

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

**OFFICE OF COMPLIANCE AND INSPECTION**

In Re: Souad Tashian Trust Agreement 2004

File No.: OCI-UST-2016-57-00850

AAD No.: 17-002/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 Souad Tashian Trust Agreement 2004 (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 alleged violations set forth in a Notice of Violation ("NOV") issued to Respondent by the RIDEM on January 13, 2017.

**B. STIPULATED FACTS**

- (1) WHEREAS, the property is located at 3333 South County Trail, Assessor's Plat 18, Lot 40, in the town of East Greenwich (the "Property"). The Property includes a service station, a convenience store and a motor fuel storage and dispensing system (the "Facility").
- (2) WHEREAS, Respondent owns the Property.
- (3) WHEREAS, underground storage tanks ("USTs" or "tanks") are located on the Property, which tanks are/were used for storage of petroleum products and which are subject to the DEM's *Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials* (the "UST Regulations").
- (4) WHEREAS, the Facility is registered with the DEM and is identified as UST Facility No. 00850.
- (5) WHEREAS, on January 13, 2017, the RIDEM issued a NOV to Respondent alleging certain violations of the RIDEM's UST Regulations.
- (6) WHEREAS, Respondent requested an administrative hearing to contest the NOV.

- (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, the RIDEM and 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, the RIDEM finds that this Agreement is a reasonable and fair settlement of all claims against Respondent and adequately protects the public interest in accordance with the RIDEM's UST Regulations.

### **C. AGREEMENT**

- (1) JURISDICTION – The RIDEM has jurisdiction over the subject matter of this Agreement and has personal jurisdiction over 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. and R.I. Gen. Laws Section 42-17.7-1 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, Respondent and its agents, servants, employees, successors, assigns and all persons, firms and corporations acting under, through and for Respondent in the performance of work relating to or impacting the requirements of this Agreement.
- (4) RECORDING OF AGREEMENT – Within 10 days of the receipt of the fully executed Agreement from the RIDEM, Respondent shall record this Agreement with the town of East Greenwich, Rhode Island and shall provide a copy of the recorded Agreement to the RIDEM. The recording shall be at the sole expense of Respondent.
- (5) CONDITIONS –
  - (a) Respondent shall complete the following actions to comply with the Order section of the NOV:
    - (i) **Within 10 days of execution of the Consent Agreement**, submit a Temporary Closure Application (the "Application") to the RIDEM's Office of Waste Management (the "OWM").
    - (ii) **Within 60 days of execution of the Consent Agreement**, retain the services of a qualified environmental consultant to perform a site investigation on the Property and submit a Site Investigation Report ("SIR") to the OWM in accordance with Rules 12.08, 12.09 and 12.10 of the RIDEM's UST Regulations.

- (iii) **Within 60 days of receipt of written notification from the OWM to submit a Corrective Action Plan (“CAP”)**, retain a qualified consultant to submit a proposed CAP to the OWM in accordance with Rules 12.12 through 12.18 of the RIDEM’s UST Regulations. The CAP shall be implemented in accordance with an order of approval issued by the OWM.
- (b) The documents that Respondent is required to submit to the RIDEM in accordance with Paragraph C(5)(a) above are subject to the RIDEM’s review and approval. Upon review, the RIDEM shall provide written notification to Respondent either granting formal approval or stating the deficiencies therein. Within 14 days (unless a longer time is specified) of receiving a notification of deficiencies, Respondent shall submit to the RIDEM revised schedules, reports, documents or additional information necessary to correct the deficiencies.
- (c) Upon the RIDEM’s approval of the schedules, reports and other documents, Respondent shall complete all work required in accordance with the approval.
- (d) Penalty – Respondent shall pay to the RIDEM the sum of \$2,300 in administrative penalties as follows:
  - (i) Upon execution of this Agreement by Respondent, Respondent shall pay to the RIDEM the sum of \$2,300;
  - (ii) Penalties that 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; and
  - (iii) All penalty payments shall be in the form of a certified check, cashiers 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

