

**MASTER REAL ESTATE PERMITTING CHECKLIST**

by

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## MASTER REAL ESTATE PERMITTING CHECKLIST (as of October 3, 2003)

This Master Real Estate Permitting Checklist is intended to provide the most comprehensive possible listing of all permits, approvals, and other authorities that might apply to major real estate development and renovation projects. By no means will all of the possible requirements listed in this Checklist apply to a given property, but the Checklist user should consider whether each of these permitting requirements will apply to the property at hand.

The Checklist is intended to be used: (1) in the real estate acquisition stage, to summarize the regulatory issues raised by a given real property, and given to real estate brokers searching for suitable locations, so that it may be compared against other properties for relative regulatory burden and likely ease of development, (2) in the real estate development stage, to summarize which permits are required and to prevent necessary permits from being forgotten (the main use contemplated for the Checklist), (3) in the real estate operation stage, to be sure that all permits necessary to operate the facility are in place, and (4) in the real estate transfer stage, to make sure that all relevant permits are in place and as a guide to which permits may be transferred to the transferee.

If any user of this Checklist learns of other types of permitting requirements that apply, or about situations that modify the information about permitting requirements that already appear in this Checklist, or if you have questions about the use of this Checklist, please e-mail Chuck Schilke, Senior Counsel, Real Estate, at [schilkec@usa.redcross.org](mailto:schilkec@usa.redcross.org), or telephone him at 202-202-5361.

### 1.01 SUBJECT OF CHECKLIST REVIEW.

This Checklist is with respect to the land (the "Land"), together with all easement areas appurtenant thereto, located in the municipality of \_\_\_\_\_ (the "Municipality"), \_\_\_\_\_ (State), with respect to the proposed or existing construction of improvements (the "Improvements") on the Land for specific uses (the "Intended Uses").

Note: The improvements should include all appurtenant facilities for access, electric, gas, telephone, sewer, water, and drainage to which potential zoning, environmental or property issues may relate. Accordingly, the Checklist should cover all appurtenant easements and other areas located off the Land upon which Improvements serving the Land or its Intended Uses have been or will be made, whether by the Land owner or some other third party (e.g., subdivision road crossing wetlands, drainage outfall on property of others, etc.). Where such appurtenant easements and facilities exist, they should be shown on a site plan or some other plan. As appropriate, appurtenant easement areas may be a defined term, be included within the definition of the Land, or be part of a more inclusive term.

1.01 THE "BUILDING". An existing building (the "Building") is located on the Land and will be modified by construction of the Improvements. Paragraphs \_\_\_\_\_ below are intended to relate to both the Improvements and the

Building. The term "Improvements" used therein includes both the Building and Improvements.

The Building was constructed in \_\_\_\_\_ (Year). Major alterations of the Building after its construction are as follows \_\_\_\_\_.

The Building is now lawfully occupied as follows: \_\_\_\_\_

See Certificate of Occupancy attached as Exhibit \_\_\_\_\_.

Construction of the Improvements involves the following (please check all that apply):

- (a) an addition to the Building ☐
- (b) change in the use of the Building ☐
  - 1. to institutional use ☐
  - 2. to a use with a hazard number equal to or lesser than that of the prior use ☐
  - 3. to a use with a hazard number one greater than that of the prior use ☐ [CHECK ON HAZARD NUMBER ISSUE]
  - 4. to a use with a hazard number two or more greater than that or the prior use ☐
- (c) partial change in use separated from the remainder of the Building with vertical and horizontal fire separation assemblies ☐
- (d) a place of public assembly ☐
- (e) an increase of occupancy load by 15% or more ☐
- (f) an increase in floor loads ☐
- (g) an increase in the number of dwellings ☐
- (h) installation of new building systems ☐

After construction of the Improvements, the Building and Improvements will comply with the State Building Code.

The following components of the Building, if altered by construction of the Improvements, will be brought into compliance with the State Building Code: walls, roofs, floors, mechanical systems, service water heating systems, and electrical power distribution or lighting systems.

A copy of the Building Compliance Information Form and Certificate of Building Compliance relating to temperature controls required by Presidential Proclamation 4667 of July 10, 1979, and 24 CFR Part 490, are attached as Exhibit \_\_\_\_\_ (all buildings except residences, hospitals, health care facilities, elementary and nursery schools, day care centers, and sleeping areas of hotels).  
[CHECK ON THE CONTINUED APPLICABILITY OF THIS]

1.03 THE INTENDED USES. Based on information supplied by the Owner, the Improvements are designed for the following principal uses:

\_\_\_\_\_  
and the following accessory  
uses: \_\_\_\_\_

\_\_\_\_\_  
and parking for \_\_\_\_\_ automobiles (herein collectively referred to as the "Intended Uses.")

1.04 [RESERVED]

1.05 ACCESS, UTILITIES, AND EASEMENTS. There is access to, and egress from, the Improvements for the Intended Uses in accordance with good architectural and engineering practice.

Municipal water supply/municipal storm sewer/municipal sanitary sewer as well as gas/electricity/telephone/other \_\_\_\_\_ (please specify)  
Are available to the Land in sufficient form, character and capacity to meet the anticipated requirements of the Improvements for the Intended Uses in accordance with good architectural and engineering practice.

No easements over property other than the Land and no improvements by the Municipality or any other third party are required to establish or maintain said access, egress, and utilities for the Improvements. All access, egress, and utilities (1) are presently provided to the Land directly from \_\_\_\_\_, a public way, and/or (2) are presently available at or within the lot lines of the Land. No drainage of surface or other waters across property other than the Land is required.

I have reviewed and am familiar with the location of all easements, rights-of-way, restrictions, and subsurface rights in force relating to the Land, and the Improvements will not encroach over, across, or upon any such easements, rights-of-way, restrictions, or subsurface rights.

1.06 RELIANCE ON THIS CHECKLIST. The undersigned recognizes that (a) compliance with applicable federal, state, and local laws and regulations must be assured to protect the interests of those to whom this statement is addressed and (b) the addressees hereof will rely in part on this statement to determine whether

there has been such compliance. This Checklist is intended to provide reliable information upon which to base certain legal, architectural, and engineering conclusions concerning the Improvements, in order that the addressees hereof can be assured that applicable legal, architectural, and engineering requirements have been satisfied, and avoid loss or liability on account of violation of legal, architectural, and engineering requirements. This Checklist assumes that the Improvements will be constructed in accordance with all applicable legal, architectural, and engineering requirements, and that the Improvements will be properly maintained and used for the Intended Uses. This Checklist does not consider the consequences or equipment malfunctions, accidental chemical spills, or other accidental occurrences.

