

State of Rhode Island and Providence Plantations
Council on Postsecondary Education
OFFICE OF THE POSTSECONDARY COMMISSIONER
560 Jefferson Boulevard Suite 100
Warwick, Rhode Island 02886-1304

Enclosure 8e
April 27, 2016

Barbara S. Cottam
Chair

TO: Members of the Council on Postsecondary Education

**Council on Elementary and
Secondary Education**

FROM: Jim Purcell, Ed.D, Commissioner for Postsecondary Education

Daniel P. McConaghy
Chair

DATE: April 20, 2016

Amy Beretta, Esq.

RE: Authorization for three Easements related to the Environmental
Land Use Restrictions imposed upon Parcels at the University of
Rhode Island associated with the West Kingston Superfund Site.

Colleen A. Callahan, Ed.D.

Karin Forbes

As a result of the efforts by the University of Rhode Island and with the support of the previous Board of Governors, the remediation of this Superfund Site was successfully completed over the course of several years. The attached letter from President Dooley provides an excellent and detailed history of the land parcels that comprised that site and that are currently the subject of three easements.

Jo Eva Gaines

Marta V. Martinez

Lawrence Purtill

At this time, however, there is the final administrative step of providing each of these subdivisions of the subject parcel with the appropriate title restrictions. The purpose of these subdivisions and their associated easements is to put usable land back into service while maintaining the more restrictive usage to appropriate acreage within the parcel.

Joyce L. Stevos, Ph.D.

**Council on Postsecondary
Education**

William Foulkes
Chair

The University has expended much time and effort in the directing of this project which has included surveying, testing for contaminants in both soil and ground water flows and receiving approvals from all of the appropriate authorities as well as the conducting of public hearings with the town of South Kingstown to address all public concerns about safety.

Michael Bernstein

Dennis Duffy, Esq.

The Honorable Thomas Izzo

This item is now ready for the Council's approval so that the negotiated title restriction language may be formally accepted and recorded for the surveyed, subdivided parcels under its ownership.

Judy Ouellette

Kerry I. Rafanelli, Esq.

John J. Smith, Jr.

The University has enclosed copies of each of the three easements that have been prepared and approved by state and federal authorities as well as a map which identifies land areas marked as Area-A, Area-B, and Area-C. These documents will be forwarded to the State Properties Committee upon signing.

Dr. Jeffery A. Williams

Accordingly I recommend:

THAT the Council on Postsecondary Education approves three Easements addressing Environmental Land Use Restrictions for parcels located at the University and associated with the West Kingston Superfund Site.

Telephone: (401)736-1100 Fax: (401)732-3541 TDD: (401)734-9481 Website: www.riopc.org

The Council on Postsecondary Education does not discriminate on the basis of age, sex, sexual orientation, gender identity/expression, race, color, religion, national origin, or disability.

THE
UNIVERSITY
OF RHODE ISLAND

OFFICE OF THE
PRESIDENT

THINK BIG  WE DO™

Green Hall, 35 Campus Avenue, Kingston, RI 02881 USA p: 401.874.4462 f: 401.874.7149 uri.edu/president

David M. Dooley, Ph.D.
President



TO: Jim Purcell, Commissioner Postsecondary Education

FROM: David Dooley, President University of Rhode Island 

DATE: April 12, 2016

SUBJECT: ENVIRONMENTAL LAND USE RESTRICTIONS IMPOSED UPON UNIVERSITY PARCELS
ASSOCIATED WITH THE WEST KINGSTON SUPERFUND SITE

From the early 1930's through the 1960's a municipal land fill was operated by the Town of South Kingstown accepting waste from that Town, the Town of Narragansett, and the University on a parcel northwest of the URI's Kingston Campus. A disposal area was utilized by the University between 1945 and 1975 on undeveloped University land immediately north of the former landfill site. These locations were the subject of regulatory attention following the detection of chemical contamination in nearby private wells in West Kingston in the 1987.

The University and the Town took prompt action in response to the findings cooperatively installing water lines and connecting the affected private homes into the University's Water System. Following further investigation, Region I EPA placed the West Kingston Site on the National Priority list for Superfund Sites in the late 1980's. The University and the Towns of South Kingstown and Narragansett were identified as potentially responsible parties.

The University and the Towns jointly engaged Woodward and Curran through a public solicitation process to provide expert environmental engineering services from an initial feasibility study through various implementation steps, responding effectively to the guidance of the RI Department of Environmental Management, the Environmental Protection Agency US Region I, and the US Justice Department. A presumptive remedy of consolidating and capping the former landfill and disposal sites was accomplished. When further investigative testing led to the identification of the source of contamination, the University, with their consultants implemented a process of soil removal and in-situ oxidative treatment, successfully addressing the source area and reaching the contaminated ground water, which will be monitored and treated periodically over time.

The final administrative step associated with this long engagement with the responsible regulatory and enforcement agencies was to impose appropriate title restrictions via a "Declaration of Covenants and Environmental Protection/Conservation and Access Easement" on the land parcels affected by the direct presence of contaminants in soil or indirectly through their transport via ground water flow. The process was discussed and crafted over an extended period and was authorized to proceed by RIDEM, EPA, and Justice in 2009.

The Council for Postsecondary Education for the University holds title to three large land parcels that were to be subject to the referenced title restrictions encompassing over 300 acres north and west of the developed Kingston Campus. Normally, the restrictions regarding prior authorization of any excavation or construction on the properties as well as the prohibition of ground water withdrawal from the land would be applied to the entire acreage. However, in this case, with the location of the contamination sources and the ground water plume and characteristics well tested and documented, the University proposed an administrative subdivision of select parcels within the subject parcels upon which to expressly impose the appropriate public safety measures and required prior authorizations. This approach was ultimately accepted and approved by the appropriate authorities.

Following public hearings, a long and painstaking process commenced, with the Town of South Kingstown addressing each privately held affected land parcel and the University addressing its identified sub parcels. Survey work was conducted, easements and rights of way confirmed, and the specific language for the title restrictions for each parcel was drafted signed-off and prepared for recording in the Town Land Evidence Records.

This item is before the Council on Postsecondary Education at this time so that the negotiated title restriction language can be formally accepted and recorded for the surveyed, subdivided parcels under the ownership of the Council. Through the University's efforts, the quality work from our environmental engineering consultant, and the thoughtful consideration of State and Federal authorities, the amount of Council-owned acreage affected by the subject title restrictions has been substantially reduced while meeting the public safety standards for these sites for the long term.

Enclosed is a map which identifies land areas marked as Area-A, Area-B, and Area-C that identify the surveyed sub parcels and their associated environmental land use restrictions. The land area marked as 15-1, 14 is the former municipal landfill presently owned and controlled by the Town of South Kingstown. The three Easements for the varying restrictions imposed upon the subdivided Council properties are also enclosed in readiness for execution.

Representatives of the University will be present at the upcoming Council Meeting to respond to questions and provide further information as required.

c: Christina L. Valentino
Louis J. Saccoccio
J. Vernon Wyman
Jerry Sidio

**DECLARATION OF CONSERVATION RESTRICTION
AND ACCESS EASEMENT**

This Declaration of Conservation Restriction and Access Easement ("Declaration") is made this ____ day of _____, 2016, between the Rhode Island Council on Postsecondary Education, (statutory successor to the Board of Governors for Higher Education) having an address of 560 Jefferson Blvd., Warwick, Rhode Island 02886 ("Grantor"), for the benefit of the University of Rhode Island having an address of 210 Flagg Road, Kingston, Rhode Island, 02881, and the STATE OF RHODE ISLAND and its authorized representatives, successors and assigns ("Grantee"), having an address of Rhode Island Department of Environmental Management, Office of Waste Management, 235 Promenade Street, Providence, Rhode Island 02908.

WITNESSETH:

1. WHEREAS, Grantor is the owner in fee simple of a parcel of land located at Plains Road in the Town of South Kingstown, Washington County, State of Rhode Island, more particularly described by deed dated June 5, 1936, and recorded June 12, 1936, in the Records of Land Evidence for the Town of South Kingstown, Rhode Island at Book 49 Page 446 (3-6) attached hereto as Exhibit A and made a part hereof (the "Property"); and

2. WHEREAS, certain portions of the Property referred to as Subparcel in Area A-1 and A-2, Area B-1, and Area C-1 (collectively, the "Restricted Areas") bounded and described in Exhibit B, attached hereto and made a part hereof, are subject to covenants, restrictions, easements and other rights and obligations under this Declaration; the Restricted Areas being shown on sheet number 1 of a plan consisting of 2 sheets, entitled "Institutional Control Plan at the University of Rhode Island in South Kingstown, RI" prepared by Louis Federici Associates, 365 Smith Street, Providence, Rhode Island, dated 06/19/2015, and recorded in the Records of Land Evidence for The Town of South Kingstown, Rhode Island on 01/26/2016, as Map # 2016 - 1, dated January 26, 2016, at 9:24 AM, (said sheets collectively being referred to as the "Plan of Restricted Areas"); and

3. WHEREAS, the State of Rhode Island and the United States Environmental Protection Agency ("EPA") have determined that the Property and certain land in close proximity to the Property contain hazardous materials and other adverse environmental conditions; and

4. WHEREAS, the Property is part of the West Kingstown Town Dump/ URI Disposal Area Superfund Site ("Site"), which the U.S. Environmental Protection Agency ("EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, placed on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on October 14, 1992; and

5. WHEREAS, three impermeable landfill caps were constructed on the Site in 2006 under State law (the "State Landfill Closure"); and

6. WHEREAS, in a Record of Decision dated September 28, 2006, (the "ROD"), the Deputy Director of EPA Region 1's Office of Site Remediation and Restoration selected a "remedial action" for the Site, which provides for the following actions (among others) at the Site:

a. Mixing of an oxidant solution into contaminated soil at a part of the Site called the Former Drum Storage Area;

b. Injection of chemical oxidants (such as sodium permanganate) in the vicinity of the Former Drum Storage Area through a series of injection wells, to reduce the concentration and mass of volatile organic compounds dissolved in the groundwater in this area;

c. Monitoring of dissolved constituents in groundwater near the Former Drum Storage Area and in downgradient areas, to verify the ability of natural attenuation processes to further reduce the concentration and mass of dissolved volatile organic compounds in this groundwater over time;

d. Implementation of deed restrictions (such as this Declaration) to prevent damage to and interference with the remedial action components and to restrict the use of groundwater before cleanup levels are achieved;

e. Long-term monitoring of surface water and groundwater, to determine effectiveness of the oxidation treatments and of monitored natural attenuation, and long-term monitoring of the caps installed under the State Landfill Closure;

f. Operation and maintenance activities throughout the life of the remedy;
and

g. The performance of five-year reviews as required by statute.

7. WHEREAS, a consent decree, was entered in the United States District Court of Rhode Island on March 9, 2009 ("Consent Decree") to resolve the case of United States of America and the State of Rhode Island, Plaintiffs v. Rhode Island Board of Governors for Higher Education, the University of Rhode Island, the Town of Narragansett, and the Town of South Kingstown, Defendants, Civil Action No. CA08-306S, Docket No. 15; and

8. WHEREAS, the parties hereto have agreed, consistent with the Consent Decree, 1) to grant a permanent right of access over the Property to the Grantee for purposes of implementing, facilitating and monitoring the remedial action; and 2) to impose on the Property use restrictions as covenants that will run with the land for the purpose of protecting human health and the environment by protecting the remedial action which has been and will be taken at the Site; and

9. WHEREAS, Grantor wishes to cooperate fully with the Grantee in the implementation of all response actions at the Site;

NOW, THEREFORE:

10. Grant: For and in consideration of the terms of the Consent Decree and other good and valuable consideration paid and the agreements and promises hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged, Grantor, on behalf of itself, its successors and assigns, does hereby covenant and declare that the Property shall be subject to the restrictions on use set forth below, and does give, grant and convey to the Grantee, with general warranties of title, 1) the perpetual right to enforce said use restrictions, and 2) a conservation restriction pursuant to Title 34, Chapter 39 of the General Laws of Rhode Island, as amended, and an Access Easement, of the nature and character and for the purposes hereinafter set forth, with respect to the Property.

11. Purpose: It is the purpose of this Declaration to give the Grantee the right to implement and/or monitor the remedial action to assure that the Property will be used only for purposes that are compatible with the remedial action and to ensure that the Property will not be used in a manner that will pose a threat to human health or the environment.

