
Illinois Minnesota Nevada New Jersey New York Pennsylvania Texas

Irene Asbury, Secretary  
NJ Board of Public Utilities  
44 South Clinton Avenue, 9th Floor  
P.O. Box 350  
Trenton, NJ 08625-0350

Rachel Boylan, Esq.  
NJ Board of Public Utilities  
44 South Clinton Avenue, Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350

St. Peter's University Hospital, Inc.  
c/o Steven S. Goldenberg, Esq.  
Fox Rothschild LLP  
997 Lenox Drive, Bldg. 3  
Lawrenceville, NJ 08648-2311

Stefanie A. Brand, Esq., Director  
Division of Rate Counsel  
P.O. Box 003  
140 East Front Street, 4<sup>th</sup> Floor  
Trenton, NJ 08625

Andrew McNally, Esq., Chief Counsel  
NJ Board of Public Utilities  
44 South Clinton Avenue, Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350

Marisa Slaten, Esq.  
NJ Board of Public Utilities  
44 South Clinton Avenue, 9th Floor  
P.O. Box 350  
Trenton, NJ 08625-0350

Caroline McIntosh, Esq., DAG  
Division of Law & Public Safety  
124 Halsey Street, 5<sup>th</sup> Flor  
P.O. Box 45029  
Newark, NJ 07101

Caroline Vachier, DAG  
NJ Dept of Law & Public Safety  
124 Halsey Street, 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, NJ 07102

Benjamin S. Hunter  
NJ Board of Public Utilities  
44 South Clinton Avenue, 3<sup>rd</sup> fl.  
P.O. Box 350  
Trenton, NJ 08625-0350

Allison Mitchell  
Office of Clean Energy  
Board of Public Utilities  
P.O. Box 350  
Trenton, NJ 08625-0350

Emma Xiao, Esq., DAG  
Division of Law & Public Safety  
124 Halsey Street, 5<sup>th</sup> Flor  
P.O. Box 45029  
Newark, NJ 07101

MAY 10 2017

CMS

STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES

BOARD OF PUBLIC UTILITIES

MAY 10 2017

IN THE MATTER OF THE PETITION	)	
OF SAINT PETER'S UNIVERSITY	)	
HOSPITAL, INC., A NEW JERSEY NON-	)	VERIFIED PETITION
PROFIT CORPORATION, FOR A	)	
DECLARATORY RULING PURSUANT TO	)	BPU DOCKET NO.
<u>N.J.S.A. 52:14B-8</u> AND <u>N.J.S.A. 2A:16-50</u> <i>et</i>	)	
<i>seq.</i>	)	

MAIL RECEIVED

TO THE HONORABLE NEW JERSEY BOARD OF PUBLIC UTILITIES

I. INTRODUCTION

Petitioner, Saint Peter's University Hospital, Inc. ("Saint Peter's"), hereby petitions the Board of Public Utilities ("Board") for a declaratory ruling, pursuant to N.J.S.A. 52:14B-8 and N.J.S.A. 2A:16-50 et seq., that the proposed Saint Peter's combined heat and power facility, as described in this Verified Petition ("CHP Facility"), is an "on-site generation facility" within the meaning of N.J.S.A. 48:3-51 and N.J.S.A. 48:3-77, and is therefore entitled to all benefits conferred upon such facilities by the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. ("EDECA") and New Jersey law.

II. STATEMENT OF FACTS

A. Background Regarding Petitioner And The New Brunswick Campus

1. Saint Peter's is a New Jersey non-profit corporation that is part of the Saint Peter's Healthcare System. Saint Peter's owns and operates an integrated health care delivery system located at 254 Easton Avenue, New Brunswick, New Jersey.

2. Saint Peter's is a 478-bed acute care teaching hospital that is sponsored by the Roman Catholic Diocese of Metuchen. Saint Peter's employs more than 3,000 health care professionals and support personnel, and has a complement of more than 1100 doctors on staff. Saint Peter's provides essential health services to the community and region, treating more than 24,000 inpatients and more than 240,000 outpatients annually. Given the scope and importance of the medical services it provides, it is critical that Saint Peter's be fully operational and available to the public at all times and without interruption.