## 2.00 BUILDING CODES

2.01 EMPLOYMENT. State employment regulatory constraints; 40 CFR sec. 52.1161 (50 or more employees) as partially withdrawn by 47 Federal Register 28372 (June 30, 1982) and as indefinitely suspended by 40 Federal Register 25161. [REVIEW THESE PROVISIONS TO MAKE SURE ARE CURRENT]

The projected number of persons to be employed at the Land and Improvements (for more than 17 hours per week and more than 20 weeks per year) will be approximately \_\_\_\_\_. Based upon information supplied by the owner, the Improvements on the Land [will/will not] include one or more facilities of the same employer at which 250 or more persons may be employed.

2.02 STATE BUILDING CODE. The Improvements comply with the State Building Code, including requirements for lighting, power, and energy conservation for buildings with a gross floor area exceeding \_\_\_\_\_ square feet.

2.03 STATE ARCHITECTURAL BARRIERS BOARD. State Architectural Barriers Board requirements likely to apply both to publicly owned or Financed buildings, but also to privately financed buildings that are open to and used by the public are likely to include:

1. commercial buildings exceeding two stories in height;
2. rest rooms and public areas of shopping centers and restaurants;
3. parking garages or lots for automobiles for business, auditoriums, sporting or recreational facilities or cultural centers where the public has a right of access as invitees of licensees;
4. hotels;
5. motels;
6. dormitories;
7. public units of apartment buildings and condominiums;

8. lodging or residential facilities for hire, rent, or lease;
9. buildings having a places of assembly;
10. public areas of funeral homes;
11. public sidewalks and ways;
12. transportation terminals;
13. institutional buildings.

2.04 **BUILDING PERMIT.** The Building Permit issued by the Municipal Building Inspector authorizing construction of the Improvements is attached hereto as Exhibit \_\_\_\_\_. A supply of water is available at the Land from a water system operated by the Municipality or from wells located on the Land. A sewer disposal system is available to the land as required by the State Environmental Code. The Land does not include any area formerly used as a railroad right-of-way or any property appurtenant thereto formerly used by a railroad company.

2.05 **BILLBOARDS.** State billboard statutes and regulations.

The Improvements will/will not include any signs visible from a public way, park or reservation. The words or symbols on any signs on the Land within view of any highway, public park, or reservation will be for the sole purpose of advertising or indicating the business or activities conducted on the Land.

### 3.00 SUBDIVISION CONTROL

3.01 **OFFICIAL MAPS.** If the municipality has adopted an official map under the State Subdivision Control Law, (a) the Land is within a subdivision approved by the Municipal Planning Board recorded at \_\_\_\_\_, or (b) the way giving access to the Land is shown on the official map.

3.02 **MULTIPLE BUILDINGS ON ONE LOT.** If construction of the Improvements involves the erection, placement or conversion to use of any building for dwelling purposes so that the Land will contain more than one building designed or available for use for dwelling purposes, the rules and regulations of the Municipal Planning Board do not prohibit such erection, placement, or conversion to use, without Planning Board approval.

3.03 **ADJACENT STREET OR WAY.** The Land has sufficient frontage on the adjacent roadway under applicable State Laws. The road abutting the Land is (a) a public street, (b) a way which the Municipal Clerk certifies is a maintained and used as a public way, (c) a way shown on a plan entitled

“ \_\_\_\_\_  
\_\_\_\_\_, dated \_\_\_\_\_, drawn by  
\_\_\_\_\_, recorded at  
\_\_\_\_\_ Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_; or

(d) a way in existence when the Subdivision Control Law became effective in the Municipality, having in the opinion of the Municipal Planning Board sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting said way or served by the way, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

3.04 CONDITIONS ENDORSED ON SUBDIVISION OR "APPROVAL NOT REQUIRED" PLANS. State Subdivision Law. The Land is shown on a Plan entitled

"\_\_\_\_\_", dated \_\_\_\_\_, drawn by \_\_\_\_\_, recorded at \_\_\_\_\_ Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_.

The conditions endorsed by the Municipal Planning Board on any Subdivision Plan, or plan endorsed "approval not required" or similar legend, which shows the Land, limiting the right to erect or maintain buildings on the Land, are as follows: \_\_\_\_\_ (please specify; if none, please state "None").

4.00 PUBLIC WATER SUPPLY.

4.01 WATER SUPPLY. State Water Supply Laws.

a. Source as Public Water Supply System. A public water supply system will be the exclusive source of water serving the Intended Uses of the Improvements on the Land.

The source of the public water supply is (a) municipal well, (b) a public authority, (c) inter-municipal transfer.

The total amount of water withdrawn from a water source by the public water supply system serving the Improvements does/does not exceed the threshold volume established by the State Environmental Agency.

b. Withdrawal Exceeding Threshold Volume. Withdrawal of water by the public water supply system is authorized pursuant to a registration statement filed with or permit issued by the State Environmental Agency. Copies of the registration statement or permit authorizing withdrawal by the public water supply system, together with the most recent annual statement of withdrawal, are attached as Exhibits \_\_\_\_\_ and \_\_\_\_\_. Authorization for the withdrawal of water by the public water supply system has not been modified, suspended, revoked, or otherwise limited by any order issued by the State Environmental Agency. Average water consumption by the Intended Use of the Improvements is estimated to be \_\_\_\_\_ gallons per

day. The Intended Uses of the Improvements will not cause the public water supply system make a new withdrawal of water in excess of the applicable threshold volume.

c. State of Water Emergency. There is no pending petition for or declaration of a state of water emergency affecting the area served by the public water supply system. There is no plan presently proposed by the public water supply system or approved by the State Environmental Agency which would restrict certain water uses, prohibit the issuance of building permits, or otherwise constrain or control the supply of water by the public water supply system of the use thereof by the Intended Uses of the Improvements on the Land.

Note: The State Environmental Agency may issue on a regular basis a list of municipalities which are (1) subject to a declaration of water emergency approved by the State Environmental Agency, (2) subject to voluntary water use restrictions, or (3) have been identified as having potential water supply problems.

4.02 CROSS-CONNECTIONS. (e.g., sources for fire protection, chemical-containing sprinkler systems, boiler-feed water, recirculated chilled-water systems, process waters). The Improvements will not contain any cross connection between a public water supply and any other waste pipe, soil pipe, sewer drain or any other system, either for regular or emergency use, proscribed by Drinking Water Regulations of the State Environmental Agency.

4.03 PROTECTION OF PUBLIC WATER SUPPLIES. The Land is not located within a watershed of a surface source of public water supply. The Intended Uses do not involve discharges of liquid injurious to human beings or animals at a point where such discharges could flow or be washed into a source of public water supply or tributary thereto.