- (6) **RIGHT OF ACCESS** – Respondent provides to the RIDEM, its authorized officers, employees and representatives an irrevocable right of access to the Property at all reasonable times for the purpose of monitoring compliance with this Agreement. Respondent shall ensure that assignees, successors in interest, lessees, sublessees, tenants in possession and/or occupants of the Property shall provide the same access and cooperation as long as they control the Property. Respondent shall provide a copy of this Agreement to any current lessee, sublessee, tenant in possession and/or occupant of the Property as of the effective date of this Agreement. Any subsequent leases, subleases, assignments or transfers of the Property or an interest in the Property shall include this right of access provision and shall otherwise be consistent with the terms of this Agreement.

#### **D. COMPLIANCE**

- (1) EFFECT OF COMPLIANCE – Compliance with and fulfillment of this Agreement shall be deemed to resolve all issues raised in the NOV. Upon Respondent’s successful completion of the requirements set forth in this Agreement, the RIDEM shall issue a Release and Discharge of the NOV and Agreement to Respondent for recording. The recordings shall be at the sole expense of Respondent.
- (2) FAILURE TO COMPLY – In the event that Respondent fails to comply with items specified in Section C (5)(a), (b) or (c) of the Agreement, Respondent shall pay a stipulated penalty of \$ 500 per month for each and every month during which the noncompliance continues, except that the RIDEM may, for good cause shown, defer or reduce such penalty. The payment of a penalty in accordance with this section shall not preclude the RIDEM from seeking any other appropriate remedy (e.g., injunctive relief in Superior Court).
- (3) COMPLIANCE WITH OTHER APPLICABLE LAWS – Compliance with the terms of this Agreement does not relieve Respondent of any obligation to comply with any other applicable laws or regulations administered by, through or for the RIDEM or any other governmental entity.
- (4) 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 statute 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 Respondent may have regarding any new enforcement action commenced by the RIDEM after the execution of this Agreement.
- (5) FUTURE ACTIVITIES AND UNKNOWN CONDITIONS – This Agreement shall not operate to shield Respondent from liability arising from future activities, as of the date of execution of this Agreement.
- (6) SCOPE OF THE AGREEMENT – The scope of the Agreement is limited to violations alleged in the NOV.
- (7) NOTICE AND COMMUNICATION – Communications regarding this Agreement shall be directed to:

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

Tracey D'Amadio Tyrrell  
RIDEM Office of Compliance and Inspection  
235 Promenade Street  
Providence, RI 02908-5767  
(401) 222-1360

Matthew F. Callaghan, Jr. Esq.  
Callaghan & Callaghan  
3 Brown Street  
Wickford, RI 02852  
(401) 294-4555

- (a) At any time prior to full compliance with the terms of this Agreement, Respondent agrees to notify the RIDEM in writing of any change in ownership of the Property, and provide the name and address of the new owner(s). Notice of any change in address/telephone/fax of either party shall be sent to all other parties by certified mail.
- (b) All communications regarding compliance with this Agreement shall be forwarded to the above-referenced addressees by certified mail.
- (8) 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 the RIDEM in writing at least 15 days prior to the prescribed deadline.
- (9) AMENDMENT – The Agreement may be amended by mutual agreement of the parties in writing.
- (10) 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 Respondent

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

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

In my capacity as \_\_\_\_\_ of Souad Tashian Trust Agreement 2004, I hereby aver that I am authorized to enter into this Agreement and thereby bind Souad Tashian Trust Agreement 2004 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 \_\_\_\_\_, 2017, before me personally appeared \_\_\_\_\_, the \_\_\_\_\_ of Souad Tashian Trust Agreement 2004, to me known and known by me to be the party executing the foregoing instrument on behalf of Souad Tashian Trust Agreement 2004, 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 Souad Tashian Trust Agreement 2004.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

State of Rhode Island, Department of Environmental  
Management

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

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