3. Saint Peter's New Brunswick campus includes Saint Peter's hospital, the Children's Hospital at Saint Peter's University Hospital, the National Gianna Center for Women's Health and Fertility, and the Center for Ambulatory Resources, which includes both

the CARES Surgicenter, a state-of-the-art surgical facility that provides a broad spectrum of medical procedures on an outpatient basis, and the New Brunswick Cardiac Catheterization Lab, which offers advanced cardiac medical procedures and technologies (together the “On-Site Medical Facilities”). The hospital and On-Site Medical Facilities are affiliated entities owned by the Saint Peter’s Healthcare System and are all located within the boundaries of Saint Peter’s New Brunswick campus (the “Campus”). Saint Peter’s owns the property on which the Campus is located as well as the buildings that comprise the Campus. Saint Peter’s is the only entity that currently receives and pays all bills for electric and natural gas utility service provided to the Campus by Public Service Electric and Gas Company. On a going forward basis, Saint Peter’s will remain the utility’s only customer of record for the Campus.

4. Each of the above-described facilities provides essential health care services that must be continuously provided during emergencies, major storm events and other occurrences that cause power outages and interruptions in utility service. Saint Peter’s has therefore determined that it is necessary and appropriate to develop an on-site generation facility and appurtenant energy systems and infrastructure that will assure a continuous supply of electric and thermal energy to the Campus on a 24/7/365 basis.

5. The several maps that are attached as exhibits to this Verified Petition accurately depict the boundaries and layout of the Campus, and the location of the on-site generation facility within the Campus. As the maps depict, Easton Avenue provides the Northern boundary and Park Boulevard provides the Western boundary of the Campus. Three public thoroughfares—Guilden Street, Delafield Street and Duke Street—run parallel to Easton Avenue and perpendicular to the Eastern boundary of the Campus. The three public streets terminate at the boundary line of the Campus and do not enter it. Delafield Street terminates at a side entrance to the Campus, which contains a key-activated gate that opens to a small parking lot reserved for hospital medical personnel. Duke Street joins with the extension of Park Boulevard to form the Southern boundary of the Campus, together with a field on the opposite side of Park Boulevard that houses one of the hospital’s solar arrays.

6. The only roadways depicted by the maps as within the Campus are two private driveways that provide entry to the Campus, one from Park Boulevard and the other from Easton Avenue. No public thoroughfare, right of way or easement bisects the Campus, and none will separate the CHP Facility from the hospital and the On-Site Medical Facilities. The hospital and On-Site Medical Facilities will consume all of the electric and thermal energy output of the CHP Facility.

7. The CHP Facility will be located within the boundaries of the Campus in an open area immediately adjacent to the hospital’s existing boiler plant, which is located within the hospital building complex. The locations of the CHP Facility, boiler plant and two exterior switchyards are depicted in the shaded portions of the map prepared by Highland Associates, the project engineers. Saint Peter’s has also developed two existing on-site solar arrays, which are owned by Saint Peter’s Solar Energy Solutions, a wholly-owned subsidiary of Saint Peter’s Healthcare System. The solar arrays are interconnected with Saint Peter’s electric grid and all solar energy generated is consumed on-site by the hospital and On-Site Medical Facilities. The smaller solar array is located on the roof of a parking garage located along Park Boulevard while

the larger array is located on the opposite side of Park Boulevard and is bounded to the South by Hawthorne Park.

## **B. The Combined Heat and Power Facility**

8. Saint Peter's was directly and adversely impacted by Superstorm Sandy. To minimize its vulnerability to major storm events and to assure that it can fulfill its responsibilities to the community and region without further interruption of its power supply, Saint Peter's will enhance the reliability and resiliency of its energy systems by installing the CHP Facility and appurtenant energy systems and infrastructure within the Campus. The CHP Facility will have black start and islanding capabilities and will provide resilient electric and thermal energy supply to the entire Campus.

9. The prime mover of the CHP Facility will be a state-of-the-art, two megawatt natural gas-fired reciprocating generator that will produce electricity, steam and hot water that will enhance the utility and other energy systems presently in operation within the Campus. The CHP Facility will recover hot water from the engine jacket heat rejection loop that will be connected to hot water loads in the hospital and will recover exhaust energy in an exhaust-to-steam generator that will be connected to the main steam header in the hospital's central utility plant, which will be located directly adjacent to the CHP Facility.