4.04 INTERBASIN TRANSFER [Reserved]

## 5.00 WATER DISCHARGES

5.01 DISCHARGE TO MUNICIPAL SANITARY SEWER SYSTEM. Sewage and waste water from the Land and Improvements, other than rainwater Runoff, will be disposed of exclusively into the Municipal sewer system located adjacent to the Land in \_\_\_\_\_ (a public street). Said sewage and wastewater will be transported by the Municipal sewer system to the following publicly owned treatment works (POTW) operating under a National Pollutant Discharge Elimination System (NPDES) permit: \_\_\_\_\_ (name of treatment works).

## 5.02 PRE-TREATMENT STANDARDS.

a. Sanitary Sewage. Sewage and waste water from the Land and Improvements will consist entirely of domestic sanitary sewage and will not contain any wastes of a character or quantity prohibited by (a) 40 CFR sec. 403, (b) Municipal laws or regulations (if any) applicable to sewer discharges; or (c) regulations (if any) applicable to discharges into the POTW treating the sewage.

b. Process Wastewater. Wastewater from the Land and Improvements will result (in part) from a process of industry, manufacturing, trade, business of the development or recovery of natural resources. The discharge of said process wastewater to a POTW will not 1) contain any substances or materials prohibited under State Environmental Laws, 2) exceed the limits imposed under POTW sewer use rules and regulations, or 3) violate the pollutant discharge standards and effluent limitations imposed under i) a categorical pretreatment program established in 40 CFR Chapter I, Subchapter N (if applicable), ii) an approved POTW pretreatment program adopted pursuant to State Environmental Laws, or iii) a sewer connection permit issued pursuant to State Environmental Laws.

## 5.03 SEWER CONNECTION AND EXTENSION PERMITS

a. State Division of Water Pollution Control.

Note: Municipalities may be subject to restrictions on Sewer Connections or Extensions

1. New Connections Exemption—The proposed sewage discharge (a) is less than thresholds provided under State Environmental Law, (b) consists entirely of domestic sanitary waste, and (c) the Municipality is not subject to a State Division of Water Pollution Control "sewer ban."

2. Exemption for Existing Connections Under Permit. Wastewater from the proposed Improvements and Intended Uses will be discharged to an existing sewer connection, which has been constructed, operated and maintained in accordance with the terms of a duly issued permit. A copy of said permit is attached as Exhibit \_\_\_\_\_. The discharge authorized under said permit consists exclusively of domestic sanitary wastewater at a rate of \_\_\_\_\_ gallons per day. The Intended Uses of the Improvements will result in a discharge per day of sanitary wastewater only. Accordingly, no increase in the rate of flow and no change in the character of use from that authorized in the permit will result from the Proposed Improvements.

### 3.Exemption for Existing Connections without a Permit.

Wastewater from the proposed

Improvements and Intended Uses, will be discharged to an existing sewer connection. Based upon

water meter readings/estimates, the rate of discharge is approximately \_\_\_\_\_ gallons per day. The

character of such discharge is approximately \_\_\_\_\_ gallons per day of process wastewater. The

Intended Uses of the proposed Improvements will result in a discharge of approximately \_\_\_\_\_ gallons per day, of which approximately \_\_\_\_\_ gallons per day will be sanitary wastewater and \_\_\_\_\_ gallons per day will be process wastewater.

Accordingly, the Intended Uses of the proposed Improvements will not result in an increase in flow above permissible levels. Nor will the proposed discharge change the character of use, the result of which will be in violation of applicable sewer use rules and regulations, pre-treatment standards, or the general or specific prohibitions contained in State Environmental Laws.

### 4.Exemption for Existing Extensions Under Permit—The proposed Improvements and Intended Uses

will utilize an existing sewer extension which has been constructed, operated, and maintained in

accordance with the terms of a duly issued permit. A copy of said permit is attached as Exhibit

\_\_\_\_\_. The discharge authorized in said permit totals \_\_\_\_\_ gallons per day, consisting of

approximately \_\_\_\_\_ gallons per day of sanitary wastewater and approximately \_\_\_\_\_ gallons

per day of process wastewater. The Intended Uses of the proposed Improvements will result in an

average daily discharge of \_\_\_\_\_ gallons per day, of which \_\_\_\_\_ gallons per day will be sanitary

wastewater and \_\_\_\_\_ gallons per day will be process wastewater. Accordingly, the proposed

Improvements will result in no increase in the rate of flow and no change in the character or use from

that authorized in the permit. Construction of the Improvements 1) will not involve the physical

alteration or modification of that extension, or 2) will involve the physical alteration or modification of

the extension, the plans for which have been approved by the State Environmental Agency. A copy of

the Agency's approval is attached as Exhibit \_\_\_\_\_.

5.Exemption for Existing Extensions without a Permit—The proposed Improvements and Intended Uses will utilize an existing sewer extension for which a permit has not been issued. Based upon water meter readings/estimates, the rate of discharge is approximately

\_\_\_\_\_ gallons per day of sanitary wastewater and approximately \_\_\_\_\_ gallons per day of

process wastewater. Accordingly, the proposed Improvements and Intended Uses will not result in an increase in flow or change in use, the result of which would be in violation of applicable sewer use rules and regulations, pre-treatment standards, or the general or specific discharge prohibitions in State

Environmental Laws. Construction of the Improvements 1) will not involve the physical alteration or modification of the extension, or 2) will involve the physical alteration of the extension, the plans for which have been approved by the State Environmental Agency. A copy of the Agency's approval is attached as Exhibit \_\_\_\_\_.

6.DWPC Permit—A sewer connection/extension permit issued by the Director of the State Department of Water Pollution Control is attached as Exhibit \_\_\_\_\_. Said permit authorizes the construction, use and maintenance of a connection to/extension of the

\_\_\_\_ (name of sewer authority) sewer system for the purpose of discharging \_\_\_\_\_ gallons per day of sanitary wastewater and/or \_\_\_\_\_ gallons per day of process wastewater thereto. The outlet, treatment works, and other improvements associated with said sewer connection/extension are sufficient under ordinary circumstances to comply with the effluent limitations established by said permit and service the Intended Uses of the Land and Improvements thereon. The discharge authorized by said permit may lawfully commence, provided construction of the outlet and/or treatment works is/are completed in accordance with the plans and specifications approved by the State Department of Water Pollution Control.

Said sewer connection/extension permit was issued in response to a completed application submitted to the Director of the State Department of Water Pollution Control by mail/hand delivery on \_\_\_\_\_ (date), more than 90 days prior to construction of the Improvements. A copy of said permit application is attached as Exhibit \_\_\_\_\_. Upon preliminary review of said permit application, the Director tentatively determined to issue a permit. On \_\_\_\_\_ (date), the Director issued a draft permit, together with a fact sheet/statement of

basis, copies of which are attached as Exhibits \_\_\_\_ and \_\_\_\_, respectively.