12. Covenant, Conditions and Restrictions on Use: The following covenants, conditions, and restrictions apply to the use of the Property, run with the land, and are binding on the Grantor and Grantor's successors, successors in title and assigns:

a. SUBPARCEL C-1

- (1.) Groundwater underlying the Property shall not be extracted, consumed, exposed or utilized in any way, except for the limited purpose of treating and monitoring groundwater contamination levels in accordance with plans approved by EPA and the State. Groundwater supply wells shall not be installed or utilized on any part of the Property, nor shall the hydrology of such groundwater be altered, except in accordance with plans approved by EPA and the State.
- (2.) No use or activity shall be permitted on the Property, unless otherwise provided for in the Consent Decree, which may impede the construction or implementation of the remedial action or which will disturb any of the remedial measures implemented. Such remedial measures include the monitoring of groundwater and surface waters.
- (3.) There shall be no disturbance of the surface or subsurface of the land by filling, drilling, excavation, removal of topsoil, rock or minerals, or change of the topography in any manner, except in accordance with plans approved by EPA and the State.

- (4.) Surface water on and/or adjacent to the Property shall not be extracted, consumed, or utilized in any way, nor shall the surface water be altered in any way so as to affect the hydrology of the groundwater underlying the Site, except in accordance with plans approved by EPA and the State.
- (5.) The multi-layer caps installed as part of the State Landfill Closure shall not be disturbed in any manner, except in accordance with plans approved by EPA and the State, and shall be properly inspected and maintained in good condition, in accordance with the cap Operation and Maintenance Plan approved by EPA and the State.
- (6.) No building or other development shall be built or undertaken without prior notice to, and approval by, EPA and the State.

b. SUBPARCEL B-1

- (1.) Groundwater underlying the Property shall not be extracted, consumed, exposed or utilized in any way, except for the limited purpose of treating and monitoring groundwater contamination levels in accordance with plans approved by EPA and the State. Groundwater supply wells shall not be installed or utilized on any part of the Property, nor shall the hydrology of such groundwater be altered, except in accordance with plans approved by EPA and the State.
- (2.) No use or activity shall be permitted on the Property, unless otherwise provided for in the Consent Decree, which may impede the construction or implementation of the remedial action or which will disturb any of the remedial measures implemented. Such remedial measures include, without limitation, the mixing of oxidants into the soil at the Former Drum Storage Area; injection of chemical oxidants into the groundwater in the vicinity of the Former Drum Storage Area; and the monitoring of groundwater and surface waters.
- (3.) There shall be no disturbance of the surface or subsurface of the land by filling, drilling, excavation, removal of topsoil, rock or minerals, or change of the topography in any manner, except in accordance with plans approved by EPA and the State. If data from representative soil sampling shows that soil located within Subparcel B-1 meets the criteria established in the Record of Decision, Grantor may petition Grantee to terminate this restriction pursuant to Paragraph 13.
- (4.) No building or other development shall be built or undertaken without prior notice to, and approval by, EPA and the State.

c. SUBPARCEL A-1; SUBPARCEL A-2

- (1.) Groundwater underlying the Property shall not be extracted, consumed, exposed or utilized in any way, except for the limited purpose of treating and monitoring groundwater contamination levels in accordance with plans approved by EPA and the State. Groundwater supply wells shall not be installed or utilized on any part of the Property, nor shall the hydrology of such groundwater be altered, except in accordance with plans approved by EPA and the State.
- (2.) No use or activity shall be permitted on the Property, unless otherwise provided for in the Consent Decree, which may impede the construction or implementation of the remedial action or which will disturb any of the remedial measures implemented. Turf farming and other agricultural uses of Subparcel A-2 shall be permitted, provided that such uses shall not violate any of the prohibitions contained in the immediately preceding Subparagraph 12(c)(1) regarding groundwater.
- (3.) No building or other development shall be built or undertaken without prior notice to, and approval by, EPA and the State.

13. Modification or Termination of Restrictions: The above covenants and restrictions may be modified or terminated, in whole or in part, in writing by the Grantee, subject to EPA's review and written concurrence. All expenses and costs of drafting and recording any modifications or terminations shall be borne by the Grantor. If requested by the Grantor, such writing will be executed by the Grantee in recordable form.

14. Environmental Protection/Conservation and Access Easement: Grantor hereby grants to the Grantee (and the Grantee's agents, contractors, designees and assigns, including but not limited to EPA and the defendants to the Consent Decree) an irrevocable, permanent and continuing right of access at all reasonable times to the Property for the purposes of conducting any activity related to the Consent Decree, including but not limited to:

- a. Implementing the response actions in the ROD, including but not limited to the mixing of oxidants into the soil at the Former Drum Storage Area; injection of chemical oxidants into the groundwater in the vicinity of the Former Drum Storage Area; and the monitoring of groundwater and surface water;
- b. Verifying any data or information submitted to EPA or the State;
- c. Verifying that no action is being taken on the Property in violation of the terms of this Declaration or of any federal or state environmental laws or regulations;
- d. Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, inspecting the caps installed as part of the State Landfill Closure and sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;

e. Assessing the need for, planning or implementing additional or new response actions at or near the Site.

f. Assessing implementation of quality assurance and quality control practices for the remedial action;

g. Implementing the activities required by the Consent Decree pursuant to the conditions set forth in Paragraph 95 of the Consent Decree.

h. Inspecting and copying records, operating logs, contracts or other documents maintained or generated by the defendants to the Consent Decree or their agents, consistent with Section XXIV (Access to Information) of the Consent Decree;

i. Assessing compliance with the Consent Decree by the parties to the Consent Decree; and

j. Determining whether the Site or other property is being used in a manner that is prohibited or restricted, or that needs to be prohibited or restricted, by or pursuant to the Consent Decree.

15. Reserved rights of Grantor: Grantor hereby reserves unto itself, its successors, and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, rights and easements granted herein.

16. No Limitation on Access: Nothing in this document shall limit or otherwise affect EPA's or the State of Rhode Island's or their agents' rights of entry and access provided by law or regulation or EPA's authority to take response actions under CERCLA, the NCP, or other federal law.

17. No Public Access and Use: No right of access or use by the general public to any portion of the Property is conveyed by this Declaration.

18. Notice requirement: Grantor, and any person who subsequently acquires any interest in the Property, including, but not limited to, by deeds, leases, and mortgages, shall give (a) written notice of the Consent Decree and this Declaration to the person or entity that will receive the conveyance ("transferee"), and (b) written notice of the conveyance to Grantee and EPA, including the name and address of the transferee and the date on which the Grantor gave the notice to that transferee. Such transfer shall take place only if the transferee agrees, as a part of the agreement to purchase or otherwise obtain the Property, that it will comply with the obligations of the Grantor to provide access to the Property and with all of the Declarations set forth herein. Grantor agrees to include in any instrument conveying an interest in any portion of the Property, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO THE EFFECT OF A DECLARATION OF CONSERVATION RESTRICTION AND ACCESS EASEMENT, DATED _____, 2016, RECORDED IN THE RECORDS OF LAND EVIDENCE FOR THE TOWN OF SOUTH KINGSTOWN, RHODE ISLAND ON _____, 2016, IN BOOK _____, PAGE _____, IN FAVOR OF AND ENFORCEABLE BY THE STATE OF RHODE ISLAND AND THE UNITED STATES OF AMERICA AND THEIR SUCCESSORS AND ASSIGNS.

The failure to include such a provision shall not affect the validity or applicability to the Property of this Declaration.

19. Copy of Notice. Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor must provide Grantee and EPA with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

20. Administrative jurisdiction: The Rhode Island Department of Environmental Management is the state agency having administrative jurisdiction over the interests acquired by the State of Rhode Island through this Declaration. The Director of the Rhode Island Department of Environmental Management or his or her delegatee shall exercise the discretion and authority granted to the State herein. If the State of Rhode Island assigns its interest(s) created by this Declaration, unless it provides otherwise in any such assignment document, the discretion and authority referred to in this paragraph shall also be assigned, unless otherwise provided in the assignment document, and a document evidencing same shall be recorded with the Records of Land Evidence of the Town of South Kingstown, Rhode Island.

21. Enforcement: The Grantee shall be entitled to enforce the terms of this Declaration by resort to specific performance or legal process. All reasonable costs and expenses of the Grantee, including but not limited to attorneys' fees, incurred in any such enforcement action shall be borne by the Grantor or its successors in interest to the Property. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including those provided under CERCLA. Enforcement of the terms of this Declaration shall be at the discretion of the Grantee, and any forbearance, delay or omission to exercise its rights under this Declaration in the event of a breach of any term of this Declaration shall not be deemed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term, or of any of the rights of the Grantee under this Declaration. EPA is a third-party beneficiary to this Declaration and is entitled to all the rights and privileges accorded to third-party beneficiaries under Rhode Island law, including enforcement rights.

22. Damages: Grantee shall be entitled to recover damages for violations of the terms of this Declaration, or for any injury to the remedial action, to the public or to the environment protected by this Declaration.

23. Waiver of certain defenses: Grantor hereby waives any defense of laches, estoppel, or prescription against the United States or the State of Rhode Island in any action

taken to enforce the terms of this Declaration. In accordance with the Rhode Island General Laws, Title 34, Chapter 39, entitled, "Conservation and Preservation Restrictions on Real Property," no provision of this Declaration shall be unenforceable on account of (i) lack of privity of estate or contract, (ii) lack of benefit to a particular land, (iii) the benefit being assignable or being assigned to any governmental body or to any entity with like purposes, or (iv) any other doctrine of property law which might cause the termination of the provision.

24. Covenants: Grantor, for itself and for its heirs, successors, successors in title, assigns, executors, and administrators, hereby covenants to and with the Grantee and its assigns that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to grant and convey the above easement, covenants, and land use restrictions, that the Property is free and clear of encumbrances, except those noted on Exhibit C attached hereto, that the Grantee and its assigns shall at all times hereafter peacefully and quietly have and enjoy the granted interest in the Property, and that the Grantor and its heirs, successors, successors in title, assigns, executors and administrators shall warrant and defend the premises to the Grantee and its assigns forever against the lawful claims and demands of all persons.

25. Notices: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first-class mail, postage prepaid, addressed as follows:

To Grantor:

James Purcell
Commissioner of Postsecondary Education
RI Council on Postsecondary Education
560 Jefferson Boulevard
Warwick, RI 02886

and a copy to:

J. Vernon Wyman
Assistant Vice President for Business Services
University of Rhode Island
210 Flagg Road, Suite 208
Kingston, RI 02881

To Grantee:

Gary Jablonski, Project Coordinator
Rhode Island Department of Environmental Management
Office of Waste Management
235 Promenade Street
Providence, RI 02908

To EPA:

Anna Krasko, Remedial Project Manager
Remedial Project Manager
EPA- New England, Region 1
5 Post Office Sq., Suite 100
Mail Code OSRR 07-1
Boston, MA 02109-3912

To Settling Defendants:

Stephen A. Alfred
Town Manager
Town of South Kingstown
180 High Street
Wakefield, RI 02879

Town Manager
Town of Narragansett
25 Fifth Avenue
Narragansett, RI 02882-0777

University of Rhode Island and Rhode Island Board of Education
J. Vernon Wyman
Assistant Vice President for Business Services
210 Flagg Road, Suite 208
Kingston, RI 02881

26. General provisions:

a. Controlling law: The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the State of Rhode Island.

b. Definitions: Any provision or term not otherwise defined in this Declaration shall have the meaning set forth in the Consent Decree and the appendices to the Consent Decree.

c. Liberal construction: Any general rule of construction to the contrary notwithstanding, this Declaration shall be liberally construed in favor of the Grantee to affect the purpose of this Declaration and the policy and purpose of CERCLA. If any provision of this Declaration is found to be ambiguous, an interpretation consistent with the purpose of this Declaration that would render the provision valid shall be favored over any interpretation that would render it invalid.

d. Limitations: Nothing in this Declaration shall be construed to transfer liability for environmental conditions on the Property to Grantee or the EPA.

e. Severability: If any provision of this Declaration, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this Declaration, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

f. Entire Agreement: This Declaration sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.

g. No Forfeiture: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

h. Joint Obligation: If there are two or more parties identified as Grantor herein, the obligations imposed by this Declaration upon them shall be joint and several.

i. Successors: The covenants, terms, conditions, and restrictions of this Declaration shall be binding upon, and inure to the benefit of, the parties hereto and their respective representatives, heirs, successors, successors in title and assigns and shall continue as a servitude running in perpetuity with the Property. The term "Grantor," wherever used herein, and any pronouns used in place thereof, shall include the person and/or entity named at the beginning of this document and identified as "Grantor" and its personal representatives, heirs, successors, and assigns. The term "Grantee," wherever used herein, and any pronouns used in place thereof, shall include the State of Rhode Island and its personal authorized representatives and assigns. The rights of the Grantee and Grantor under this Declaration are freely assignable, subject to the notice provisions hereof. Any transferee of the fee title to the Property or any leasehold interest in the Property shall automatically be deemed, by acceptance of such interest, to have acquired such title or interest subject to the restrictions contained or referred to in this Declaration and to have agreed to execute any and all instruments reasonably necessary to carry out the provisions of this Declaration. Consistent with the Title 34, Chapter 39-3(c) of the General Laws of Rhode Island, the rights and obligations under this Declaration shall not be subject to a 30-year limitation on restrictive covenants.

j. Termination of Rights and Obligations: A party's rights and obligations under this Declaration terminate upon transfer of the party's interest in the Easement or Property, except that (i) liability for acts or omissions occurring prior to the transfer shall survive the transfer; (ii) the transfer shall in no way alter the obligations under the Consent Decree of the Settling Defendants; and (iii) the transfer shall not affect the Grantee's rights under this Easement.

k. Captions: The captions in this Declaration have been inserted solely for convenience of reference and are not a part of this Declaration and shall have no effect upon construction or interpretation.

