

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
OFFICE OF COMPLIANCE AND INSPECTION**

In Re: The Housing Authority of the City of Pawtucket

File No.: UST 10-03540

AAD No.:11-006/WME

**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 The Housing Authority of the City of Pawtucket (the "Respondent"). 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 the administrative enforcement action set forth in a Notice of Violation ("NOV") issued to the Respondent by RIDEM on March 8, 2011.

**B. STIPULATED FACTS**

- (1) WHEREAS, the subject facilities are located on property owned by the Respondent at 175 Broad Street ("Kennedy Manor") and 214 Roosevelt Avenue ("Fogarty Manor") in the city of Pawtucket, Rhode Island (the "Facilities").
- (2) WHEREAS, the Facilities are operated by the Respondent.
- (3) WHEREAS, on March 8, 2011, RIDEM issued a NOV to the Respondent alleging certain violations of the RIDEM's *Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials* (the "UST Regulations").
- (4) WHEREAS, the Respondent requested an administrative hearing to contest the NOV.
- (5) WHEREAS, the Respondent complied with the Order section of the NOV.
- (6) WHEREAS, on March 22, 2013 the Respondent completed an energy audit of all of its facilities at a total cost of Ninety Thousand One Hundred Twenty Nine Dollars (\$90,129.00). The audit is described in Attachment A attached hereto and incorporated herein (the "Energy Audit").
- (7) WHEREAS, in lieu of proceeding to an administrative adjudicatory hearing on the NOV and to effect a timely and amicable resolution of the NOV, RIDEM and the

Respondent 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.

- (8) WHEREAS, RIDEM finds that this Agreement is a reasonable and fair settlement and adequately protects the public interest in accordance with the RIDEM's UST Regulations.

### **C. AGREEMENT**

- (1) JURISDICTION – RIDEM has jurisdiction over the subject matter of this Agreement and has personal jurisdiction over the Respondent.
- (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)(v).
- (3) APPLICATION – The provisions of this Agreement shall apply to and be binding upon RIDEM, the Respondent and its agents, servants, employees, successors, assigns and all persons, firms and corporations acting under, through and for the Respondent in the performance of work relating to or impacting the requirements of this Agreement.
- (4) PENALTY – The Respondent shall pay to RIDEM the sum of Seventy-Eight Thousand Four Hundred Sixty Eight Dollars (\$78,468.00) in administrative penalties in the form of two Supplemental Environmental Projects as follows:
- (a) The Respondent shall receive a credit of Ninety Thousand One Hundred Twenty Nine Dollars (\$90,129.00) for the Energy Audit.
  - (b) The Respondent shall develop and implement a Solid Waste Recycling and Hazardous Waste Management Program (as described in Attachment B attached hereto and incorporated herein) (the "Recycling SEP"). The Recycling SEP involves teaching staff at each of the Respondent's facilities about waste reduction and composting. The Recycling SEP includes completion of a final report on the outcome of the program by May 31, 2013. The cost of the Recycling SEP is Fifteen Thousand Dollars (\$15,000.00). The Respondent shall forward a copy of the final report to RIDEM by June 30, 2013. The Respondent shall receive a credit of Fifteen Thousand Dollars (\$15,000.00) for the Recycling SEP (the "Recycling SEP Credit").
  - (c) If the Respondent fails to timely complete the Recycling SEP, RIDEM shall notify the Respondent that it intends to rescind the Recycling SEP Credit. Within fourteen (14) days of Respondent's receipt of written notification by RIDEM that RIDEM intends to rescind the Recycling SEP Credit, the Respondent shall either complete the Recycling SEP or demonstrate that good cause exists for the delay in completing the Recycling SEP. If the Respondent fails to complete the Recycling SEP or does not demonstrate good cause for the delay within said fourteen (14)

days, the Respondent shall, within ten (10) days of the Respondent's receipt of a written notification from RIDEM, submit to the RIDEM a check in the amount of Fifteen Thousand Dollars (\$15,000.00) after which the Respondent shall be under no further obligation to complete the Recycling SEP.

- (d) Penalties that the Respondent 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.
- (e) All penalty payments shall be in the form of a check 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 raised in the NOV.
- (2) COMPLIANCE WITH OTHER APPLICABLE LAWS – Compliance with the terms of this Agreement does not relieve the Respondent of any obligation to comply with any other applicable laws or regulations administered by, through or for 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, 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 the Respondent may have regarding any new enforcement action commenced by RIDEM after the execution of this Agreement.
- (4) FUTURE ACTIVITIES AND UNKNOWN CONDITIONS – This Agreement shall not operate to shield the Respondent 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:

Tracey D’Amadio Tyrrell  
RIDEM Office of Compliance and Inspection  
235 Promenade Street

Providence, RI 02908-5767 (401)  
222-1360 ext. 7407

Joseph J. LoBianco, Esq. RIDEM  
Office of Legal Services  
235 Promenade Street  
Providence, RI 02908-5767 (401)  
222-6607

Lisa Cloutier, Esq. Montalbano &  
Cloutier, LLC 959 Mineral Spring  
Avenue North Providence, RI 02904

Stephen Vadnais, Executive Director  
The Housing Authority of the City of Pawtucket 214  
Roosevelt Avenue P.O. Box 1303  
Pawtucket, RI 02862

All communications regarding compliance with this Agreement shall be forwarded to the above-referenced addressees by certified mail.

- (7) DEFERRAL – The Director may, for good cause shown, defer any of the compliance dates prescribed herein. Good cause for deferral of any compliance date shall be forwarded to RIDEM in writing at least fifteen (15) days prior to the prescribed deadline.
- (8) AMENDMENT – The Agreement may be amended by mutual agreement of the parties in writing.
- (9) 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 The Housing Authority of the City of Pawtucket*

\_\_\_\_\_  
By: \_\_\_\_\_ (Print Name)

Its: \_\_\_\_\_ (Title)

Dated: \_\_\_\_\_

In my capacity as \_\_\_\_\_ of The Housing Authority of the City of Pawtucket, I hereby aver that I am authorized to enter into this Agreement and thereby bind The Housing Authority of the City of Pawtucket to satisfy any obligation imposed upon it pursuant to said Agreement.

*For the State of Rhode Island Department of Environmental Management*

\_\_\_\_\_  
David E. Chopy, Chief  
Office of Compliance and Inspection

Dated: \_\_\_\_\_