Public notice of the Director's tentative determination and of the draft permit was published in the \_\_\_\_\_ (newspaper) on \_\_\_\_\_ (date), was filed with the Secretary of State on \_\_\_\_\_ (date), was published in the State Register on \_\_\_\_\_ (date), and was mailed on \_\_\_\_\_ (date) to all persons filing a written request with the Director. A copy of the published notice is attached as Exhibit \_\_\_\_.

A public hearing on said permit proceeding 1) was not held, or 2) was held on \_\_\_\_\_ (date). Notice of the public hearing was published in the State Register on \_\_\_\_\_ (date), and in the \_\_\_\_\_ (newspaper) on \_\_\_\_\_ (date), more than 30 days prior to said hearing. A copy of said notice is attached as Exhibit \_\_\_\_\_. Public comment on the permit proceedings was available for a period of \_\_\_\_\_ days, extending from \_\_\_\_\_ (date of public notice) to 1) \_\_\_\_\_ (conclusion of the public hearing) or 2) \_\_\_\_\_ (date established by the Director) (whichever is later).

A final permit was issued by the Director on \_\_\_\_\_ (date), subsequent to the close of the public comment period. Together with said permit, the Director issued a Response to Comments, a copy of which is attached as Exhibit \_\_\_\_\_. To the best of my knowledge, said permit was lawfully issued, is in full force and effect, and no appeal from or challenge to its issuance has been filed with any authority.

- b. Regional Public Sewage Authority. If the Municipal sewer system connects with a Regional Public Sewage Authority sewer system, and the Intended Uses of the Land or Improvements include any "industrial users" as defined in the Regional Public Sewage Authority sewer regulations, a joint Regional Public Sewage Authority/Municipal sewage discharge permit is required for the Land and Improvements. A copy of the application for said permit submitted to the Regional Public Sewage Authority and the Municipality on \_\_\_\_\_ (date) is attached as Exhibit \_\_\_\_\_. A copy of the Regional Public Sewage Authority's letter of preliminary approval of the sewage discharge from the Improvements is attached as Exhibit \_\_\_\_\_. A copy of the permit issued by the Regional Public Sewage Authority and the Municipality is attached as Exhibit \_\_\_\_\_. Said permit has not been improperly reassigned or transferred from

one party to another. The discharge authorized by the permit is sufficient for the Intended Uses of the Land and Improvements. If the Improvements are constructed as planned, all conditions stated in said permit will be satisfied. To the best of my knowledge, such permit was lawfully issued, is in full force and effect, and no appeal from or challenge to its issuance has been filed with any authority.

c. Municipal Sewer Authority. See paragraph 13.01.

- 5.04 SUBSURFACE DISPOSAL OF SEWAGE. I have read and am familiar with (a) the provisions of the State Environmental Code promulgated by the State Environmental Agency and (b) all regulations and procedures of the Municipal Board of Health with respect to systems of subsurface disposal of sewage (if any).

Sewage from the Land and Improvements will consist entirely of domestic sanitary sewage and will be disposed of exclusively by way of a subsurface disposal system on the Land for which a permit has been duly issued by the Municipal Board of Health. The permit is attached as Exhibit \_\_\_\_\_, is dated \_\_\_\_\_, and has not expired pursuant to the State Environmental Code, or been revoked by the Board of Health. No sanitary sewer line is accessible to the Land from adjoining streets or ways. Before the permit was issued, the appropriate representative of the Municipal Board of Health witnessed any deep hole observation tests and percolation tests required by the State Environmental Code at the proposed disposal area of the Land. The public or private well closest to the disposal area is approximately \_\_\_\_\_ feet from the disposal area. The maximum daily quantity of sewage from the Improvements is \_\_\_\_\_ gallons. The maximum daily sewage discharge does not exceed the maximum allowed under the State Environmental Code.

The capacity of the subsurface disposal system is sufficient for the Intended Uses of the Land and Improvements, and complies with the requirements of the State Environmental Code and the Municipal Board of Health in all respects, including, without limitation, the requirement that the leaching field be minimum distances from designated points, have a designated area, and be abutted by land with a maximum designated scope. If constructed as planned, the subsurface disposal system will be entitled to a Certificate of Compliance from the Municipal Board of Health under the State Environmental Code.

- 5.05 UNDERGROUND INJECTION CONTROL. Safe Drinking Water Act, 42 USC sec. 300f et seq.; 40 CFR Part 146; State Environmental Code. [CHECK THESE CITATIONS]. The leaching pits for subsurface disposal of septic system effluents will satisfy the following conditions:

(a) discharge will be in compliance with (i) the Department of Water Pollution Control permit requirement for discharge of pollutants into groundwaters, and (ii)

the provisions of the State Environmental Code governing subsurface disposal of sewage.

(b) the discharge will not cause or allow movement of fluid containing any pollutant into underground sources of drinking water if the presence of that pollutant is likely to cause a violation of the applicable drinking water regulations, or may adversely affect human health.

If the capacity of the system exceeds the threshold provided in the State Environmental Code, or if wastes other than domestic sewage are discharged, the State Environmental Agency has been notified of the existence of the system.

5.06 RAINWATER RUNOFF. Rainwater runoff from the Land and the Improvements will be disposed of by way of (1) a surface drainage system located on the Land, which system discharges to \_\_\_\_\_ (the receiving water), (2) a municipal storm sewer located adjacent to the Land in \_\_\_\_\_ (a public way), which sewer discharges to \_\_\_\_\_ (the receiving water) without prior treatment by a publicly owned treatment works, or (3) a municipal combined sanitary/storm sewer located adjacent to the land in \_\_\_\_\_

(a public way), which sewer leads to a publicly owned treatment works operated by a National Pollutant Discharge Elimination System permit.

- a. Department of Water Pollution Control Water Discharge Permit.  
The undersigned have read and are  
Familiar with the Regulations of the Department of Water  
Pollution Control set forth in the State  
Environmental Code.

To the best of undersigned's knowledge, (1) the rainwater runoff from the Land and Improvements will not derive from an industrial plant or plant-associated area, as defined above, and (2) the Director of the Department of Water Pollution Control has not designated the system of conveyances used for collecting and conveying storm water runoff from the Land and Improvements as a "storm water discharge" under the State Environmental Code. Based upon the foregoing, it is the undersigned's opinion that the rainwater runoff from the Land and Improvements will not constitute a storm water discharge requiring a permit under the State Environmental Code.

Pollutants in the rainwater runoff from the Land and Improvements will not exceed trace quantities normally contained in urban runoff from roadways and paved surfaces used for parking, nor will the Intended Uses include stockpiling or handling of salts, fertilizers, or other chemicals or materials the Land and Improvements are not of a nature normally expected to produce pollution of the surface

of the Land and do not include concentrated aquatic animal production facilities, aquaculture projects, silvicultural point sources, rock crushing and gravel washing facilities, log sorting and log storage facilities, and concentrated animal feeding operations.