TO HAVE AND TO HOLD unto the Grantee and Grantee's authorized representatives and assigns forever.

IN WITNESS WHEREOF, Grantor has caused this Declaration to be executed by its duly authorized representative this _____ day of _____, 2016.

WITNESS:

RHODE ISLAND COUNCIL ON
POSTSECONDARY EDUCATION

By: William Foulkes
Its: Chair

**STATE OF RHODE ISLAND
COUNTY OF WASHINGTON**

On this __ day of _____, 2016, before me, the undersigned, a Notary Public in and for the State of Rhode Island, duly commissioned and sworn, personally appeared William Foulkes, Chair of the Rhode Island Council on Postsecondary Education, known by me to be the party so executing the foregoing instrument, and acknowledged the said instrument to be his free act and deed in said capacity and the free act and deed of said Council, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument.

Notary Public in and for the
State of Rhode Island
My Commission Expires:

IN WITNESS WHEREOF, Grantee hereby acknowledges its acceptance of the above-described property interest (e.g., use restrictions and environmental conservation/protection and access easement) by its duly authorized representative this ____ day of _____, 2016.

WITNESS:

STATE OF RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

By: _____
Janet L. Coit, Director

**STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE**

On this __ day of _____, 2016, before me, the undersigned, a Notary Public in and for the State of Rhode Island, duly commissioned and sworn, personally appeared Janet L. Coit, Director of the Rhode Island Department of Environmental Management ("RIDEM"), known by me to be the party so executing the foregoing instrument for and on behalf of RIDEM, and she acknowledged said instrument to be her free act and deed in said capacity and the free act and deed of RIDEM, for the uses and purposes therein mentioned, and on oath stated that she is authorized to execute said instrument.

Notary Public in and for the
State of Rhode Island
My Commission Expires:

- | | | | |
|--------------|-----------|---|--|
| Attachments: | Exhibit A | - | Property deed |
| | Exhibit B | - | Legal description of the Restricted Areas (Survey) |
| | Exhibit C | - | List of permitted title encumbrances |

EXHIBIT A

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I, BERNON E. HELME, of South Kingstown, Washington County and the State of Rhode Island in consideration of the sum of Thirty Thousand Dollars (\$30,000) the receipt of Six Thousand Dollars (\$6,000) of which is hereby acknowledged and the balance of which is to be paid by the grantee named herein to me, my heirs, executors, administrators, assigns, or to such person or persons as I may appoint or delegate to receive the same by written instrument duly executed by this grantor, a copy of which shall be delivered to this grantee, said balance to be so paid by said grantee in conformity with the method prescribed for such payment by Resolution numbered H922 enacted by the General Assembly of the State of Rhode Island at its 1936 session and signed and approved by the Governor on April 16, 1936 and the incident Resolution of the board of regents of the division of colleges in the department of education pursuant thereto and adopted at a meeting held by said board on May 12, 1936, grant to the State of Rhode Island and Providence Plantations with WARRANTY COVENANTS That tract or parcel of land, with the buildings and improvements thereon, situated in the Town of South Kingstown and State of Rhode Island and formerly known as the Homestead Farm of Nathaniel C. Peckham, containing by estimation one hundred forty (140) acres, more or less; bounded and described as follows: On the north by land of the State of Rhode Island as shown by the plat referred to in Boundary Line Agreement between the State of Rhode Island and Bernon E. Helme et al., recorded with the records of Land Evidence in said South Kingstown in Book 42 at page 495, and northerly also on land now or lately of Mary E. Shearman; easterly by land of Mary E. Tefft; southerly by the highway known as the Kingston Road leading from Kingston Hill to Kingston Station, and westerly by the Chepuxet River in part and in part by land now or lately of Mary E. Shearman; excepting out of and excluding from the above described premises all of the parcel of land lying on the westerly side of said highway at Hamlet Elbow, so called, which is now walled in and occupied as a family burial ground, together with two rods wide around said lot for a drive. Excepting also from the above described premises the public highway which has been laid out over said tract. Being the same premises conveyed to Bernon E. Helme by deed of Stutely B. Shearman and wife by mortgage dated April 25, 1904, and recorded with said records in Book 36 at page 115. I hereby covenant that I am unmarried. WITNESS my hand this fifth day of June, A. D. 1936.

Signed in the presence of:

Bernon E. Helme

Lee A. Worrell

STATE OF RHODE ISLAND)
COUNTY OF PROVIDENCE)

In Providence on the fifth day of June, A. D. 1936 before me personally appeared Bernon E. Helme of the Town of South Kingstown, Washington County and the State of Rhode Island to me known and known by me to be the party executing the foregoing instrument and he acknowledged said instrument by him executed to be his free act and deed.

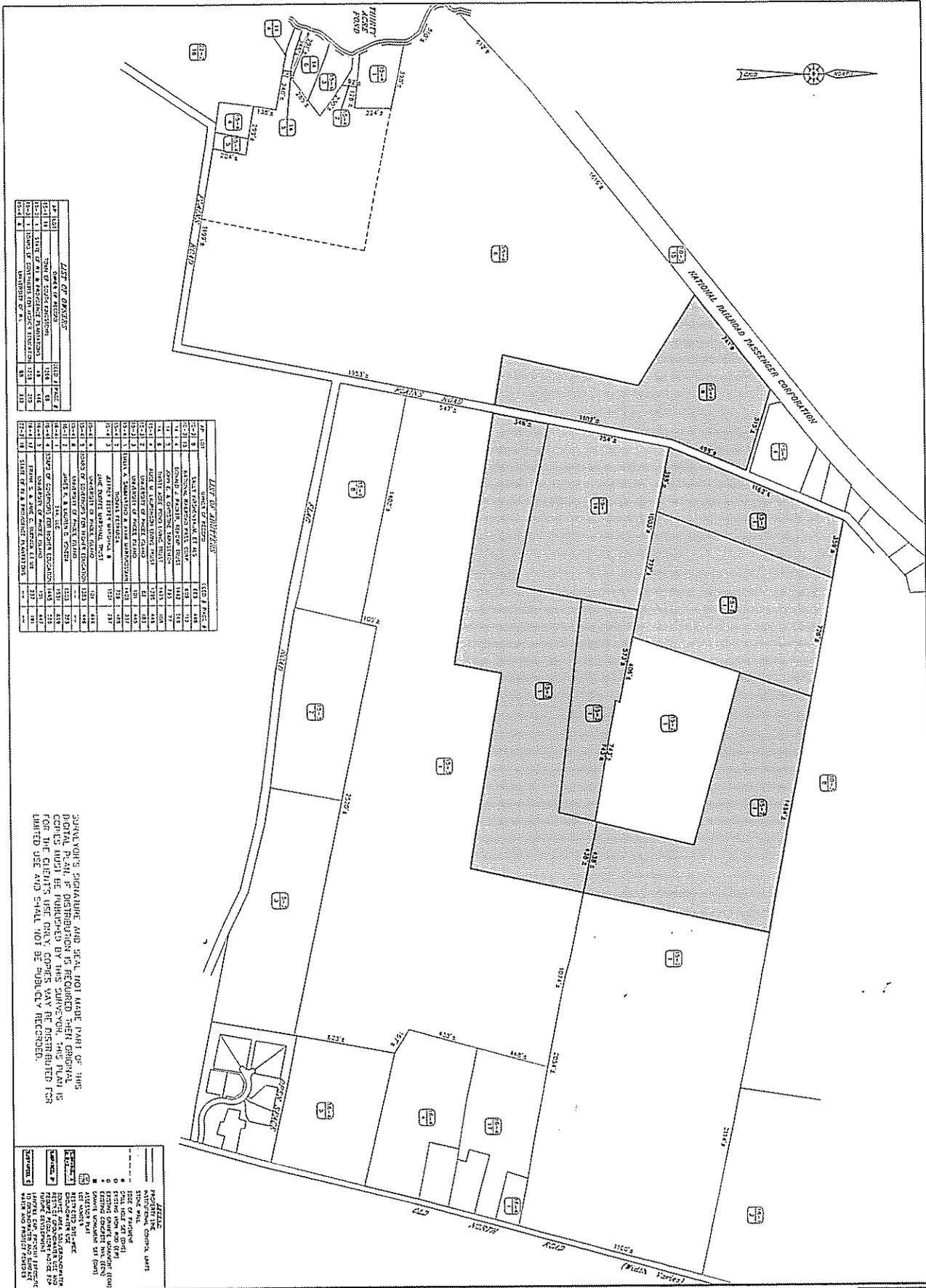
(seal)

Lee A. Worrell
Notary Public

APPROVED AS TO FORM: John P. Hartigan Attorney General

Received for record, June 12, 1936 at 2:15 P M :

Witness, Howard B. Perry, Town Clerk :



LIST OF DONORS

Lot #	Donor Name	Acres
1	State of Michigan	1.00
2	State of Michigan	1.00
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SPALLON'S SIGNATURE AND SEAL NOT MADE PART OF THIS PLAN. ALL INFORMATION IS RECORDED WITH ORIGINAL COPY. THIS PLAN IS FOR THE CLIENT'S USE ONLY. CLIENTS MAY BE SUBJECT TO LIMITED USE AND SHALL NOT BE SUBJECT HERETO.

ARTICLE 1

SECTION 1

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OVERALL VIEW

2 OF 2

20110502-02

PROJECT INFORMATION

THE ASSOCIATES

1400 BROADWAY

PHILADELPHIA, PA 19102

PHILADELPHIA, PA 19102

PHILADELPHIA, PA 19102

PHILADELPHIA, PA 19102

INSTITUTIONAL CONTROL

at the

University of

Rhode Island

in

South Kingstown, RI

GRAPHIC SCALE

1" = 100'

LOUIS FEDERICK ASSOCIATES

200 SOUTH BROADWAY

PHILADELPHIA, PA 19102

PHILADELPHIA, PA 19102

PHILADELPHIA, PA 19102

PHILADELPHIA, PA 19102

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EXHIBIT C

ENCUMBRANCES ON TITLE

Plat 15-2, Lot 1

Address: 875 Plains Road, South Kingstown, Rhode Island

LIENS AND ENCUMBRANCES:

None

STATE PROPERTIES COMMITTEE

This Declaration of Conservation Restriction and Access Easement is made with the approval of the undersigned, in accordance with the applicable provisions of the General Laws of Rhode Island, as amended.

APPROVED this _____ day of _____,
A.D. 2016 by the State Properties Committee.