10. Saint Peter's currently has installed diesel powered back-up generators that are used to provide emergency power to the Campus during outages. The CHP Facility will operate in conjunction with the back-up diesel generators and together they will enable Saint Peter's to operate normally during power outages and assure that the hospital's critical health services, together with HVAC, will be available on a continuous basis.

11. In addition to providing resilient electric and thermal energy to the Campus, the CHP Facility will provide emergency power fuel source diversity because it will be powered by natural gas. Natural gas has proven to be very reliable during major storm and other disruptive events that cause utility outages and impede the delivery of the liquid fuels that are currently used to power the backup generators.

## **III. BASIS FOR THE REQUESTED RELIEF**

12. N.J.S.A. 52:14B-8 provides that "an agency upon the request of any interested person may in its discretion make a declaratory ruling with respect to the applicability to any person, property or state of facts of any statute or rule administered by that agency." Saint Peter's, as a Petitioner requesting a declaration that its proposed CHP Facility satisfies the statutory requirements for recognition as an on-site generation facility, is an "interested person" within the meaning of the statute and thus has standing to request this relief.<sup>1</sup>

---

<sup>1</sup> Title 52 does not define the term "person, but the statute that governs declaratory judgments in the courts does. N.J.S.A. 2A:16-50 states that a "person" includes "any person, partnership, joint

13. EDECA promotes on-site generation facilities as an alternative source of power generation for host facilities that seek to self-generate electric and thermal energy:

“On site generation facility” means a generation facility, including, but not limited to, a generation facility that produces Class I or Class II renewable energy, and equipment and services appurtenant to electric sales by such facility to the end use customer located on the property or on property contiguous to the property on which the end user is located. An on-site generation facility shall not be considered a public utility. The property of the end use customer and the property on which the on-site generation facility is located shall be considered contiguous if they are geographically located next to each other, but may be otherwise separated by an easement, public thoroughfare, transportation or utility-owned right-of-way, or if the end use customer is purchasing thermal energy services produced by the on-site generation facility, for use for heating or cooling, or both, regardless of whether the customer is located on property that is separated from the property on which the on-site generation facility is located by more than one easement, public thoroughfare or transportation or utility-owned right-of-way...

N.J.S.A. 48:3-51.

14. EDECA further mandates that generation facilities found to satisfy the statutory requirements to qualify as an on-site generating facility will not be subject to payment of the Societal Benefits Charge and certain market transition charges<sup>2</sup> on electricity supplied to an on-site customer. On-site generation facility host customers are also permitted to operate and maintain privately-owned distribution wires and infrastructure that are located “within the fence” of the on-site generation facility, and are exempt from payment of the sales and use tax on purchases of natural gas and utility service that are used to generate and transport electricity. *See, N.J.S.A. 48:3-77 and N.J.S.A. 54:32B-8.46(b)(3).*

15. Based upon the foregoing, it is evident that the Saint Peter’s CHP Facility, which is currently being constructed, will satisfy all statutory requirements for qualification as an on-site generation facility. The CHP Facility will be located within the boundaries of the Campus and will supply the electric and thermal energy it generates exclusively within the confines of the Campus to buildings owned and occupied by Saint Peter’s. Saint Peter’s will be the single end-use host customer of the CHP Facility. The buildings that comprise the Campus are under common ownership by Saint Peter’s, located immediately contiguous to each other and are not

---

stock company, unincorporated association or society, and municipal or other corporation of any character.”

<sup>2</sup> The market transition charges created by EDECA for utility stranded cost recovery were authorized for only a finite period of time and are no longer being collected from customers. *See, N.J.S.A. 48:3-62 et seq.*

separated by a public thoroughfare, easement or right of way within the meaning of EDECA. No sales of electric or thermal energy generated by the CHP Facility will be made to an unaffiliated third party located within or outside the boundary of the Campus.