- b. NPDES Stormwater Discharge Permit. The undersigned has read and is familiar with the

Environmental Protection Agency's (EPA) National Pollutant Discharge Elimination System (NPDES)

Permit Rules and Regulations, published on September 26, 1984 in 49 Federal Register, pp. 37998-

38080, amending 40 CFR Parts 122, 124, and 125 [CHECK CITATIONS]. The regulations impose permit requirements for any "storm water point source," which is defined in the regulations as a conveyance or system of conveyances primarily used for collecting and conveying storm water runoff and which (i) is located in an urbanized area as designated by the Bureau of the Census according to the criteria published on May 1, 1984 in 39 Federal Register 15202 [CHECK CITATIONS]; (ii) discharges from lands or facilities used for industrial or commercial activities; or (iii) is designated as such by the NPDES Program Administrator (generally, the EPA Regional Administrator).

The regulations divide "storm water discharges" into two groups. A "Group I storm water discharge" means any "storm water point source" which is (i) subject to effluent limitations, guidelines, new source performance standards, or toxic Pollutant effluent standards; (ii) is designated as such by the NPDES Program Administrator; or (iii) is located at an industrial plant or in plant-associated areas. "Plant-associated areas" are defined in the regulations as "industrial plant yards, immediate access roads, drainage ponds, refuse piles, storage piles or areas and material or products loading and unloading areas." The term excludes areas located on plant lands separate from a plant's industrial activities, such as office buildings and accompanying parking lots. A "Group II storm water discharge" is defined in the regulations as any "storm water point source" not included in Group I, including commercial areas such as office buildings, and their accompanying parking lots.

To the best of the undersigned's knowledge and belief, the rainwater runoff from the Land and Improvements constitutes a Group I/II storm water discharge, as defined above. Attached as Exhibit \_\_\_\_\_ is a copy of the NPDES Permit Application, submitted to EPA on \_\_\_\_\_,

covering all storm water discharges from the Land and Improvements. Attached as Exhibit \_\_\_\_\_ is a copy of the NPDES permit jointly issued by EPA and the Department of Water Pollution Control authorizing the discharge of storm water from the Land and Improvements. Attached as Exhibit \_\_\_\_\_ is a copy of the Water Quality Certification issued by the Department of Water Pollution Control in compliance with Section 401 of the Clean Water Act.

#### 6.00 SPECIALLY REGULATED SUBSTANCES

##### 6.01 RELEASE OR DISPOSAL OF HAZARDOUS SUBSTANCES, MATERIALS OR WASTES.

- a. To the best of the undersigned's information and belief, there has been no "release" on or affecting the Land or Improvements of any "hazardous substances" as defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC 9601 et seq. and the regulations promulgated thereunder, 40 CFR 300, or of any "oil" or "hazardous materials" as defined by the State Environmental Code, other than the releases identified in the "Environmental Site Assessment," a copy of which is attached hereto as Exhibit \_\_\_\_\_.
- b. The undersigned has reviewed EPA's Comprehensive Environmental Response Liability Information System (CERCLIS) list of sites dated \_\_\_\_\_ and found that no portion of the Land or other properties in the reasonable vicinity is named thereon.
- c. To the best of the undersigned's information and belief, no part of the Land has been used for disposal of industrial, commercial or residential wastes, specifically including but not limited to, any "hazardous waste" as defined by the Resource Conservation and Recovery Act regulations codified at 40 CFR 261 [CHECK CITATION] or the State Environmental Code.
- d. Note the following notification and recording requirements. The release of a reportable quantity of a hazardous substance requires immediate notification to the National Response Center. 42 USC 9603; 40 CFR 302.4. The release or threat of release of oil or a hazardous material requires immediate notification to the State Environmental Agency. Notice of all licenses issued by the State Environmental Agency for the use, treatment, storage or disposal of hazardous waste, including any land use restrictions incident to post-

closure care, must be recorded or registered, as appropriate. No land on or in which hazardous waste has been disposed, and no interest in such land, may be conveyed or leased, until notice of such disposal is registered or recorded, as appropriate.

6.02 SOLID WASTE. Based upon information supplied by the Owner, solid waste from the Improvements and the Land will be collected by the Municipality/private contractor for lawful off-site disposal.

6.03 HAZARDOUS WASTE. Use, generation, treatment, storage or disposal of the following "hazardous wastes", as defined by the Resource Conservation and Recovery Act, 42 USC 6901 et seq, and the regulations promulgated thereunder, 40 CFR Part 261, as amended [CHECK CITATIONS], and the State Environmental Code, is contemplated or required for the Intended Uses of the Land or Improvements: NONE.

The above listed hazardous wastes will be collected by a duly licensed private contractor for lawful off-site disposal.

6.04 DE-LISTED HAZARDOUS WASTE [Reserved][CHECK]

6.05 INFECTIOUS WASTE [Reserved][CHECK]

6.06 SPECIAL WASTE [Reserved][CHECK]

6.07 HYDROCARBONS. No motor vehicle fuel tank with a capacity greater than 250 gallons or other facility for the storage or use of "organic solvents" (e.g., acetone, trichloroethylene, Freon) or "architectural coatings", as these terms are defined by 40 CFR section 52.1144-1146 [CHECK CITATION], is planned as part of the Improvements.

Federal EPA hydrocarbon controls apply in certain metropolitan areas, which are defined by 40 CFR sec. 81.19.

Hydrocarbon controls may also apply under the State Environmental Code.

6.08 POLYCHLORINATED BIPHENYLS (PCBs). The Improvements on the Land include an electrical transformer located \_\_\_\_\_.

Based upon (1) an examination of the exterior of said transformer, including all labels and markings, (2) review of municipal fire department records with respect to the registration of PCB transformers, and (3) consultation with \_\_\_\_\_, the owner of the transformer on the Land, the undersigned concludes that the transformer on the Land is not (a) a PCB transformer

containing dielectric fluid of 500 parts per million or greater PCBs, or (b) a PCB contaminated transformer containing dielectric fluid or between 50 and 500 parts per million PCBs.

6.09 PESTICIDES OR HERBICIDES. Federal Insecticide, Fungicide, and Rodenticide; State Environmental Code. No

No storage, sale, use, or disposal of pesticides or herbicides is contemplated or required for the Intended Uses of the Land and Improvements. Application of the following herbicides to the Land is proposed for site clearance purposes: NONE.