**APPROVED AS TO TERMS
AND CONDITIONS:**

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Attorney General

APPROVED AS TO SUBSTANCE:

By: _____

APPROVED:

By: _____

**DECLARATION OF CONSERVATION RESTRICTION
AND ACCESS EASEMENT**

This Declaration of Conservation Restriction and Access Easement ("Declaration") is made this ____ day of _____, 2016, between the Rhode Island Council on Postsecondary Education, (statutory successor to the Board of Governors for Higher Education) having an address of 560 Jefferson Blvd., Warwick, Rhode Island 02886 ("Grantor"), for the benefit of the University of Rhode Island having an address of 210 Flagg Road, Kingston, Rhode Island 02881, and the STATE OF RHODE ISLAND and its authorized representatives, successors and assigns ("Grantee"), having an address of Rhode Island Department of Environmental Management, Office of Waste Management, 235 Promenade Street, Providence, Rhode Island 02908.

WITNESSETH:

1. WHEREAS, Grantor is the owner in fee simple of a parcel of land located at Plains Road in the Town of South Kingstown, Washington County, State of Rhode Island, more particularly described by deed dated October 26, 2006, recorded in the Records of Land Evidence for the Town of South Kingstown, Rhode Island at Book 1259, Page 315 attached hereto as Exhibit A and made a part hereof (the "Property"); and

2. WHEREAS, certain portions of the Property referred to as Subparcel in Area A-3 and Area B-2 (collectively, the "Restricted Areas") bounded and described in Exhibit B, attached hereto and made a part hereof, are subject to covenants, restrictions, easements and other rights and obligations under this Declaration; the Restricted Areas being shown on sheet number 1 of a plan consisting of 2 sheets, entitled "Institutional Control Plan at the University of Rhode Island in South Kingstown, RI" prepared by Louis Federici Associates, 365 Smith Street, Providence, Rhode Island, dated 06/19/2015, and recorded in the Records of Land Evidence for The Town of South Kingstown, Rhode Island on 01/26/2016, as Map # 2016 - 1, dated January 26, 2016 at 9:24 AM (said sheets collectively being referred to as the "Plan of Restricted Areas"); and

3. WHEREAS, the State of Rhode Island and the United States Environmental Protection Agency ("EPA") have determined that the Property and certain land in close proximity to the Property contain hazardous materials and other adverse environmental conditions; and

4. WHEREAS, the Property is part of the West Kingston Town Dump/ URI Disposal Area Superfund Site ("Site"), which the U.S. Environmental Protection Agency ("EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, placed on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on October 14, 1992; and

5. WHEREAS, three impermeable landfill caps were constructed on the Site in 2006 under State law (the "State Landfill Closure"); and

6. WHEREAS, in a Record of Decision dated September 28, 2006, (the "ROD"), the Deputy Director of EPA Region 1's Office of Site Remediation and Restoration selected a "remedial action" for the Site, which provides for the following actions (among others) at the Site:

a. Mixing of an oxidant solution into contaminated soil at a part of the Site called the Former Drum Storage Area;

b. Injection of chemical oxidants (such as sodium permanganate) in the vicinity of the Former Drum Storage Area through a series of injection wells, to reduce the concentration and mass of volatile organic compounds dissolved in the groundwater in this area;

c. Monitoring of dissolved constituents in groundwater near the Former Drum Storage Area and in downgradient areas, to verify the ability of natural attenuation processes to further reduce the concentration and mass of dissolved volatile organic compounds in this groundwater over time;

d. Implementation of deed restrictions (such as this Declaration) to prevent damage to and interference with the remedial action components and to restrict the use of groundwater before cleanup levels are achieved;

e. Long-term monitoring of surface water and groundwater, to determine effectiveness of the oxidation treatments and of monitored natural attenuation, and long-term monitoring of the caps installed under the State Landfill Closure;

f. Operation and maintenance activities throughout the life of the remedy;
and

g. The performance of five-year reviews as required by statute.

7. WHEREAS, a consent decree, was entered in the United States District Court of Rhode Island on March 9, 2009 ("Consent Decree") to resolve the case of United States of America and the State of Rhode Island, Plaintiffs v. Rhode Island Board of Governors for Higher Education, the University of Rhode Island, the Town of Narragansett, and the Town of South Kingstown, Defendants, Civil Action No. CA08-306S, Docket No. 15; and

8. WHEREAS, the parties hereto have agreed, consistent with the Consent Decree, 1) to grant a permanent right of access over the Property to the Grantee for purposes of implementing, facilitating and monitoring the remedial action; and 2) to impose on the Property use restrictions as covenants that will run with the land for the purpose of protecting human health and the environment by protecting the remedial action which has been and will be taken at the Site; and

9. WHEREAS, Grantor wishes to cooperate fully with the Grantee in the implementation of all response actions at the Site;

NOW, THEREFORE:

10. Grant: For and in consideration of the terms of the Consent Decree and other good and valuable consideration paid and the agreements and promises hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged, Grantor, on behalf of itself, its successors and assigns, does hereby covenant and declare that the Property shall be subject to the restrictions on use set forth below, and does give, grant and convey to the Grantee, with general warranties of title, 1) the perpetual right to enforce said use restrictions, and 2) a conservation restriction pursuant to Title 34, Chapter 39 of the General Laws of Rhode Island, as amended, and an Access Easement, of the nature and character and for the purposes hereinafter set forth, with respect to the Property.

11. Purpose: It is the purpose of this Declaration to give the Grantee the right to implement and/or monitor the remedial action to assure that the Property will be used only for purposes that are compatible with the remedial action and to ensure that the Property will not be used in a manner that will pose a threat to human health or the environment.

12. Covenant, Conditions and Restrictions on Use: The following covenants, conditions, and restrictions apply to the use of the Property, run with the land, and are binding on the Grantor and Grantor's successors, successors in title and assigns:

a. SUBPARCEL A-3; SUBPARCEL B-2

- (1.) Groundwater underlying the Property shall not be extracted, consumed, exposed or utilized in any way, except for the limited purpose of treating and monitoring groundwater contamination levels in accordance with plans approved by EPA and the State. Groundwater supply wells shall not be installed or utilized on any part of the Property, nor shall the hydrology of such groundwater be altered, except in accordance with plans approved by EPA and the State.
- (2.) No use or activity shall be permitted on the Property, unless otherwise provided for in the Consent Decree, which may impede the construction or implementation of the remedial action or which will disturb any of the remedial measures implemented. Such remedial measures include, without limitation, the monitoring of groundwater and surface waters.
- (3.) No building or other development shall be built or undertaken without prior notice to, and approval by, EPA and the State.

13. Modification or Termination of Restrictions: The above covenants and restrictions may be modified or terminated, in whole or in part, in writing by the Grantee, subject to EPA's review and written concurrence. All expenses and costs of drafting and recording any

modifications or terminations shall be borne by the Grantor. If requested by the Grantor, such writing will be executed by the Grantee in recordable form.

14. Environmental Protection/Conservation and Access Easement: Grantor hereby grants to the Grantee (and the Grantee's agents, contractors, designees and assigns, including but not limited to EPA and the defendants to the Consent Decree) an irrevocable, permanent and continuing right of access at all reasonable times to the Property for the purposes of conducting any activity related to the Consent Decree, including but not limited to:

- a. Implementing the response actions in the ROD, including but not limited to the mixing of oxidants into the soil at the Former Drum Storage Area; injection of chemical oxidants into the groundwater in the vicinity of the Former Drum Storage Area; and the monitoring of groundwater and surface water;
- b. Verifying any data or information submitted to EPA or the State;
- c. Verifying that no action is being taken on the Property in violation of the terms of this Declaration or of any federal or state environmental laws or regulations;
- d. Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, inspecting the caps installed as part of the State Landfill Closure and sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e. Assessing the need for, planning or implementing additional or new response actions at or near the Site.
- f. Assessing implementation of quality assurance and quality control practices for the remedial action;
- g. Implementing the activities required by the Consent Decree pursuant to the conditions set forth in Paragraph 95 of the Consent Decree.
- h. Inspecting and copying records, operating logs, contracts or other documents maintained or generated by the defendants to the Consent Decree or their agents, consistent with Section XXIV (Access to Information) of the Consent Decree;
- i. Assessing compliance with the Consent Decree by the parties to the Consent Decree; and
- j. Determining whether the Site or other property is being used in a manner that is prohibited or restricted, or that needs to be prohibited or restricted, by or pursuant to the Consent Decree.

15. Reserved rights of Grantor: Grantor hereby reserves unto itself, its successors, and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, rights and easements granted herein.

16. No Limitation on Access: Nothing in this document shall limit or otherwise affect EPA's or the State of Rhode Island's or their agents' rights of entry and access provided by law or regulation or EPA's authority to take response actions under CERCLA, the NCP, or other federal law.

17. No Public Access and Use: No right of access or use by the general public to any portion of the Property is conveyed by this Declaration.

18. Notice requirement: Grantor, and any person who subsequently acquires any interest in the Property, including, but not limited to, by deeds, leases, and mortgages, shall give (a) written notice of the Consent Decree and this Declaration to the person or entity that will receive the conveyance ("transferee"), and (b) written notice of the conveyance to Grantee and EPA, including the name and address of the transferee and the date on which the Grantor gave the notice to that transferee. Such transfer shall take place only if the transferee agrees, as a part of the agreement to purchase or otherwise obtain the Property, that it will comply with the obligations of the Grantor to provide access to the Property and with all of the Declarations set forth herein. Grantor agrees to include in any instrument conveying an interest in any portion of the Property, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO THE EFFECT OF A DECLARATION OF CONSERVATION RESTRICTION AND ACCESS EASEMENT, DATED _____, RECORDED IN THE RECORDS OF LAND EVIDENCE FOR THE TOWN OF SOUTH KINGSTOWN, RHODE ISLAND ON _____, IN BOOK _____, PAGE _____ IN FAVOR OF AND ENFORCEABLE BY THE STATE OF RHODE ISLAND AND THE UNITED STATES OF AMERICA AND THEIR SUCCESSORS AND ASSIGNS.

The failure to include such a provision shall not affect the validity or applicability to the Property of this Declaration.

19. Copy of Notice. Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor must provide Grantee and EPA with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

20. Administrative jurisdiction: The Rhode Island Department of Environmental Management is the state agency having administrative jurisdiction over the interests acquired by the State of Rhode Island through this Declaration. The Director of the Rhode Island Department of Environmental Management or his or her delegatee shall exercise the discretion and authority granted to the State herein. If the State of Rhode Island assigns its interest(s)

created by this Declaration, unless it provides otherwise in any such assignment document, the discretion and authority referred to in this paragraph shall also be assigned, unless otherwise provided in the assignment document, and a document evidencing same shall be recorded with the Records of Land Evidence of the Town of South Kingstown, Rhode Island.

21. Enforcement: The Grantee shall be entitled to enforce the terms of this Declaration by resort to specific performance or legal process. All reasonable costs and expenses of the Grantee, including but not limited to attorneys' fees, incurred in any such enforcement action shall be borne by the Grantor or its successors in interest to the Property. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including those provided under CERCLA. Enforcement of the terms of this Declaration shall be at the discretion of the Grantee, and any forbearance, delay or omission to exercise its rights under this Declaration in the event of a breach of any term of this Declaration shall not be deemed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term, or of any of the rights of the Grantee under this Declaration. EPA is a third-party beneficiary to this Declaration and is entitled to all the rights and privileges accorded to third-party beneficiaries under Rhode Island law, including enforcement rights.

22. Damages: Grantee shall be entitled to recover damages for violations of the terms of this Declaration, or for any injury to the remedial action, to the public or to the environment protected by this Declaration.

23. Waiver of certain defenses: Grantor hereby waives any defense of laches, estoppel, or prescription against the United States or the State of Rhode Island in any action taken to enforce the terms of this Declaration. In accordance with the Rhode Island General Laws, Title 34, Chapter 39, entitled, "Conservation and Preservation Restrictions on Real Property," no provision of this Declaration shall be unenforceable on account of (i) lack of privity of estate or contract, (ii) lack of benefit to a particular land, (iii) the benefit being assignable or being assigned to any governmental body or to any entity with like purposes, or (iv) any other doctrine of property law which might cause the termination of the provision.

24. Covenants: Grantor, for itself and for its heirs, successors, successors in title, assigns, executors, and administrators, hereby covenants to and with the Grantee and its assigns that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to grant and convey the above easement, covenants, and land use restrictions, that the Property is free and clear of encumbrances, except those noted on Exhibit C attached hereto, that the Grantee and its assigns shall at all times hereafter peacefully and quietly have and enjoy the granted interest in the Property, and that the Grantor and its heirs, successors, successors in title, assigns, executors and administrators shall warrant and defend the premises to the Grantee and its assigns forever against the lawful claims and demands of all persons.