16. In addition to complying with EDECA, the proposed CHP Facility is also consistent with, and advances the policy goals of the Governor’s Energy Master Plan Update (“EMP”). The EMP encourages the State’s critical facilities, including hospitals, to reduce the vulnerability of their energy infrastructure to threats posed by major storm events and other causes. So fundamental is this concern that it provided the basis for a new “overarching” EMP policy goal to incorporate certain energy measures to improve the resilience of the State’s critical energy infrastructure. One such measure advocated by the EMP is the expanded use of distributed energy resources, including on-site generation facilities, that have black start capabilities and are capable of operating in island mode during grid power outages. The EMP also highlighted the State’s efforts to encourage investment in resilient distributed energy resources through the Energy Resilience Bank (“ERB”). (See, November 2015 Energy Master Plan Update, at pp. 45-51). The ERB has committed to provide a significant portion of the funding for the Saint Peter’s CHP Facility, which has been approved as a sub-recipient of a HUD CDBG-DR Program grant.

17. Thus viewed, the Saint Peter’s CHP Facility represents precisely the type of resilient distributed energy project that is the current focus of the State’s energy policies as reflected in the EMP. Thus, granting the relief sought by this Verified Petition would be completely consistent with, and will facilitate the accomplishment of the State’s new overarching energy resilience goal and contribute to the growing success of the ERB.

18. The facts supporting this Verified Petition are not contested and no opposition to the Verified Petition is anticipated. While N.J.S.A. 52:14B-8 provides that “full opportunity for hearing shall be afforded to interested parties,” the statute does not mandate the form of such a “hearing” or require that a hearing must actually occur. Saint Peter’s urges that in circumstances where, as here, (i) no opposition is anticipated, (ii) no issues of fact are presented, and (iii) the Board’s recognition of the CHP Facility as an on-site generation facility would be consistent with EDECA and the State’s energy policies, it would be appropriate for the Board to retain the Verified Petition for decision on an expedited basis and consider the matter on the papers presented.

#### IV. COMMUNICATIONS

19. Communications and correspondence related to the Verified Petition should be sent to the following:

Robert Mulcahy, Vice President  
Saint Peter’s University Hospital  
254 Easton Avenue  
New Brunswick, NJ 08901  
(T) 732-745-6670  
[rmulcahy@saintpetersuh.com](mailto:rmulcahy@saintpetersuh.com)

Steven S. Goldenberg  
Fox Rothschild LLP  
997 Lenox Drive, Building 3  
Lawrenceville, NJ 08648  
(T) 609-896-3600  
[sgoldenberg@foxrothschild.com](mailto:sgoldenberg@foxrothschild.com)

**V. REQUEST FOR RELIEF**

20. Saint Peter's respectfully requests the Board to enter an order declaring that:

(1) The Saint Peter's CHP Facility constitutes an "on-site generation facility" within the meaning of N.J.S.A. 48:3-51 and N.J.S.A. 48:3-77; and

(2) Saint Peter's may avail itself of the following financial and other benefits that are accorded by EDECA and New Jersey law to the host customer of an on-site generation facility, including:

a) Saint Peter's shall be exempt from payment of the Societal Benefits Charge or its equivalent on all electricity generated on-site by the CHP Facility and supplied to the Saint Peter's Campus; and

b) Saint Peter's shall be authorized to build, own, operate and maintain as part of the CHP Facility, all infrastructure, including distribution wires, lines, pipes and mains, that is necessary and appropriate to generate and distribute electric and thermal energy from the CHP Facility to facilities owned by Saint Peter's located "within the fence" of the Saint Peter's Campus; and

c) Neither Saint Peter's nor the CHP Facility shall be deemed to be a public utility of the State of New Jersey, and neither shall be subject to regulation by the Board; and

d) Any other and further relief as shall be deemed to be just and reasonable to effectuate the development, operation and maintenance of the Saint Peter's CHP Facility.

Respectfully submitted,

By: \_\_\_\_\_

Steven S. Goldenberg  
Fox Rothschild LLP  
997 Lenox Drive, Building 3  
Lawrenceville, NJ 08648  
Counsel for Saint Peter's University Hospital

Dated: May 8, 2017

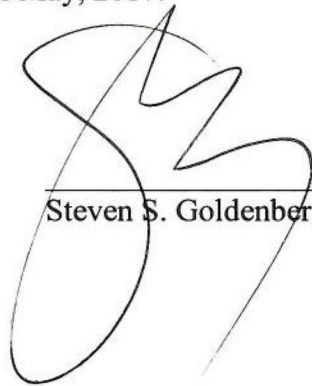




## CERTIFICATION OF SERVICE

I hereby certify that I have this day served via first class mail copies of the foregoing Verified Petition to the parties identified on the service list. An original and four copies have this day been forwarded via first class mail to Irene Kim Asbury, Secretary, Board of Public Utilities.