6.10 RADIATION. No radioactive emissions will be generated by the Intended Uses of the Improvements or the Land.

6.11 ASBESTOS. [Reserved]

6.12 FLAMMABLES AND EXPLOSIVES. The Improvements on the Land include a \_\_\_\_\_-gallon tank for the storage of \_\_\_\_\_ located at \_\_\_\_\_

Said storage tank (a) does not constitute "underground storage" within the meaning of the State Environmental Code

and (b) provides fuel oil for consumptive use on the premises for the sole purpose of heating a building. Attached as

Exhibit \_\_\_\_\_ is a copy of the permit issued by the Municipality's Fire Department authorizing the storage of \_\_\_\_\_

Gallons of \_\_\_\_\_ in said tank. Attached as Exhibit \_\_\_\_\_ is a copy of the Certificate of Completion filed with the Municipality's Fire Department with respect to the installation of the \_\_\_\_\_ powered by said \_\_\_\_\_. Except as otherwise noted above, the Land and Improvements do not include:

1. any building or structure for the keeping, storage, manufacture or sale of oil, gas, or any other explosive or flammable substance;
2. any above-ground fluid-storage tank with a capacity exceeding 10,000 gallons;
3. any subsurface tank now or formerly used for the storage of a flammable liquid.

If the Improvements include a building used for habitation, or are within fifty feet of a building used for habitation, the Intended Uses of the Improvements do not include (a) storage of volatile inflammables, except in approved safety cans with a capacity of one gallon or less; or (b) storage of non-volatile inflammables in containers with a capacity exceeding 30 gallons.

7.0 AIR DISCHARGES

7.01 INCINERATORS. The Improvements do not contemplate an incinerator (i.e., a fume incinerator on kitchen exhaust systems).

7.02 FOSSIL-FUEL BURNING DEVICES. The fossil-fuel burning devices, other than motor vehicles, to be located on the Land consist of:  
(please include below all heating, cooling, cooking and other equipment that requires on-site burning of fossil-fuel, e.g., gas, oil, or coal)

	DESCRIPTION OF FOSSIL FUEL TYPE OF BURNING DEVICE FUEL BURNED	BTU INPUT CAPACITY PER HOUR
(a)	_____	_____
	_____	
(b)	_____	_____
	_____	
(c)	_____	_____
	_____	

7.03 APPROVAL OF FOSSIL-FUEL BURNING DEVICES. There are often limits under State Environmental Laws on the overall combined BTU input capacity of fossil-fuel burning devices. The plans, specifications, standard operating procedures, and maintenance procedures for the devices described in Paragraph 7.02 were submitted to the State Environmental Agency for approval on \_\_\_\_\_ (date). Copies of the materials submitted to the State Environmental Agency are attached as Exhibit \_\_\_\_\_. A copy of the State Environmental Agency approval of the devices is attached as Exhibit \_\_\_\_\_. The devices approved by the State Environmental Agency are sufficient to serve the Land and Improvements for the Intended Uses. If the Improvements are constructed as planned, all conditions stated in said approval will be satisfied. To the best of my knowledge, said permit was lawfully issued, is in full force and effect, and no appeal from or challenge to its issuance has been filed with any authority. The combined energy input of the approved facilities is \_\_\_\_\_ BTU per hour.

7.04 MAJOR SOURCES OF AIR POLLUTION. The Improvements are not a "major emitting facility" or "major stationary source" (as defined by 42 USC sections 7479(1) and 7602(j)) [CHECK CITATIONS] because the Improvements do not have "the potential to emit one hundred tons per year or more of air pollutant" if operated continuously at full capacity 365 days per year and 24 hours a day without the use of emission controls. The Improvements do

not have an "allowable" emission rate, after the imposition of anticipated emission controls, equal to or greater than 50 tons per year of particulate matter, sulfur oxides, nitrogen oxides, volatile organic compounds, carbon monoxide, or any other air pollutant. [CHECK LAW]

- 7.05 AIR POLLUTION—DEFINITION OF THE "SOURCE". The following existing facilities in the immediate vicinity of the Land are (a) owned by the same entity that owns the Land, (b) controlled by the same entity that controls the Land, or (c) operated in concert with the Land and, together with the Land, constitute a single enterprise or undertaking: NONE.
- 7.06 HAZARDOUS AIR POLLUTANTS. Hazardous air pollutants (such as asbestos, beryllium, mercury, and vinyl chloride) identified in 40 CFR Part 61 [CHECK CITATION] will not be emitted from the Intended Use of the Improvements or the Land.
- 7.07 REGISTRATION REQUIREMENTS. [RESERVED]
- 7.08 GENERAL AIR POLLUTION LIMITATIONS. The present uses of property adjoining the Land are: industrial/commercial/residential.unimproved. Construction of the Improvements and the Intended Uses of the Land and Improvements will not result in the emission of any noise, dust, odor, heat, steam, or air contaminants which are likely to cause or contribute to a condition interfering with the normal use and enjoyment of adjoining or nearby properties (e.g., by noise or exhaust from HVAC equipment or cooking ventilation systems or water vapor emitted from cooling towers).
- 7.09 POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978 ("FUA"). 15 USC sec. 791 et seq.; 10 CFR Part 515. [CHECK CITATIONS]. The Improvements do not include any boiler, gas turbine, combined cycle unit or internal combustion engine with an individual design fuel heat input rate of 100,000,000 BTU/per hour or greater, or any combination of such facilities with a combined design fuel input rate of 250,000,000 BTU/per hour or greater. Natural gas or petroleum shall not be used as a primary energy source in any such facilities. FUA sec. 201 (1) [CHECK CITATION]
- 7.10 TRANSPORTATION CONTROL PLANS. No fee is to be charged for the use of the parking spaces which are part of the Improvements. Said parking spaces do not constitute a "commercial parking facility" as defined by 40 CFR sec. 52.1135(a)(5) or municipal parking ordinances and regulations. [CHECK CITATION] The municipal finding exempting said parking spaces from said regulations is attached hereto as Exhibit \_\_\_\_\_.

