



RHODE ISLAND

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

March 6, 2012

**LETTER OF RESPONSIBILITY
CERTIFIED MAIL**

Ms. Jane Howington
City Manager
Office of the City Manager
City Hall - 2nd Floor
43 Broadway
Newport, RI 02840

RE: Queen Anne Square
Intersection of Mill, Thames, Spring and Church Streets, Newport, Rhode Island
Case No. 2012-010

Dear Ms. Howington:

On November 9, 2011, the Rhode Island Department of Environmental Management (the Department) amended the Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases, (the Remediation Regulations). The purpose of these regulations is to create an integrated program requiring reporting, investigation and remediation of contaminated sites in order to eliminate and/or control threats to human health and the environment in an efficient manner. A Letter of Responsibility (LOR) is a preliminary document used by the Department to codify and define the relationship between the Department and a Responsible Party.

Please be advised of the following facts:

1. The Department is in receipt of the following reports concerning property identified as Queen Anne Square, located at the intersection of Mill, Thames, Spring and Church Streets, Newport, Rhode Island, and further defined as Plat 24, Lot 346, in the City of Newport, Rhode Island (the Site):
 - a. Memorandum from Sage Environmental, Inc. (Sage), on behalf of the City of Newport and the Doris Duke Monument Foundation (DDMF), dated February 22, 2012, containing an unsigned *Hazardous Material Release Notification Form* and an environmental sample result information packet;
 - b. *Hazardous Material Release Notification Form* (Release Notification), signed on February 22, 2012, submitted by the City of Newport, and received by the Department on February 27, 2012;

- c. Meeting Summary, Queen Anne Square, Newport, Rhode Island, prepared by Sage, and dated February 24, 2012; and
 - d. Response to Meeting Summary, Queen Anne Square, Newport, Rhode Island, prepared by Sage, and dated March 1, 2012.
2. The **City of Newport** is identified as the current owner of the Site by the City of Newport Tax Assessor's office and as such is a **Responsible Party** as defined by Rule 3.70 of the Remediation Regulations.
 3. The Release Notification identified concentrations of lead, arsenic, total petroleum hydrocarbons (TPH), and several polycyclic aromatic hydrocarbons (PAHs) in Site soils above the Method 1 Residential Direct Exposure Criteria and the Industrial/Commercial Direct Exposure Criteria, as referenced in Table 1 of the Remediation Regulations, as well as TPH above the Method 1 GB Leachability Criteria, as referenced in Rule 8.02.A.iv of the Remediation Regulations.
 4. The identification of **Hazardous Substances** and **Petroleum** in the onsite soils constitutes a **Release of Hazardous Materials and Petroleum** to the environment as defined by Rules 3.34, 3.59, 3.63, and 3.33 respectively of the Remediation Regulations.

It is the Department's understanding that there is a contract between the City of Newport and the DDMF (c/o the Newport Restoration Foundation), under which the DDMF has agreed to operate as a Voluntary Party to complete the investigation and remediation of the Site. The Department also understands that the DDMF intends to incorporate the planned redevelopment of the square into the Site remedy.

As a result of the information known and conditions observed at the site, the Department requests that you comply with the following:

- As explained in the Department's February 29, 2012, Meeting Summary Comment Letter to the City of Newport and the Newport Restoration Foundation (NRF), the Public Involvement requirements under Rhode Island General Laws (R.I.G.L.), Title 23, *Health and Safety*, Chapter 23-19.14, *Industrial Property Remediation and Reuse Act*, Section 23-19.14-5, *Environmental Equity and Public Participation*, as well as Section 7.00, Rule 7.07.A.iii of the Remediation Regulations, are both applicable to this Site. Therefore, the City of Newport and/or the DDMF, prior to finalizing the scope of work for the investigation of the Site, must schedule and hold a Public Meeting. Public notice of the meeting must be given at least ten (10) business days prior to the meeting. The public meeting shall be conducted in a manner consistent with the requirements in Rule 7.07(C) regarding Community Meetings. The results of All Appropriate Inquiries, analysis and the public meeting, including the comment period, shall be documented in a written report submitted to the Department in both hard copy and electronic format (as specified by the Remediation Regulations) within 72 hours of the meeting.

- Within **60 days of the closure of the record for the public meeting**, the City of Newport and/or the DDMF shall complete the investigation of the Site, and prepare and submit a complete Site Investigation Report (SIR) in accordance with Section 7.0 of the Remediation Regulations. The SIR should include at least two remedial alternatives other than the no action/natural attenuation alternative.
- Submit an SIR checklist in accordance with Rule 7.08 of the Remediation Regulations along with the above-mentioned SIR. The SIR checklist has been created as a supplemental tool to expedite the reviewing and approval process by cross-referencing the specific sections and pages within the SIR that provide the detailed information that addresses each stated requirement within Section 7 of the Remediation Regulations.
- Upon Department approval of the SIR, be prepared to bring the Site into compliance with the Remediation Regulations.

Be advised that the **City of Newport**, as Site **Owner**, is responsible for the proper investigation and, if necessary, remediation of hazardous materials and/or petroleum at this site. Also be advised that any remedial alternative that proposes to leave contaminated soil on-site at levels which exceed the Department's Residential Direct Exposure Criteria will at a minimum necessitate the recording of an institutional control in the form of an Environmental Land Usage Restriction (ELUR) on the deed for the site, and will likely require implementation of additional engineered controls to restrict human exposure.

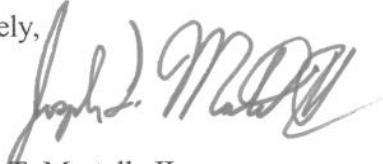
Following the closure of the record for the public meeting, in the event that additional investigation at the site is deemed necessary, the **City of Newport** and/or the **DDMF** must notify all abutting property owners, tenants and the City of Newport Planning Office that an additional investigation is about to occur prior to the implementation of any investigation field activities in accordance with the Industrial Property Remediation and Reuse Act (Rhode Island General Law 23-19.14, Section 11) and the Remediation Regulation's Rule 7.07. The notice should briefly indicate the purpose of the investigation, the work to be performed and the approximate scheduled date of activities. Failure to comply with any of the aforementioned laws and regulations may result in enforcement actions as specified in Rhode Island General Laws 23-19.1-17 and 23-19.1-18.

Please notify this office within seven days of the receipt of this letter of your plans to address these items. All correspondences should be sent to the attention of:

Joseph T. Martella II – Senior Engineer
 RIDEM / Office of Waste Management
 235 Promenade Street
 Providence, RI 02908

If you have any questions regarding this letter or would like the opportunity to meet again with Department personnel, please contact me by telephone at (401) 222-2797, extension 7109 or by e-mail at joseph.martella@dem.ri.gov.

Sincerely,



Joseph T. Martella II
Senior Engineer
Rhode Island DEM
Office of Waste Management

Authorized by,



Kelly J. Owens
Supervising Engineer
Rhode Island DEM
Office of Waste Management

Cc: Leo Hellested, P.E., Chief, RIDEM/OWM
Scott D. Wheeler, Newport Department of Public Services
Joseph J. Nicholson, Jr., Esquire, Newport City Solicitor
Pieter N. Roos, Newport Restoration Foundation
Jeff Moniz, Farrar Associates
Bruce Clark, Sage