Dated at Lawrenceville, New Jersey, this ~~8<sup>th</sup>~~ day of May, 2017.



Steven S. Goldenberg

Irene Asbury, Secretary  
NJ Board of Public Utilities  
44 South Clinton Avenue, 9th Floor  
P.O. Box 350  
Trenton, NJ 08625-0350

Rachel Boylan, Esq.  
NJ Board of Public Utilities  
44 South Clinton Avenue, Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350

St. Peter's University Hospital, Inc.  
c/o Steven S. Goldenberg, Esq.  
Fox Rothschild LLP  
997 Lenox Drive, Bldg. 3  
Lawrenceville, NJ 08648-2311

Stefanie A. Brand, Esq., Director  
Division of Rate Counsel  
P.O. Box 003  
140 East Front Street, 4<sup>th</sup> Floor  
Trenton, NJ 08625

Andrew McNally, Esq., Chief Counsel  
NJ Board of Public Utilities  
44 South Clinton Avenue, Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350

Marisa Slaten, Esq.  
NJ Board of Public Utilities  
44 South Clinton Avenue, 9th Floor  
P.O. Box 350  
Trenton, NJ 08625-0350

Caroline McIntosh, Esq., DAG  
Division of Law & Public Safety  
124 Halsey Street, 5<sup>th</sup> Flor  
P.O. Box 45029  
Newark, NJ 07101

Caroline Vachier, DAG  
NJ Dept of Law & Public Safety  
124 Halsey Street, 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, NJ 07102

Benjamin S. Hunter  
NJ Board of Public Utilities  
44 South Clinton Avenue, 3<sup>rd</sup> fl.  
P.O. Box 350  
Trenton, NJ 08625-0350

Allison Mitchell  
Office of Clean Energy  
Board of Public Utilities  
P.O. Box 350  
Trenton, NJ 08625-0350

Emma Xiao, Esq., DAG  
Division of Law & Public Safety  
124 Halsey Street, 5<sup>th</sup> Flor  
P.O. Box 45029  
Newark, NJ 07101

# HIGHLAND ASSOCIATES

Interior Design  
 244 East Avenue  
 Newark, N.J. 07102  
 (973) 581-1100

ARCHITECTURE	DESIGNED FOR	DATE
ENGINEERING	DESIGNED FOR	DATE
MECHANICAL	DESIGNED FOR	DATE
ELECTRICAL	DESIGNED FOR	DATE
PLUMBING	DESIGNED FOR	DATE
MECHANICAL	DESIGNED FOR	DATE
ELECTRICAL	DESIGNED FOR	DATE
PLUMBING	DESIGNED FOR	DATE