## 8.00 SITE WORK

- 8.01 NOTICE OF CONSTRUCTION OR DEMOLITION. On \_\_\_\_\_ (date), with the minimum notice period required by State Environmental Laws and municipal ordinances, the State Environmental Agency was notified of construction of the Improvements. A copy of the notice is attached as Exhibit \_\_\_\_\_.
- 8.02 ASBESTOS REMOVAL. Construction of the Improvements does not involve the demolition or renovation of any existing building or structure, or the removal or disturbance of any materials, containing asbestos.
- 8.03 EARTH REMOVAL [RESERVED]
- 8.04 TIMBER REMOVAL. Cutting of timber on the Land will be limited to required site clearance in connection with the construction of the Improvements. There will be no disposal of timber slash within the distance from the property line specified by State Environmental Laws.
- 8.05 REMOVAL OF UNDERGROUND STORAGE TANK [RESERVED]
- 8.06 DEWATERING OF EXCAVATIONS. [RESERVED]
- 8.07 DISCOVERY OF SKELETAL REMAINS. [RESERVED]
- 8.08 CLOSURE—SOLID WASTE MANAGEMENT UNIT. [RESERVED]
- 8.09 CLOSURE—SANITARY LANDFILL [RESERVED]
- 8.10 CLEANUP OF OIL, HAZARDOUS SUBSTANCES OR HAZARDOUS MATERIALS [RESERVED]

## 9.0 WETLANDS

- 9.01 SECTION 404 OF THE FEDERAL CLEAN WATER ACT. I have read, and am familiar with, the regulations of the United States Army Corps of Engineers set forth in 33 CFR Part 323 through Part 330 [CHECK CITATIONS], establishing a permit program for the discharged of dredged material or fill material into "waters of the United States," as defined in 33 CFR 323.2 [CHECK CITATION], including wetlands adjacent thereto. The term "wetlands" is defined by 33 CFR 323.2(c) [CHECK CITATION] as "areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas." [CHECK STATUTE]. Except as otherwise noted in the following paragraph, no discharge of dredged or fill materials to "waters of the United States" took place on the Land

after July 24, 1975, and no such discharge will take place in connection with the construction of the Improvements.

9.02 DISCHARGES UNDER "NATIONWIDE" OR "REGIONAL" PERMITS.  
[CHECK STATUS OF ALL OF THIS; THERE HAVE BEEN  
CHANGES]

NOTE: Prior to October 5, 1984 all nationwide permits, including that authorizing discharges to "isolated waters" or "above the headwaters" (formerly, 33 CFR 30.4(a)(1) were available in Massachusetts. Beginning October 5, 1984, the following nationwide permits were denied Department of Water Pollution Control Water Quality Certification and/or Coastal Zone Management Consistency Concurrence and are, therefore, no longer effective in Massachusetts: 33 CFR 330.5(a)(7), (17), (21), (23) and (26)(the latter being a modification and recodification of the nationwide permit for discharges to "isolated waters" or "above the headwaters"). Discharges of dredged or fill materials subject to the Corps 404 Regulations, for which nationwide permits or regional permits are not available, require an individual permit.

(a) All discharges of dredged material or fill material to "waters of the United States" (including "adjacent wetlands") in connection with the construction of the Improvements on the Land will be incidental to the activities described, and meet the conditions specified, in 33 CFR 330.5(a). All such discharges will comply with the conditions imposed by 33 CFR 330.5(b) and, to the maximum extent practicable, with the management practices prescribed by 33 CFR 330.6.

(b) All discharges of dredged material or fill material to "waters of the United States" (including "adjacent wetlands") in connection with the construction of the Improvements on the Land, have the benefit of a "regional permit" issued by the applicable District Engineer of the Corps of Engineers attached hereto as Exhibit \_\_\_\_\_. Discharges under said regional permit will comply with the conditions set forth therein and, to the maximum extent practicable, with the management practices prescribed by 33 CFR 330.6.

(c) The applicable District Engineer of the Corps of Engineers has not exercised his discretionary authority under 33CFR 330.8 to impose additional conditions upon, or require an individual permit for, any discharges described in (a) or (b) above.

(d) To the best of the undersigned's information and belief, the EPA Regional Administrator has not issued a proposed determination or unacceptable adverse impact or otherwise exercised his authority under section 404© of the Clean Water Act with respect to any discharges described in (a) or (b) above.

9.03 THE WETLANDS PROTECTION ACT. [RESERVED]

9.04 RESOURCE AREAS SUBJECT TO PROTECTION. I have read and am familiar with the Wetlands Protection Act or similarly-titled State Environmental Law, and regulations of the State Environmental Agency promulgated thereunder. The

Wetlands Protection Act or similarly-titled State Environmental Law does not apply to the construction of the Improvements or the Intended Uses thereof.

9.05 COASTAL RESOURCE AREAS. I have read and am familiar with the "Additional Regulations for Coastal Wetlands" adopted by the State Environmental Agency adopted pursuant to the Wetlands Protection Act or similarly-titled State Environmental Law. The "Additional Regulations for Coastal Wetlands" do not apply to the construction of the Improvements or the Intended Uses thereof.

9.06 NEGATIVE DETERMINATION OF APPLICABILITY. A Negative Determination of Applicability ("Negative Determination") issued by the \_\_\_\_\_ (town/city) Conservation Commission ("Commission") on \_\_\_\_\_ (date), determining that construction of the Improvements on the Land is not subject to the Wetlands Protection act or similarly-titled State Environmental Law, is attached as Exhibit \_\_\_\_\_. Said Negative Determination was issued in response to a Request for A Determination of Applicability ("Request") submitted to the Commission by certified mail/hand delivery on \_\_\_\_\_ (date). A copy of the Request is attached as Exhibit \_\_\_\_\_, and a copy of the return receipt for its delivery is attached as Exhibit \_\_\_\_\_. Said request was accompanied by the following maps and plans as listed on Exhibit \_\_\_\_\_ attached hereto: 1) \_\_\_\_\_ and 2) \_\_\_\_\_.

The Request and accompanying maps and plans provide a description of the site, the location of Improvements on the Land, site work, willing, excavation, grading, siltation control, fuel storage, sewage disposal, drainage and all mitigation measures proposed by the Commission. A complete copy of the Request, including all maps and plans, was also filed with the State Environmental Agency on \_\_\_\_\_ (date).

A public meeting relative to the Request was held on \_\_\_\_\_ (date). Notice of the date, time, and place of said meeting was published in the \_\_\_\_\_ (newspaper) on \_\_\_\_\_ (date), was filed with the \_\_\_\_\_ (town/city) clerk on \_\_\_\_\_ (date), was publicly posted on the municipal bulletin board on \_\_\_\_\_ (date), and was mailed to the (town/city) Board of Health and the \_\_\_\_\_ (town/city) Planning Board on \_\_\_\_\_ (date). A copy of the published notice is attached as Exhibit \_\_\_\_\_. Notice by publication and by mail was provided with the required notice period before the public meeting; notice by public posting was provided with the required notice period prior to said meeting. All expenses incurred by the Commission in the publication and mailing of said notice have been reimbursed by the applicant. See copy of check from \_\_\_\_\_ (applicant) attached as Exhibit \_\_\_\_\_.

