

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE AND INSPECTION

In Re: ANM REALTY, LLC
Allens Ave Metals, LLC

File No.: OCI-WP-14-74
AAD No.: 15-003/WRE

CONSENT AGREEMENT

A. INTENT & PURPOSE

This Agreement is entered by and between the Rhode Island Department of Environmental Management's Office of Compliance & Inspection ("RIDEM") and ANM REALTY, LLC. This Agreement is entered in accordance with Section 42-17.1-2 *et seq.* of the Rhode Island General Laws ("R.I. Gen. Laws") for the purpose of resolving, **with regard only to the RIDEM and ANM REALTY, LLC**, the administrative enforcement action set forth in a Notice of Violation ("NOV") issued to ANM REALTY, LLC and Allens Ave Metals, LLC (collectively "the Respondents") by the RIDEM on 16 September 2015. This Agreement does not affect or alter in any way any rights or causes of action that the RIDEM may possess against Allens Ave Metals, LLC arising from or related to the NOV.

B. STIPULATED FACTS

- (1) WHEREAS, the property is located at 278 Allens Avenue, Assessor's Plat 47, Lot 146 in the city of Providence, Rhode Island (the "Property").
- (2) WHEREAS, ANM REALTY, LLC owns the Property.
- (3) WHEREAS, on 16 September 2015, the RIDEM issued a NOV to the Respondents alleging certain violations of Rhode Island's *Water Pollution Act*, the RIDEM's *Water Quality Regulations*, and the RIDEM's *Rhode Island Pollutant Discharge Elimination System Program Regulations*.
- (4) WHEREAS, the Respondents requested an administrative hearing to contest the NOV.
- (5) WHEREAS, in lieu of proceeding to an administrative adjudicatory hearing on the NOV and to effect a timely and amicable resolution of the NOV, the RIDEM and ANM REALTY, LLC hereby agree that it is in the best interest of the parties and in the public interest to resolve the issues raised in the NOV as to ANM REALTY, LLC only.

- (6) WHEREAS, the RIDEM finds that this Agreement is a reasonable and fair settlement of all claims against ANM REALTY, LLC and adequately protects the public interest in accordance with Rhode Island's *Water Pollution Act*, the RIDEM's *Water Quality Regulations*, and the RIDEM's *Rhode Island Pollutant Discharge Elimination System Program Regulations*.
- (7) WHEREAS, this Agreement does not release or dismiss the NOV as it pertains to the Allens Ave Metals, LLC.

C. AGREEMENT

- (1) JURISDICTION – The RIDEM has jurisdiction over the subject matter of this Agreement and has personal jurisdiction over ANM REALTY, LLC.
- (2) FORCE and EFFECT – This Agreement shall have the full force and effect of a final compliance order issued after a full hearing on the merits pursuant to the Administrative Procedures Act, R.I. Gen. Laws Section 42-35-1 et seq. from which no timely appeal was taken, and which is enforceable in Superior Court in accordance with R.I. Gen. Laws Section 42-17.1-2(21)(vi).
- (3) APPLICATION – The provisions of this Agreement shall apply to and be binding upon the RIDEM and ANM REALTY, LLC and its agents, servants, employees, successors, assigns and all persons, firms and corporations acting under, through and for ANM REALTY, LLC in the performance of work relating to or impacting the requirements of this Agreement.
- (4) PENALTY – ANM REALTY, LLC shall pay to the RIDEM the sum of \$10,000 in administrative penalties assessed as follows:
- (a) Upon execution of this Agreement by ANM REALTY, LLC, ANM REALTY, LLC shall pay to the RIDEM the sum of \$10,000.
 - (b) Penalties that ANM REALTY, LLC agrees to pay in this Agreement are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
 - (c) Payment of the administrative penalty shall be in the form of a certified check, cashier's check, or money order, payable to the ***R.I. General Treasurer –Water and Air Protection Account***. All payments shall be delivered to:

Chief, RIDEM Office of Compliance and Inspection
235 Promenade Street
Providence, RI 02908-5767

D. COMPLIANCE

- (1) EFFECT OF COMPLIANCE – Compliance with and fulfillment of this Agreement shall be deemed to resolve all issues, with regard to the RIDEM and ANM REALTY, LLC, raised in the NOV.
- (2) COMPLIANCE WITH OTHER APPLICABLE LAWS – Compliance with the terms of this Agreement does not relieve ANM REALTY, LLC of any obligation to comply with any other applicable laws or regulations administered by, through or for the RIDEM or any other governmental entity.
- (3) ADDITIONAL ENFORCEMENT ACTIONS – Upon a determination by the Director that there is a threat to the public health or the environment, or upon discovery of any new information, the RIDEM reserves the right to take additional enforcement actions as provided by law or regulation, including, but not limited to, the issuance of “Immediate Compliance Orders” as authorized by R.I. Gen. Laws Section 42-17.1-2(21). This Agreement shall not restrict any right to hearing or other right available by statute or regulation that ANM REALTY, LLC may have regarding any new enforcement action commenced by the RIDEM after the execution of this Agreement.
- (4) FUTURE ACTIVITIES AND UNKNOWN CONDITIONS – This Agreement shall not operate to shield ANM REALTY, LLC from liability arising from future activities, as of the date of execution of this Agreement.
- (5) SCOPE OF THE AGREEMENT – The scope of the Agreement is only violations alleged in the NOV.
- (6) NOTICE AND COMMUNICATION – Communications regarding this Agreement shall be directed to:

Tricia Quest, Esquire
RIDEM Office of Legal Services
235 Promenade Street
Providence, RI 02908-5767
(401) 222-6607 ext. 2408

John F. Neary, Esquire
Neary & Milos
103 Cottage St.
Pawtucket, Rhode Island 02860
(401) 351-9100

- (7) EFFECTIVE DATE – This Agreement shall be deemed entered as of the date of execution by all parties.

IN WITNESS WHEREOF, the undersigned consent to this Agreement in substance and in form.

For ANM REALTY, LLC

By: _____

Print Name: _____ Title: _____

Dated: _____

In my capacity as _____ of ANM REALTY, LLC, I hereby aver that I am authorized to enter into this Agreement and thereby bind ANM REALTY, LLC to satisfy any obligation imposed upon it pursuant to said Agreement

STATE OF RHODE ISLAND
COUNTY OF _____

In _____, in said County and State, on this _____ day of _____, 2016, before me personally appeared _____, the _____ of ANM REALTY, LLC, a Rhode Island corporation, to me known and known by me to be the party executing the foregoing instrument on behalf of ANM REALTY, LLC, and he/she acknowledged said instrument by him/her executed, to be his/her/ free act and deed in said capacity and the free act and deed of ANM REALTY, LLC.

Notary Public
My Commission Expires: _____

*State of Rhode Island, Department of Environmental
Management*

By: _____
David E. Chopy, Chief
Office of Compliance and Inspection

Dated: _____