25. Notices: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first-class mail, postage prepaid, addressed as follows:

To Grantor:

James Purcell
Commissioner of Postsecondary Education
RI Council on Postsecondary Education
560 Jefferson Boulevard
Warwick, RI 02886

and a copy to:

J. Vernon Wyman
Assistant Vice President for Business Services
University of Rhode Island
210 Flagg Road, Suite 208
Kingston, RI 02881

To Grantee:

Gary Jablonski, Project Coordinator
Rhode Island Department of Environmental Management
Office of Waste Management
235 Promenade Street
Providence, RI 02908

To EPA:

Anna Krasko, Remedial Project Manager
Remedial Project Manager
EPA- New England, Region 1
5 Post Office Sq., Suite 100
Mail Code OSRR 07-1
Boston, MA 02109-3912

To Settling Defendants:

Stephen A. Alfred
Town Manager
Town of South Kingstown
180 High Street
Wakefield, RI 02879

Town Manager
Town of Narragansett
25 Fifth Avenue
Narragansett, RI 02882-0777

University of Rhode Island and Rhode Island Board of Education
J. Vernon Wyman
Assistant Vice-President for Business Services
210 Flagg Road, Suite 208
Kingston, RI 02881

26. General provisions:

a. Controlling law: The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the State of Rhode Island.

b. Definitions: Any provision or term not otherwise defined in this Declaration shall have the meaning set forth in the Consent Decree and the appendices to the Consent Decree.

c. Liberal construction: Any general rule of construction to the contrary notwithstanding, this Declaration shall be liberally construed in favor of the Grantee to affect the purpose of this Declaration and the policy and purpose of CERCLA. If any provision of this Declaration is found to be ambiguous, an interpretation consistent with the purpose of this Declaration that would render the provision valid shall be favored over any interpretation that would render it invalid.

d. Limitations: Nothing in this Declaration shall be construed to transfer liability for environmental conditions on the Property to Grantee or the EPA.

e. Severability: If any provision of this Declaration, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this Declaration, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

f. Entire Agreement: This Declaration sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.

g. No Forfeiture: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

h. Joint Obligation: If there are two or more parties identified as Grantor herein, the obligations imposed by this Declaration upon them shall be joint and several.

i. Successors: The covenants, terms, conditions, and restrictions of this Declaration shall be binding upon, and inure to the benefit of, the parties hereto and their

respective representatives, heirs, successors, successors in title and assigns and shall continue as a servitude running in perpetuity with the Property. The term "Grantor," wherever used herein, and any pronouns used in place thereof, shall include the person and/or entity named at the beginning of this document and identified as "Grantor" and its personal representatives, heirs, successors, and assigns. The term "Grantee," wherever used herein, and any pronouns used in place thereof, shall include the State of Rhode Island and its personal authorized representatives and assigns. The rights of the Grantee and Grantor under this Declaration are freely assignable, subject to the notice provisions hereof. Any transferee of the fee title to the Property or any leasehold interest in the Property shall automatically be deemed, by acceptance of such interest, to have acquired such title or interest subject to the restrictions contained or referred to in this Declaration and to have agreed to execute any and all instruments reasonably necessary to carry out the provisions of this Declaration. Consistent with the Title 34, Chapter 39-3(c) of the General Laws of Rhode Island, the rights and obligations under this Declaration shall not be subject to a 30-year limitation on restrictive covenants.

j. Termination of Rights and Obligations: A party's rights and obligations under this Declaration terminate upon transfer of the party's interest in the Easement or Property, except that (i) liability for acts or omissions occurring prior to the transfer shall survive the transfer; (ii) the transfer shall in no way alter the obligations under the Consent Decree of the Settling Defendants; and (iii) the transfer shall not affect the Grantee's rights under this Easement.

k. Captions: The captions in this Declaration have been inserted solely for convenience of reference and are not a part of this Declaration and shall have no effect upon construction or interpretation.

TO HAVE AND TO HOLD unto the Grantee and Grantee's authorized representatives and assigns forever.

IN WITNESS WHEREOF, Grantor has caused this Declaration to be executed by its duly authorized representative this _____ day of _____, 2016.

WITNESS:

RHODE ISLAND COUNCIL ON
POSTSECONDARY EDUCATION

By: William Foulkes
Its: Chair

**STATE OF RHODE ISLAND
COUNTY OF WASHINGTON**

On this ___ day of _____, 2016, before me, the undersigned, a Notary Public in and for the State of Rhode Island, duly commissioned and sworn, personally appeared William Foulkes, Chair of the Rhode Island Council on Postsecondary Education, known by me to be the party so executing the foregoing instrument, and acknowledged the said instrument to be his free act and deed in said capacity and the free act and deed of said Council, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument.

Notary Public in and for the
State of Rhode Island
My Commission Expires:

IN WITNESS WHEREOF, Grantee hereby acknowledges its acceptance of the above-described property interest (e.g., use restrictions and environmental conservation/protection and access easement) by its duly authorized representative this _____ day of _____, 2016.

WITNESS:

STATE OF RHODE ISLAND DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

_____ By: _____
Janet L. Coit, Director

**STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE**

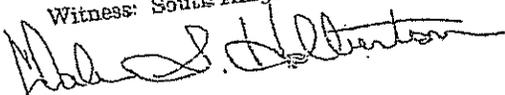
On this ___ day of _____, 2016, before me, the undersigned, a Notary Public in and for the State of Rhode Island, duly commissioned and sworn, personally appeared Janet L. Coit, Director of the Rhode Island Department of Environmental Management (“RIDEM”), known by me to be the party so executing the foregoing instrument for and on behalf of RIDEM, and she acknowledged said instrument to be her free act and deed in said capacity and the free act and deed of RIDEM, for the uses and purposes therein mentioned, and on oath stated that she is authorized to execute said instrument.

Notary Public in and for the
State of Rhode Island
My Commission Expires:

- | | | | |
|--------------|-----------|---|--|
| Attachments: | Exhibit A | - | Property deed |
| | Exhibit B | - | Legal description of the Restricted Areas (Survey) |
| | Exhibit C | - | List of permitted title encumbrances |

Bk L1256 P 315 #13
10-26-2006 @ 11:59a

Witness: South Kingstown Town Clerk



ADMINISTRATOR D.B.N.C.T.A.'S DEED

KNOW ALL MEN BY THESE PRESENTS, that I, JOSEPH A. MAY, JR., in my capacity as Administrator D.B.N.C.T.A of THE ESTATE OF ALICE P. TIBBITS, late of the Town of South Kingstown, County of Washington, State of Rhode Island, whose Last Will and Testament has been duly admitted to probate before the Probate Court of the Town of South Kingstown, Estate No. 2004-122, ("Grantor") and in execution of the powers to me given as Administrator D.B.N. C.T.A. pursuant to Article Fifth of said will and by every other power and authority me hereunto enabling, for consideration paid in the amount of \$1,215,000.00, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey unto the BOARD OF GOVERNORS FOR HIGHER EDUCATION, a public corporation, hereinafter called Grantee, all the right, title, interest, property, claim and demand, which the said Estate of Alice P. Tibbits has in and to that certain lot or parcel of land, located in the Town of South Kingstown, County of Washington, State of Rhode Island, more particularly described on Exhibit A, attached hereto and made a part hereof.

Subject to easements, liens, encumbrances, and restrictions of record, to the extent the same are in force and applicable, and subject to real estate taxes assessed as of December 31, 2005 which are not yet due and payable.

No documentary tax stamps are payable as tax stamps were paid with the recording of the deed in Book L1256 at Page 390, which inadvertently conveyed the property to an incorrect party.

TO HAVE AND TO HOLD the above granted premises with all privileges and appurtenances thereto appertaining unto and to the use of the said Grantee and its assigns forever, and I, JOSPEH A. MAY, JR., as such Administrator D.B.N.C.T.A. for myself and for my successors, executors and administrators, do hereby covenant to and with the said BOARD OF GOVERNORS FOR HIGHER EDUCATION, ITS administrators, and assigns forever, that I am the duly appointed and qualified Administrator D.B.N.C.T.A. of the Estate of Alice P. Tibbits and that I, as such Administrator D.B.N.C.T.A., have good right, full power and lawful authority under the power, authority and direction given to me in and by said petition to sell and convey the same in manner as aforesaid.

This transfer is such that no Rhode Island General Laws Section 44-30-71.3 withholding is required as seller is a Rhode Island estate evidenced by affidavit.

The undersigned hereby certifies that this is a transfer of vacant land and is therefore exempt from the requirements of Section 8 of the Rhode Island Fire Safety Code regarding inspection of smoke and carbon monoxide detectors.

IN WITNESS WHEREOF, I have hereunto set my hand, in my capacity as Administrator C.T.A. as aforesaid, this 22nd day of September, 2006.

ESTATE OF ALICE P. TIBBITS

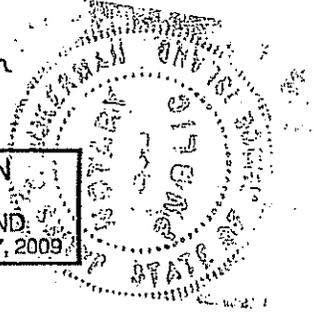
By: Joseph A. May Jr. 9/22/06
 JOSEPH A. MAY, JR.
 Administrator D.B.N.C.T.A.

STATE OF RHODE ISLAND
COUNTY OF WASHINGTON

In South Kingstown, on the 22nd day of September, 2006, before me personally appeared JOSEPH A. MAY, JR., Administrator D.B.N.C.T.A. of the Estate of Alice P. Tibbits, to me known and known by me to be the party executing the foregoing instrument, and he acknowledged said instrument; by him executed to be his free act and deed, individually and in his said capacity as Administrator D.B.N.C.T.A.

James V. Aukerman
Notary Public

JAMES V. AUKERMAN
NOTARY PUBLIC
STATE OF RHODE ISLAND
My Commission Expires June 27, 2009



Property Location:

Plains Road
Kingston, RI 02881

Grantee's Mailing Address:

75 Lower College Road, Suite 107
Kingston, RI 02881

EXHIBIT A

That certain tract or parcel of land located on the east side of Plains Road, a public road, in the Town of South Kingstown, County of Washington, State of Rhode Island, bounded and described as follows:

Beginning at a granite monument set in the easterly line of said Plains Road at the southwest corner of the herein described premises at the northwest corner of land now or formerly of the University of Rhode Island; thence S79°-18'-33"E a distance of 430.14 feet to a granite monument set; thence S78°-42'-27"E a distance of 253.16 feet to a point; thence 78°-38'-36"E a distance of 150.50 feet to a point; thence S79°-14'-24"E a distance of 75.34 feet to a point; thence S82°-09'-45"E a distance of 23.91 feet to a point; thence S79°-18'-27"E a distance of 22.82 feet to a drill hole set in a stonewall; thence S78°-23'-01"E a distance of 78.57 feet to a point; thence S79°-24'-20"E a distance of 87.85 feet to a drill hole set in a stonewall; thence S79°-13'-47"E a distance of 113.28 feet to a drill hole set in a stonewall; thence S79°-00'-31"E a distance of 166.33 feet to a drill hole set in a stonewall at other land now or formerly of the University of Rhode Island. The previous nine (9) courses are bounded southerly by land now or formerly of the University of Rhode Island designated for reference purposes as South Kingstown Tax Assessor's Plat 15-4 Lot 8.

Thence, turning and running N16°-58'-02"E along a stone wall a distance of 100.03 feet to a drill hole set in a stonewall, bounded easterly other land now or formerly of the University of Rhode Island; thence turning and running in a general easterly direction, bounded southerly by other land now or formerly of the University of Rhode Island, a distance of 2520 feet, more or less, to the southeasterly corner of the herein described premises at the northwesterly corner of land now or formerly of Virginia L. Gorman; thence turning and running in a generally northerly direction 623 feet, more or less, to land now or formerly of Habitat for Humanity for Rhode Island; thence turning and running in a generally westerly direction 167 feet, more or less, bounded northerly by said land now or formerly of Habitat for Humanity for Rhode Island to the southwesterly corner of said land now or formerly of Habitat for Humanity for Rhode Island; thence turning and running in a northerly direction 438 feet, more or less, bounded easterly by said land now or formerly of Habitat for Humanity for Rhode Island to the southwesterly corner of land now or formerly of Frank S. and Jane C. Budnick; thence continuing in a northerly direction, bounded easterly by said land now or formerly of Frank S. and Jane C. Budnick, a distance of 448 feet to a point, said point being the northeasterly corner of the herein described premises and the northwesterly corner of said land now or formerly of Frank S. and Jane C. Budnick at land now or formerly of the State of Rhode Island; thence turning and running westerly, bounded northerly by said land now or formerly of the University of Rhode Island a distance of 2,574 feet, more or less, to a point; thence running N78°-31'-19"W a distance of 79.98 feet to a point; thence running N78°-14'-51"W a distance of 97.88 feet to a point; thence running N78°-29'-28"W a distance of 69.46 feet to a drill hole set. Said last three (3) courses are bounded northerly by land now or formerly of the University of Rhode Island.