PROJECT NO. 100-1000  
 SHEET NO. 100-1000

NIDCA #DCA-5182-16

SAINT PETERS UNIVERSITY HOSPITAL  
 244 East Avenue  
 Newark, NJ 07102



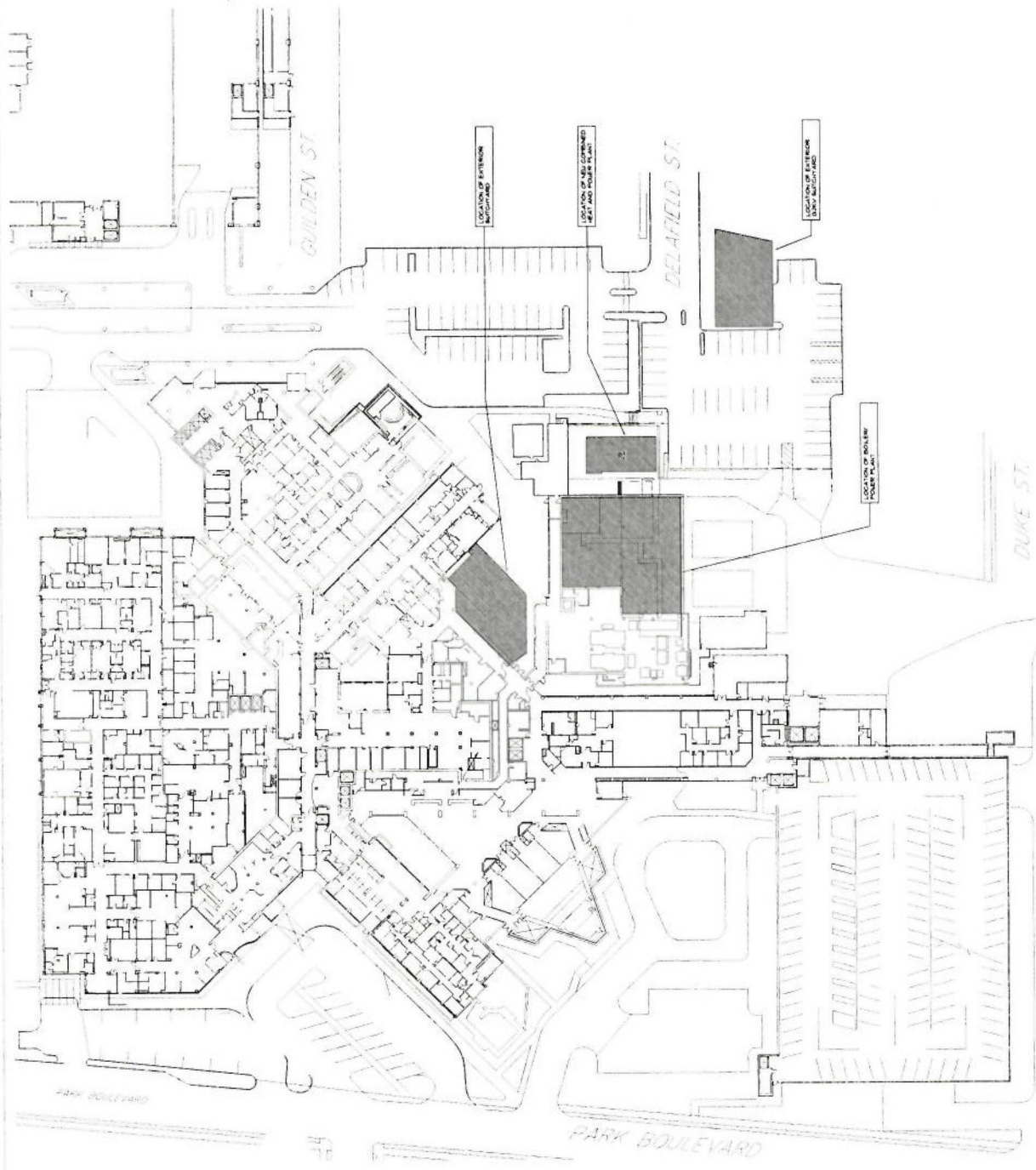
244 East Avenue  
 Newark, NJ 07102

Combined Heat and Power Plant

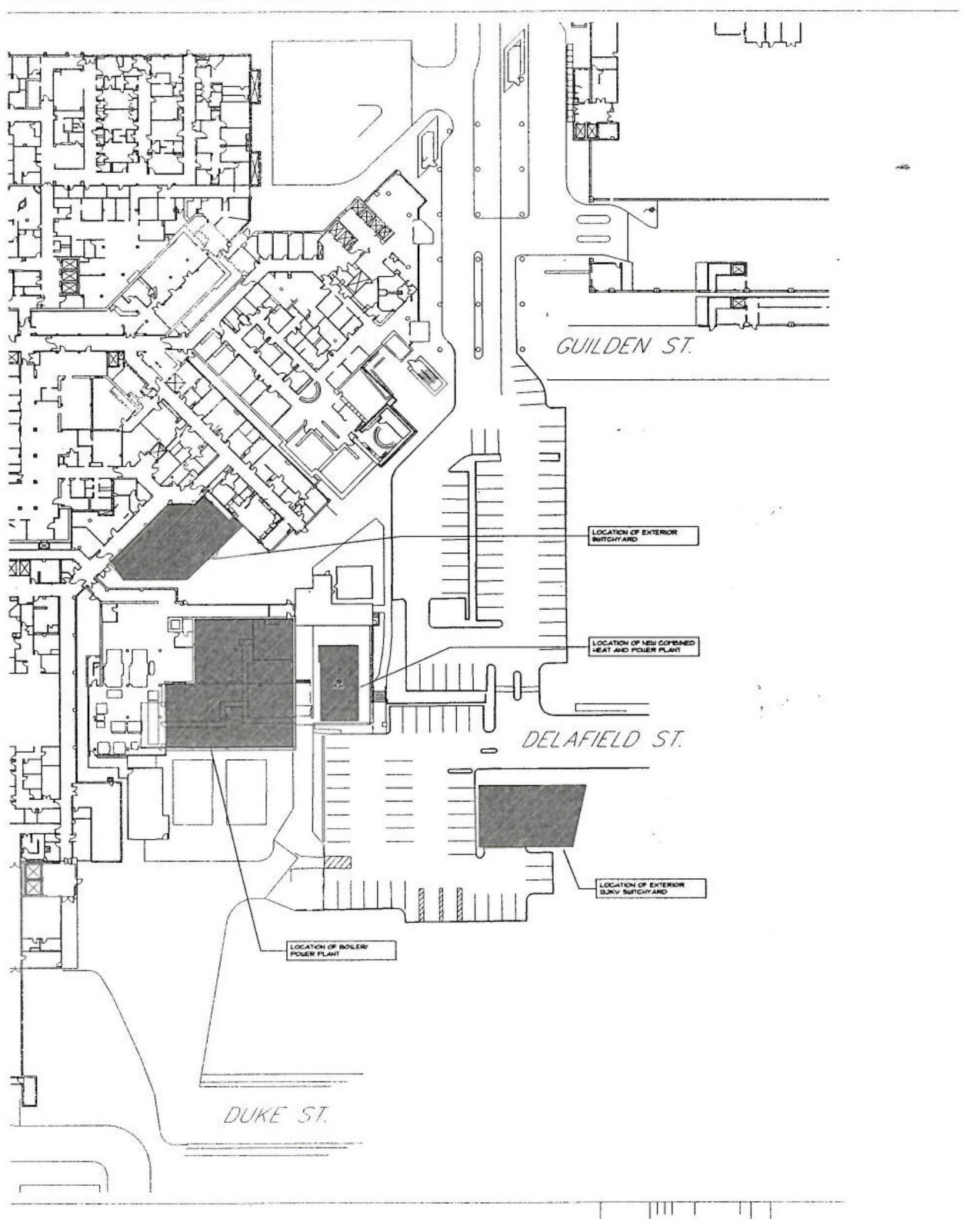
## SITE PLAN

DATE	BY	NO.
10/1/88	J.S.	100-1000
10/1/88	J.S.	100-1000

## SITE



ST. PETERS UNIVERSITY HOSPITAL SITE PLAN  
 SCALE: AS SHOWN



**HIGHLAND ASSOCIATES**

Architecture Highland Center (370) 588-4334  
 Engineering 102 Highland Avenue (370) 588-5900  
 Interior Design Chris Survil, PE (370) 588-5911 www.highlandassociates.com

REVISION NO.	
8/15/16	ISSUED FOR DCA REVIEW
5/1/2016	ISSUED FOR RFP
8/17/2016	ADDENDUM 1

NJDCA #DCA-5182-16

CONTRACTOR: CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES AND AUTHORITIES. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES AND AUTHORITIES. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES AND AUTHORITIES.

**SAINT PETER'S UNIVERSITY HOSPITAL**  
 254 Easton Avenue  
 New Brunswick, NJ 08901

Combined Heat and Power Plant

SEALS:

DRAWING TITLE	
SITE PLAN	
DRAWN BY	CHECKED BY
TJMT	TJMT
DATE	PROJECT NO.
9-1-2016	205-335
DRAWING NO.	

**SITE**

END FILE NUMBER: PLT DATE: 8/15/16



**ST. PETERS HOSPITAL**

**ENVIRONMENTAL CONSTRAINTS MAP**

Combined Heat & Power (CHP)  
 Cogen Plant Replacement  
 Saint Peter's University Hospital  
 New Brunswick, Middlesex County NJ

SCALE: 1" = 200'