Thence turning and running S11°-12'-34"W a distance of 754.00 feet to a granite monument set; thence turning and running N78°-15'-45"W a distance of 1003.00 feet to a granite monument set in the easterly line of said Plains Road. Said last two (2) courses are bounded westerly and northerly by other land now or formerly of the Estate of Alice P. Tibbits. Said last granite monument set is at the northwesterly corner of the herein conveyed premises.

Thence turning and running S11°-12'-34"W along the easterly line of said Plains Road a distance of 903.96 feet to the point and place of beginning.

Said premises contains approximately 125 acres, more or less, and is designated as Parcel 1 on that plan entitled, "THE TIBBITS PLAT" AN ADMINISTRATIVE SUBDIVISION IN SOUTH KINGSTOWN, R.I. FOR ALICE P. TIBBITS DESIGNATED AS ASSESSOR'S PLAT 15-3, LOT 1, Survey and Subdivision Plan Sheet 1 of 1, "Drawing No. 20050504-02, Louis Federici, PLS, Date: 9/21/06". Said plan is recorded in the Land Evidence Records of the Town of South Kingstown, R.I. at C2006-105.

EXHIBIT C

ENCUMBRANCES ON TITLE

Plat 15-3 Lot 1

Address: Plains Rd., South Kingstown, RI

LIENS AND ENCUMBRANCES:

- 1. USA EPA CERCLA Lien in Book 831 at Page 171. (3-4)**

STATE PROPERTIES COMMITTEE

This Declaration of Conservation Restriction and Access Easement is made with the approval of the undersigned, in accordance with the applicable provisions of the General Laws of Rhode Island, as amended.

APPROVED this _____ day of _____,
A.D. 2016 by the State Properties Committee.

**APPROVED AS TO TERMS
AND CONDITIONS:**

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Attorney General

APPROVED AS TO SUBSTANCE:

By: _____

APPROVED:

By: _____

**DECLARATION OF CONSERVATION RESTRICTION
AND ACCESS EASEMENT**

This Declaration of Conservation Restriction and Access Easement ("Declaration") is made this ____ day of _____, 2016, between the Rhode Island Council on Postsecondary Education, (statutory successor to the Board of Governors for Higher Education) having an address of 560 Jefferson Blvd., Warwick, Rhode Island 02886 ("Grantor"), for the benefit of the University of Rhode Island having an address of 210 Flagg Road, Kingston, Rhode Island, 02881, and the STATE OF RHODE ISLAND and its authorized representatives, successors and assigns ("Grantee"), having an address of Rhode Island Department of Environmental Management, Office of Waste Management, 235 Promenade Street, Providence, Rhode Island 02908.

WITNESSETH:

1. WHEREAS, Grantor is the owner in fee simple of a parcel of land located at Plains Road in the Town of South Kingstown, Washington County, State of Rhode Island, more particularly described by deed dated March 28, 1966, recorded in the Records of Land Evidence for the Town of South Kingstown, Rhode Island at Book 98, Page 332 (27-30), attached hereto as Exhibit A and made a part hereof (the "Property"); and

2. WHEREAS, certain portions of the Property referred to as Subparcel in Area A-4 (the "Restricted Area") bounded and described in Exhibit B, attached hereto and made a part hereof, are subject to covenants, restrictions, easements and other rights and obligations under this Declaration; the Restricted Areas being shown on sheet number 1 of a plan consisting of 2 sheets, entitled "Institutional Control Plan at the University of Rhode Island in South Kingstown, RI" prepared by Louis Federici Associates, 365 Smith Street, Providence, Rhode Island, dated 06/19/2015, and recorded in the Records of Land Evidence for The Town of South Kingstown, Rhode Island on 01/26/2016, as Map # 2016 - 1, dated January 26, 2016 at 9:24 AM (said sheets collectively being referred to as the "Plan of Restricted Areas"); and

3. WHEREAS, the State of Rhode Island and the United States Environmental Protection Agency ("EPA") have determined that the Property and certain land in close proximity to the Property contain hazardous materials and other adverse environmental conditions; and

4. WHEREAS, the Property is part of the West Kingston Town Dump/ URI Disposal Area Superfund Site ("Site"), which the U.S. Environmental Protection Agency ("EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, placed on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on October 14, 1992; and

5. WHEREAS, three impermeable landfill caps were constructed on the Site in 2006 under State law (the "State Landfill Closure"); and

6. WHEREAS, in a Record of Decision dated September 28, 2006, (the "ROD"), the Deputy Director of EPA Region 1's Office of Site Remediation and Restoration selected a "remedial action" for the Site, which provides for the following actions (among others) at the Site:

a. Mixing of an oxidant solution into contaminated soil at a part of the Site called the Former Drum Storage Area;

b. Injection of chemical oxidants (such as sodium permanganate) in the vicinity of the Former Drum Storage Area through a series of injection wells, to reduce the concentration and mass of volatile organic compounds dissolved in the groundwater in this area;

c. Monitoring of dissolved constituents in groundwater near the Former Drum Storage Area and in downgradient areas, to verify the ability of natural attenuation processes to further reduce the concentration and mass of dissolved volatile organic compounds in this groundwater over time;

d. Implementation of deed restrictions (such as this Declaration) to prevent damage to and interference with the remedial action components and to restrict the use of groundwater before cleanup levels are achieved;

e. Long-term monitoring of surface water and groundwater, to determine effectiveness of the oxidation treatments and of monitored natural attenuation, and long-term monitoring of the caps installed under the State Landfill Closure;

f. Operation and maintenance activities throughout the life of the remedy;
and

g. The performance of five-year reviews as required by statute.

7. WHEREAS, a consent decree, was entered in the United States District Court of Rhode Island on March 9, 2009 ("Consent Decree") to resolve the case of United States of America and the State of Rhode Island, Plaintiffs v. Rhode Island Board of Governors for Higher Education, the University of Rhode Island, the Town of Narragansett, and the Town of South Kingstown, Defendants, Civil Action No. CA08-306S, Docket No. 15; and

8. WHEREAS, the parties hereto have agreed, consistent with the Consent Decree, 1) to grant a permanent right of access over the Property to the Grantee for purposes of implementing, facilitating and monitoring the remedial action; and 2) to impose on the Property use restrictions as covenants that will run with the land for the purpose of protecting human health and the environment by protecting the remedial action which has been and will be taken at the Site; and

9. WHEREAS, Grantor wishes to cooperate fully with the Grantee in the implementation of all response actions at the Site;

NOW, THEREFORE:

10. Grant: For and in consideration of the terms of the Consent Decree and other good and valuable consideration paid and the agreements and promises hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged, Grantor, on behalf of itself, its successors and assigns, does hereby covenant and declare that the Property shall be subject to the restrictions on use set forth below, and does give, grant and convey to the Grantee, with general warranties of title, 1) the perpetual right to enforce said use restrictions, and 2) a conservation restriction pursuant to Title 34, Chapter 39 of the General Laws of Rhode Island, as amended, and an Access Easement, of the nature and character and for the purposes hereinafter set forth, with respect to the Property.

11. Purpose: It is the purpose of this Declaration to give the Grantee the right to implement and/or monitor the remedial action to assure that the Property will be used only for purposes that are compatible with the remedial action and to ensure that the Property will not be used in a manner that will pose a threat to human health or the environment.

12. Covenant, Conditions and Restrictions on Use: The following covenants, conditions, and restrictions apply to SUBPARCEL A-4, for the use of the Property, run with the land, and are binding on the Grantor and Grantor's successors, successors in title and assigns:

- a. Groundwater underlying the Property shall not be extracted, consumed, exposed or utilized in any way, except for the limited purpose of treating and monitoring groundwater contamination levels in accordance with plans approved by EPA and the State. Groundwater supply wells shall not be installed or utilized on any part of the Property, nor shall the hydrology of such groundwater be altered, except in accordance with plans approved by EPA and the State.
- b. No use or activity shall be permitted on the Property, unless otherwise provided for in the Consent Decree, which may impede the construction or implementation of the remedial action or which will disturb any of the remedial measures implemented. Turf farming and other agricultural uses of Subparcel A-4 shall be permitted, provided that such uses shall not violate any of the prohibitions contained in the immediately preceding Subparagraph 12(a) regarding groundwater.
- c. No building or other development shall be built or undertaken without prior notice to, and approval by, EPA and the State.

13. Modification or Termination of Restrictions: The above covenants and restrictions may be modified or terminated, in whole or in part, in writing by the Grantee, subject to EPA's review and written concurrence. All expenses and costs of drafting and recording any

modifications or terminations shall be borne by the Grantor. If requested by the Grantor, such writing will be executed by the Grantee in recordable form.

14. Environmental Protection/Conservation and Access Easement: Grantor hereby grants to the Grantee (and the Grantee's agents, contractors, designees and assigns, including but not limited to EPA and the defendants to the Consent Decree) an irrevocable, permanent and continuing right of access at all reasonable times to the Property for the purposes of conducting any activity related to the Consent Decree, including but not limited to:

- a. Implementing the response actions in the ROD, including but not limited to the mixing of oxidants into the soil at the Former Drum Storage Area; injection of chemical oxidants into the groundwater in the vicinity of the Former Drum Storage Area; and the monitoring of groundwater and surface water;
- b. Verifying any data or information submitted to EPA or the State;
- c. Verifying that no action is being taken on the Property in violation of the terms of this Declaration or of any federal or state environmental laws or regulations;
- d. Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, inspecting the caps installed as part of the State Landfill Closure and sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e. Assessing the need for, planning or implementing additional or new response actions at or near the Site.
- f. Assessing implementation of quality assurance and quality control practices for the remedial action;
- g. Implementing the activities required by the Consent Decree pursuant to the conditions set forth in Paragraph 95 of the Consent Decree.
- h. Inspecting and copying records, operating logs, contracts or other documents maintained or generated by the defendants to the Consent Decree or their agents, consistent with Section XXIV (Access to Information) of the Consent Decree;
- i. Assessing compliance with the Consent Decree by the parties to the Consent Decree; and
- j. Determining whether the Site or other property is being used in a manner that is prohibited or restricted, or that needs to be prohibited or restricted, by or pursuant to the Consent Decree.

15. Reserved rights of Grantor: Grantor hereby reserves unto itself, its successors, and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, rights and easements granted herein.

16. No Limitation on Access: Nothing in this document shall limit or otherwise affect EPA's or the State of Rhode Island's or their agents' rights of entry and access provided by law or regulation or EPA's authority to take response actions under CERCLA, the NCP, or other federal law.

17. No Public Access and Use: No right of access or use by the general public to any portion of the Property is conveyed by this Declaration.

18. Notice requirement: Grantor, and any person who subsequently acquires any interest in the Property, including, but not limited to, by deeds, leases, and mortgages, shall give (a) written notice of the Consent Decree and this Declaration to the person or entity that will receive the conveyance ("transferee"), and (b) written notice of the conveyance to Grantee and EPA, including the name and address of the transferee and the date on which the Grantor gave the notice to that transferee. Such transfer shall take place only if the transferee agrees, as a part of the agreement to purchase or otherwise obtain the Property, that it will comply with the obligations of the Grantor to provide access to the Property and with all of the Declarations set forth herein. Grantor agrees to include in any instrument conveying an interest in any portion of the Property, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO THE EFFECT OF A DECLARATION OF CONSERVATION RESTRICTION AND ACCESS EASEMENT, DATED 06/19/2015, RECORDED IN THE RECORDS OF LAND EVIDENCE FOR THE TOWN OF SOUTH KINGSTOWN, RHODE ISLAND ON 01/25/2016, AS MAP # _____, DATED _____, AT _____ IN FAVOR OF AND ENFORCEABLE BY THE STATE OF RHODE ISLAND AND THE UNITED STATES OF AMERICA AND THEIR SUCCESSORS AND ASSIGNS.

The failure to include such a provision shall not affect the validity or applicability to the Property of this Declaration.

19. Copy of Notice. Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor must provide Grantee and EPA with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

20. Administrative jurisdiction: The Rhode Island Department of Environmental Management is the state agency having administrative jurisdiction over the interests acquired by the State of Rhode Island through this Declaration. The Director of the Rhode Island Department of Environmental Management or his or her delegatee shall exercise the discretion and authority granted to the State herein. If the State of Rhode Island assigns its interest(s)

created by this Declaration, unless it provides otherwise in any such assignment document, the discretion and authority referred to in this paragraph shall also be assigned, unless otherwise provided in the assignment document, and a document evidencing same shall be recorded with the Records of Land Evidence of the Town of South Kingstown, Rhode Island.

21. Enforcement: The Grantee shall be entitled to enforce the terms of this Declaration by resort to specific performance or legal process. All reasonable costs and expenses of the Grantee, including but not limited to attorneys' fees, incurred in any such enforcement action shall be borne by the Grantor or its successors in interest to the Property. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including those provided under CERCLA. Enforcement of the terms of this Declaration shall be at the discretion of the Grantee, and any forbearance, delay or omission to exercise its rights under this Declaration in the event of a breach of any term of this Declaration shall not be deemed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term, or of any of the rights of the Grantee under this Declaration. EPA is a third-party beneficiary to this Declaration and is entitled to all the rights and privileges accorded to third-party beneficiaries under Rhode Island law, including enforcement rights.

22. Damages: Grantee shall be entitled to recover damages for violations of the terms of this Declaration, or for any injury to the remedial action, to the public or to the environment protected by this Declaration.

23. Waiver of certain defenses: Grantor hereby waives any defense of laches, estoppel, or prescription against the United States or the State of Rhode Island in any action taken to enforce the terms of this Declaration. In accordance with the Rhode Island General Laws, Title 34, Chapter 39, entitled, "Conservation and Preservation Restrictions on Real Property," no provision of this Declaration shall be unenforceable on account of (i) lack of privity of estate or contract, (ii) lack of benefit to a particular land, (iii) the benefit being assignable or being assigned to any governmental body or to any entity with like purposes, or (iv) any other doctrine of property law which might cause the termination of the provision.

24. Covenants: Grantor, for itself and for its heirs, successors, successors in title, assigns, executors, and administrators, hereby covenants to and with the Grantee and its assigns that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to grant and convey the above easement, covenants, and land use restrictions, that the Property is free and clear of encumbrances, except those noted on Exhibit C attached hereto, that the Grantee and its assigns shall at all times hereafter peacefully and quietly have and enjoy the granted interest in the Property, and that the Grantor and its heirs, successors, successors in title, assigns, executors and administrators shall warrant and defend the premises to the Grantee and its assigns forever against the lawful claims and demands of all persons.

25. Notices: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first-class mail, postage prepaid, addressed as follows:

To Grantor:

James Purcell
Commissioner of Postsecondary Education
RI Council on Postsecondary Education
560 Jefferson Boulevard
Warwick, RI 02886

and a copy to:

J. Vernon Wyman
Assistant Vice President for Business Services
University of Rhode Island
210 Flagg Road, Suite 208
Kingston, RI 02881

To Grantee:

Gary Jablonski, Project Coordinator
Rhode Island Department of Environmental Management
Office of Waste Management
235 Promenade Street
Providence, RI 02908

To EPA:

Anna Krasko, Remedial Project Manager
Remedial Project Manager
EPA- New England, Region 1
5 Post Office Sq., Suite 100
Mail Code OSRR 07-1
Boston, MA 02109-3912

To Settling Defendants:

Stephen A. Alfred
Town Manager
Town of South Kingstown
180 High Street
Wakefield, RI 02879

Town Manager
Town of Narragansett
25 Fifth Avenue
Narragansett, RI 02882-0777

University of Rhode Island and Rhode Island Board of Education
J. Vernon Wyman
Assistant Vice-President for Business Services
210 Flagg Road, Suite 208
Kingston, RI 02881

26. General provisions:

a. Controlling law: The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the State of Rhode Island.

b. Definitions: Any provision or term not otherwise defined in this Declaration shall have the meaning set forth in the Consent Decree and the appendices to the Consent Decree.

c. Liberal construction: Any general rule of construction to the contrary notwithstanding, this Declaration shall be liberally construed in favor of the Grantee to affect the purpose of this Declaration and the policy and purpose of CERCLA. If any provision of this Declaration is found to be ambiguous, an interpretation consistent with the purpose of this Declaration that would render the provision valid shall be favored over any interpretation that would render it invalid.

d. Limitations: Nothing in this Declaration shall be construed to transfer liability for environmental conditions on the Property to Grantee or the EPA.

e. Severability: If any provision of this Declaration, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this Declaration, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

f. Entire Agreement: This Declaration sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.

g. No Forfeiture: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

h. Joint Obligation: If there are two or more parties identified as Grantor herein, the obligations imposed by this Declaration upon them shall be joint and several.

i. Successors: The covenants, terms, conditions, and restrictions of this Declaration shall be binding upon, and inure to the benefit of, the parties hereto and their respective representatives, heirs, successors, successors in title and assigns and shall

continue as a servitude running in perpetuity with the Property. The term "Grantor," wherever used herein, and any pronouns used in place thereof, shall include the person and/or entity named at the beginning of this document and identified as "Grantor" and its personal representatives, heirs, successors, and assigns. The term "Grantee," wherever used herein, and any pronouns used in place thereof, shall include the State of Rhode Island and its personal authorized representatives and assigns. The rights of the Grantee and Grantor under this Declaration are freely assignable, subject to the notice provisions hereof. Any transferee of the fee title to the Property or any leasehold interest in the Property shall automatically be deemed, by acceptance of such interest, to have acquired such title or interest subject to the restrictions contained or referred to in this Declaration and to have agreed to execute any and all instruments reasonably necessary to carry out the provisions of this Declaration. Consistent with the Title 34, Chapter 39-3(c) of the General Laws of Rhode Island, the rights and obligations under this Declaration shall not be subject to a 30-year limitation on restrictive covenants.

j. Termination of Rights and Obligations: A party's rights and obligations under this Declaration terminate upon transfer of the party's interest in the Easement or Property, except that (i) liability for acts or omissions occurring prior to the transfer shall survive the transfer; (ii) the transfer shall in no way alter the obligations under the Consent Decree of the Settling Defendants; and (iii) the transfer shall not affect the Grantee's rights under this Easement.

k. Captions: The captions in this Declaration have been inserted solely for convenience of reference and are not a part of this Declaration and shall have no effect upon construction or interpretation.

TO HAVE AND TO HOLD unto the Grantee and Grantee's authorized representatives and assigns forever.

IN WITNESS WHEREOF, Grantor has caused this Declaration to be executed by its duly authorized representative this _____ day of _____, 2016.

WITNESS:

RHODE ISLAND COUNCIL ON
POSTSECONDARY EDUCATION

By: William Foulkes
Its: Chair

**STATE OF RHODE ISLAND
COUNTY OF WASHINGTON**

On this ___ day of _____, 2016, before me, the undersigned, a Notary Public in and for the State of Rhode Island, duly commissioned and sworn, personally appeared William Foulkes, Chair of the Rhode Island Council on Postsecondary Education, known by me to be the party so executing the foregoing instrument, and acknowledged the said instrument to be his free act and deed in said capacity and the free act and deed of said Council, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument.

Notary Public in and for the
State of Rhode Island
My Commission Expires:

IN WITNESS WHEREOF, Grantee hereby acknowledges its acceptance of the above-described property interest (e.g., use restrictions and environmental conservation/protection and access easement) by its duly authorized representative this ___ day of _____, 2016.

WITNESS:

STATE OF RHODE ISLAND DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

By: _____
Janet L. Coit, Director

**STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE**

On this ___ day of _____, 2016, before me, the undersigned, a Notary Public in and for the State of Rhode Island, duly commissioned and sworn, personally appeared Janet L. Coit, Director of the Rhode Island Department of Environmental Management (“RIDEM”), known by me to be the party so executing the foregoing instrument for and on behalf of RIDEM, and she acknowledged said instrument to be her free act and deed in said capacity and the free act and deed of RIDEM, for the uses and purposes therein mentioned, and on oath stated that she is authorized to execute said instrument.

Notary Public in and for the
State of Rhode Island
My Commission Expires:

IN WITNESS WHEREOF, The Narragansett Electric Company, owner of certain perpetual rights and easements in, over, across, under, through, and upon SUBPARCEL A-4 pursuant to and as more particularly described in an easement deed from Louis F. Conlon, Jr. and Jane M. Conlon to The Narragansett Electric Company, dated December 31, 1947 and recorded in the Records of Land Evidence for the Town of South Kingstown, Rhode Island at Book 63, Page 402 (the "Easement"), hereby acknowledges the covenants, conditions and restrictions set forth in Section 12 above and further agrees to comply with the same to the extent such compliance is not inconsistent with and/or does not unreasonably interfere with or prevent the undersigned's exercise and enjoyment of the rights and easements granted under the Easement by its duly authorized representative this ____ day of _____, 2016.

WITNESS:

THE NARRAGANSETT ELECTRIC COMPANY

By: _____
Name:
Title:

**STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE**

On this __ day of _____, 2016, before me, the undersigned, a Notary Public in and for the State of Rhode Island, duly commissioned and sworn, personally appeared _____, known by me to be the party so executing the foregoing instrument for and on behalf of The Narragansett Electric Company, and he/she acknowledged said instrument to be his/her free act and deed in said capacity and the free act and deed of The Narragansett Electric Company, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

Notary Public in and for the
State of Rhode Island
My Commission Expires:

- | | | | |
|--------------|-----------|---|--|
| Attachments: | Exhibit A | - | Property deed |
| | Exhibit B | - | Legal description of the Restricted Areas (Survey) |
| | Exhibit C | - | List of permitted title encumbrances |

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TO ALL PEOPLE TO WHOM THESE PRESENTS SHALL COME, GREETING:

WHEREAS, PROVIDENCE PRODUCE WAREHOUSE COMPANY, a Rhode Island corporation, is a wholly owned subsidiary of The New York, New Haven and Hartford Railroad Company, Debtor in Reorganization Proceedings, No. 30236 in the United States District Court for the District of Connecticut; and

WHEREAS, RICHARD JOYCE SMITH, WILLIAM J. KIRK and HARRY W. DORIGAN, the duly appointed, qualified and acting Trustees of said Railroad, under the provisions of the Acts of Congress relating to Bankruptcy and by Orders of said Court, have title to all property of said Railroad Company; and

WHEREAS, on October 25, 1965, said Court by its Order No. 332 approved the sale of the tract of land described herein and authorized said Trustees to consent to this conveyance; and

WHEREAS, on this conveyance said Trustees do endorse such consent:

NOW, THEREFORE, said PROVIDENCE PRODUCE WAREHOUSE COMPANY for consideration paid in the amount of One Hundred Fifty Thousand (\$150,000.00) Dollars, grants to Board of Trustees of State Colleges, a public corporation of the State of Rhode Island and Providence Plantations, with QUITCLAIM COVENANTS, that certain parcel of land, with all buildings and improvements thereon, located in South Kingstown, Rhode Island, bounded and described as follows:

Beginning at a point at the most easterly corner of the herein described premises, said point being in the division line of land herein described and land now or formerly of Walter Standeven at its intersection with the northwesterly line of Ministerial Road (so-called);

Thence southwesterly along said northwesterly line of Ministerial Road 498.3 feet, more or less, to an angle point therein;

Thence again southwesterly along said northwesterly line of Ministerial Road 3054.5 feet, more or less, to an angle point therein;

Thence northwesterly along the northeasterly line of said Ministerial Road 1199.43 feet to a point;

Thence northeasterly, bounding northwesterly on land now or formerly of Arthur L. Svanson et ux 203.14 feet to a point;

Thence northeasterly, bounding southwesterly on said land now or formerly of Arthur L. Svenson et ux and land now or formerly of B. F. Hull et al, each in part, 228.78 feet to a point;