DATE: March 2016

**Dewberry**

**FIGURE 1**

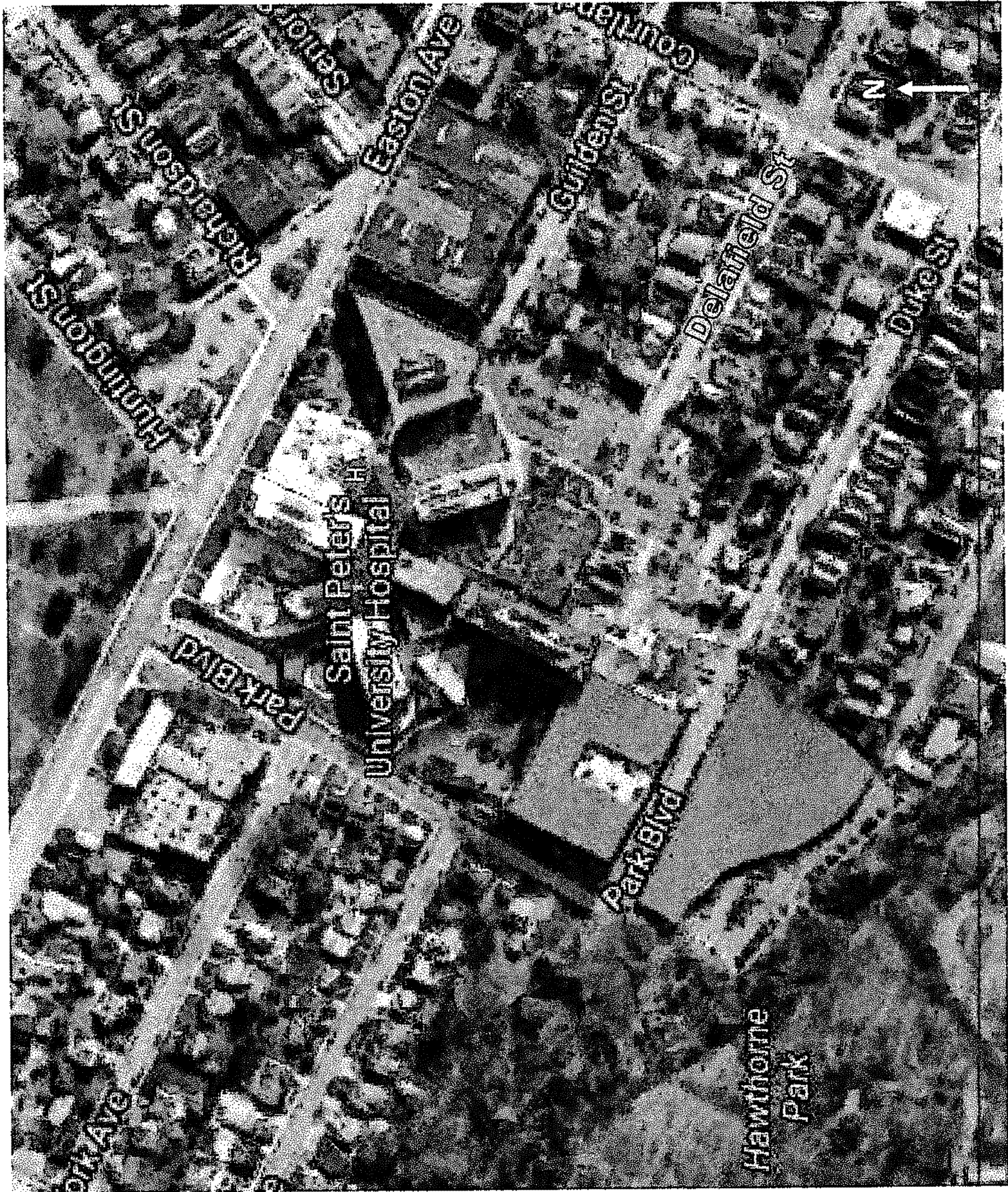
**LEGEND**

- Property Boundary
- Municipal Boundary
- NJDEP Wetlands
- 100 Year Floodplain
- Surface Water
- Historic Properties

Except the information on this plan is based on a compilation of publicly available New Jersey Department of Environmental Protection (NJDEP) Geographic Information System geospatial data. No verification or approval by NJDEP of the information presented is implied.

Google Earth Imagery - 11/20/14





Saint Peter's Hospital  
University Hospital

Hawthorne Park



San Diego State University  
Huntington St  
Parsons St  
Easton Ave

Citicenter St

Delafield St

Duran St

Park Blvd

Park Blvd

Easton Ave