Thence northeasterly, bounding northwesterly on land now or formerly of State of Rhode Island 137.75 feet to a point;

Thence northwesterly, bounding southwesterly on said land now or formerly of State of Rhode Island 250 feet, more or less, to a point;

Thence northeasterly, bounding northwesterly on land now or formerly of E. P. Holley et al and land now or formerly of B. F. Hull et al, each in part, 57.7 feet, more or less, to a point;

Thence northeasterly, bounding southwesterly on said land now or formerly of B. F. Hull et al 255 feet, more or less, to a point on the southeasterly shore of Thirty Acre Pond;

Thence northeasterly along said southeasterly shore of Thirty Acre Pond 8 feet to a point;

Thence southeasterly, bounding northeasterly on land now or formerly of A. I. Clarke 94.5 feet, more or less, to a point;

Thence again southeasterly, bounding northeasterly on land now or formerly of H. C. Becker et al 195.07 feet to a point;

Thence northeasterly, bounding northwesterly on said land now or formerly of H. C. Becker et al 285 feet to a point;

Thence northwesterly, bounding southwesterly on said land now or formerly of H. C. Becker et al 230 feet, more or less, to a point;

Thence northeasterly, bounding northwesterly on land now or formerly of Louis F. Conlon, Jr., 92 feet, more or less, to a point;

Thence southeasterly, bounding northeasterly on land now or formerly of M. M. Carlson, 128.41 feet to a point;

Thence northeasterly, bounding northwesterly on said land now or formerly of M. M. Carlson, 224.07 feet to a point;

Thence northwesterly, bounding southwesterly on said land now or formerly of M. M. Carlson, 390.0 feet, more or less, to a point in said southeasterly shore of Thirty Acre Pond;

Thence in a general northerly direction along the said southeasterly and easterly shore of Thirty Acre Pond 510 feet, more or less, to a point in the southeasterly right of way line of The New York, New Haven and Hartford Railroad Company distant 137 feet, more or less, southeasterly of and measured at right angles from station 1918 + 40, more or less, of the monumented center line of the railroad leading from New London, Connecticut to Providence, Rhode Island;

Thence northeasterly along said southeasterly railroad right of way line 411.8 feet, more or less, to a point distant 90 feet southeasterly of and measured at right angles from station 1924 + 50 of said monumented center line;

Thence again northeasterly along said southeasterly railroad right of way line 2355.59 feet to a point distant 90 feet southeasterly of and measured at right angles from station 1942 + 66.50 of said monumented center line;

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thence southeasterly, according to land now
of formerly of Walter Standeven, 498.1 feet, more
or less, to the point of beginning, containing
123 acres, more or less.

Being part of the same premises acquired by the Grantor
herein by deed from Frederick L. Philbrick dated October 3,
1955, recorded in the Records of Land Evidence in said Town
of South Kingstown in Book 77 at page 353 on October 3, 1955,
and all of the premises acquired by said Grantor by deed from
Louis F. Conlon, Jr., dated October 13, 1955, recorded in the
Records of Land Evidence in said Town of South Kingstown in
Book 77 at page 388 on October 17, 1955, and shown as parcels
"14" and "15", respectively, on a certain map filed with the
above mentioned deeds and entitled "New York, New Haven &
Hartford Railroad, Office of Engineer-Real Estate Surveys
Land in South Kingstown, Rhode Island To Be Acquired For
South County Industrial Development Project Scale 1 in. =
200 ft. (Map F) September 1955 Revised September 19, 1955."

By the acceptance of this deed the Grantee acknowledges
and agrees that this conveyance is subject to the following:
(1) Passway rights of others, conditions, easements, reserva-
tions and restrictions of record as now are applicable; (2)
unrecorded lease of dwelling house known as the Philbrick
house, Ministerial Road, South Kingstown, Rhode Island, to
Jack Bishop dated July 20, 1956; (3) obligation of the Grantee
to erect and maintain a fence along the division line between
the premises hereby conveyed and remaining land of the
Grantor if and when a fence is required by the Grantor, by
the Grantee or by any public authority.

IN WITNESS WHEREOF, Providence Produce Warehouse Company

has caused its corporate seal to be hereto affixed and these presents to be signed by William Mark, its President, thereto duly authorized this 25th day of March, A. D., 1966.

PROVIDENCE PRODUCE WAREHOUSE COMPANY

By William Mark
President

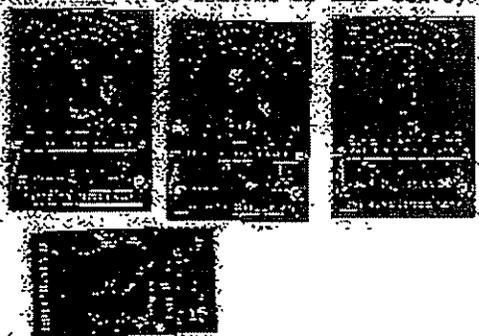
1966.

In the City of New Haven, in said County, on the 27th day of March, 1966, before me, a Notary Public in and for said County, personally appeared William Mark, to me known and known by me to be President of the Providence Produce Warehouse Company, the corporation described in and which executed the foregoing instrument, and he acknowledged said instrument by him executed as such President to be his free act and deed in his said capacity and the free act and deed of said corporation.

Herbert P. Henderson
Notary Public



PURSUANT to the provisions of the aforesaid Order No. 332 we consent to this conveyance.



Richard Joyce Smith
Richard Joyce Smith

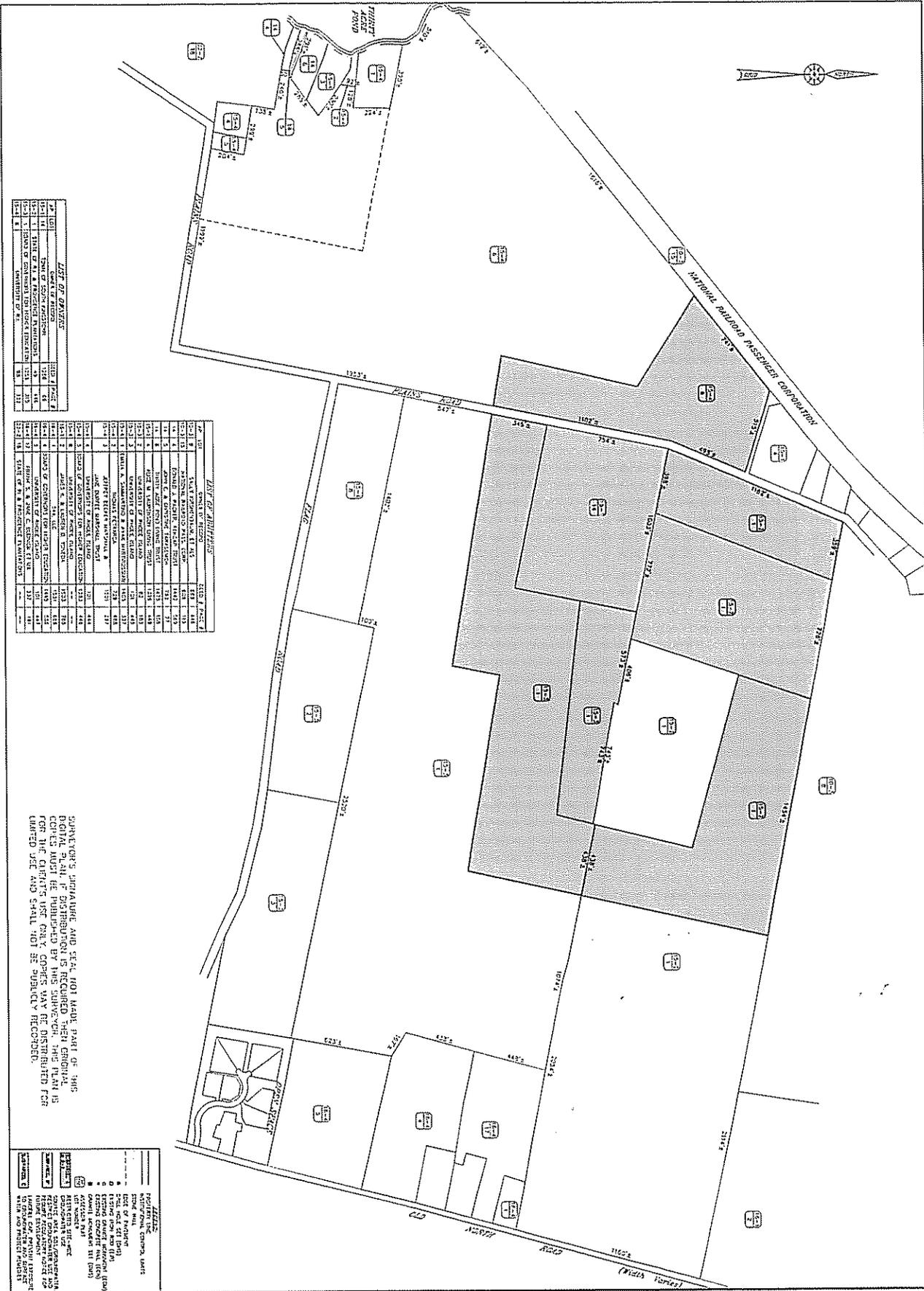
William Mark
William Mark

Harry W. Dorigan
Harry W. Dorigan
Trustees of The New York, New Haven and Hartford Railroad Company,
Debtor in Reorganization.

Approved as to form:

[Signature] - 83
Description approved:

[Signature]



LIST OF OWNERS

NO.	NAME	ADDRESS	CITY	STATE	ZIP
1	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903
2	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903
3	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903
4	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903
5	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903
6	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903
7	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903
8	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903
9	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903
10	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903

LIST OF ARCHITECTS

NO.	NAME	ADDRESS	CITY	STATE	ZIP
1	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903
2	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903
3	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903
4	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903
5	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903
6	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903
7	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903
8	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903
9	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903
10	STATE OF RHODE ISLAND	STATE HOUSE	PROVIDENCE	RI	02903

SUPPLIER'S SIGNATURE AND SEAL NOT MADE PART OF THIS DOCUMENT. IF DISTRIBUTION IS REQUIRED, THE GENERAL CONTRACTOR MUST BE ADVISED BY THE SUPPLIER. THE SUPPLIER IS NOT RESPONSIBLE FOR THE CONTENTS OF THIS DOCUMENT. THE SUPPLIER IS NOT RESPONSIBLE FOR THE CONTENTS OF THIS DOCUMENT.

NOTES

1. SEE SHEET 1 FOR GENERAL NOTES.
2. SEE SHEET 2 FOR GENERAL NOTES.
3. SEE SHEET 3 FOR GENERAL NOTES.
4. SEE SHEET 4 FOR GENERAL NOTES.
5. SEE SHEET 5 FOR GENERAL NOTES.
6. SEE SHEET 6 FOR GENERAL NOTES.
7. SEE SHEET 7 FOR GENERAL NOTES.
8. SEE SHEET 8 FOR GENERAL NOTES.
9. SEE SHEET 9 FOR GENERAL NOTES.
10. SEE SHEET 10 FOR GENERAL NOTES.

OVERALL VIEW

20110502-02

Institutional Control
 Plan
 at the
 University of
 Rhode Island
 in
 South Kingstown, RI

Louis Federici Associates
 100 South Street, Providence, RI 02903
 Tel: 401-863-1111 Fax: 401-863-1112
 Land Surveyors • Consultants
 Drafters • Planners • Writers

GRAPHING SCALE

1" = 100'

Scale

Scale	Ratio
1" = 100'	1:1200
1" = 200'	1:2400
1" = 300'	1:3600
1" = 400'	1:4800
1" = 500'	1:6000
1" = 600'	1:7200
1" = 800'	1:9600
1" = 1000'	1:12000

EXHIBIT C

ENCUMBRANCES ON TITLE

Plat 15-4, Lot 6

Address: 370 Plains Rd., South Kingstown, RI

LIENS AND ENCUMBRANCES:

None

STATE PROPERTIES COMMITTEE

This Declaration of Conservation Restriction and Access Easement is made with the approval of the undersigned, in accordance with the applicable provisions of the General Laws of Rhode Island, as amended.

APPROVED this _____ day of _____,
A.D. 2016 by the State Properties Committee.

**APPROVED AS TO TERMS
AND CONDITIONS:**

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Attorney General

APPROVED AS TO SUBSTANCE:

By: _____

APPROVED:

By: _____