A public meeting on the Request was held on \_\_\_\_\_ (date) and was attended by \_\_\_\_\_ (number) of the \_\_\_\_\_ (total number) members of the Commission, constituting a majority of quorum thereof. A majority of said quorum voted for, and a majority of said commission signed, the Negative Determination. A copy of said Negative Determination was mailed/hand delivered to the State Environmental Agency on \_\_\_\_\_ (date). To the best of my knowledge, said Negative Determination was filed with the State Environmental Agency within the required appeal period, and other appeal has been filed with any other authority. Provided that any and all Improvements are constructed as planned, the Negative Determination will remain effective until \_\_\_\_\_ (date).

9.07 ORDER OF CONDITIONS. An Order of Conditions ("Order") issued by the \_\_\_\_\_ (town/city) Conservation Commission ("Commission") on \_\_\_\_\_ (date) authorizing construction of the Improvements on Land is attached as Exhibit \_\_\_\_\_.

Said order was issued in response to a(n) (Abbreviated) Notice of Intent ("NOI") submitted to the Commission by certified mail/hand delivery on \_\_\_\_\_ (date), and to the State Environmental Agency by certified mail/hand delivery on \_\_\_\_\_ (date). The NOI, designated State Environmental Agency File Number \_\_\_\_\_, is attached as Exhibit \_\_\_\_\_. Copies of the return receipt for delivery of the NOI to the Commission and to the State Environmental Agency are attached as Exhibits \_\_\_\_\_ and \_\_\_\_\_, respectively. Said NOI was accompanied by the following maps and plans as listed on Exhibit \_\_\_\_\_: 1) \_\_\_\_\_ and 2) \_\_\_\_\_. The NOI and accompanying maps and plans provide a description of the site, the location of Improvements on the Land, site work, filling, excavation, grading, siltation control, fuel storage, sewage disposal, drainage, and all measures to mitigate the effects of the proposed work. To the best of my knowledge, all the permits, variances and approvals required by local by-law are delineated in Exhibit \_\_\_\_\_, and all were either obtained or applied for at the time the NOI was filed.

A public hearing relative to the NOI was held on \_\_\_\_\_ (date). Notice of the date, time and place of said public hearing was published in the \_\_\_\_\_ (newspaper) on \_\_\_\_\_ (date), was filed with the \_\_\_\_\_

\_\_\_\_\_ (town/city) clerk on \_\_\_\_\_ (date), was publicly posted on the municipal bulletin board on \_\_\_\_\_ (date), and was mailed to the \_\_\_\_\_ (town/city) Board of Health and the \_\_\_\_\_ (town/city) Planning Board on \_\_\_\_\_ (date). A copy of the proposed notice is attached as Exhibit \_\_\_\_\_. Notice by publication and by mail was provided at

least 5 business days (excluding Saturdays, Sundays, and state holidays) before the public hearing; notice by public posting was provided at least 48 business hours (excluding Saturdays, Sundays and legal holidays) prior to said hearing. All expenses incurred by the Commission in the publication and mailing of said notice have been reimbursed by the applicant. See copy of check from \_\_\_\_\_ (applicant) attached as Exhibit \_\_\_\_\_.

A public hearing on the NOI was held on \_\_\_\_\_ (date) and was attended by \_\_\_\_\_ (number) of the \_\_\_\_\_ (total members) of the Commission, constituting a majority of a quorum thereof. A majority of said quorum voted for, and a majority of said Commission signed the Order of Conditions. A copy of said Order was mailed/hand delivered by the Commission to the State Environmental Agency on \_\_\_\_\_ (date). Said Order was recorded in the \_\_\_\_\_ Registry of Deeds within the chain of title of the affected property, and noted

\_\_\_\_\_ as the owner of the Land. Certification of said recording, including the (Instrument/Docket) Number, as provided to the Commission, is attached as Exhibit \_\_\_\_\_. To the best of my knowledge, said Order was lawfully issued, no request for a superseding order was filed with the State Environmental Agency within the applicable appeal period, and no other appeal has been filed with any other authority. If the Improvements are constructed as planned, all conditions stated in the Order relating to the physical aspects of construction will be satisfied. The Order will remain valid until \_\_\_\_\_ (date).

9.08 INLAND WETLAND RESTRICTIONS. [RESERVED]

9.09 COASTAL WETLANDS RESTRICTIONS. [RESERVED}

9.10 PROPOSED RESTRICTIVE ORDERS. The State Environmental Agency has initiative procedures for adopting new restrictive orders in the following municipalities and counties: [LIST].

9.11 SCENIC RIVER RESTRICTIONS. Wild and Scenic Rivers Act, 16 USC Section 1278 et seq. [CHECK CITATION] and applicable State Environmental Laws.

9.12 FLOOD ENCROACHMENT LINES [RESERVED]

9.13 RIVER SANCTUARIES [RESERVED]

9.14 "MOUNTAIN REGIONS" [RESERVED]

## 10.00 COASTAL ZONE MANAGEMENT

10.01. COASTAL ZONE MANAGEMENT (federal consistency certification):  
[PROVIDE CITATION TO FEDERAL COASTAL ZONE MANAGEMENT ACT] The Municipality may be located in a coastal zone area, and thus subject to the State Coastal Zone Management Policy. Note: Any land abutting a river or stream which is an "anadromous fish run" is also part of the "coastal zone." The land is/is not with the Coastal Zone of the State identified in the State Environmental Agency regulations establishing the State Coastal Zone Management Program.

10.02 FILLING WATERS AND CERTAIN WETLANDS.  
a.U.S. Army Corps of Engineers (Corps) "Section 404" Permit. 33 USC sec. 1334; 33 CFR Parts 323, 325. [CHECK CITATIONS] Note: This permit is required for alteration of any vegetated wetland or surface water body unless such alteration has the benefit of a "nationwide" permit or a "regional" permit.

The application and accompanying plans submitted to the Corps for a Section 404 permit are attached as Exhibit \_\_\_\_\_. The Environmental Assessment prepared is attached to the Corps pursuant to 33 CRED sec. 325.2(4) as Exhibit \_\_\_\_\_. The Findings of Fact prepared is attached by the Corps pursuant to 33 CFR sec. 325.2(8) as Exhibit \_\_\_\_\_.

A copy of the public notice of the permit application issued by the Corps on \_\_\_\_\_ (date) is attached as Exhibit \_\_\_\_\_. See 33 CFR sec. 325.3 for required form of notice. The Corps did not hold a public hearing on the application; no request for a public hearing was received by the Corps prior to issuance of the 404 permit.

A copy of the Corps Section 404 permit authorizing construction of the Improvement is attached hereto as Exhibit \_\_\_\_\_. If the Improvements are constructed as planned, all terms and conditions of the permit will be satisfied. To the best of the knowledge of the undersigned, no appeal from a challenge to the Corps Section 404 permit has been filed with any authority. To the best of the undersigned's knowledge, the EPA Regional Administrator has not issued a proposed determination of unacceptable adverse impact or otherwise exercised his authority under Section 404(c) of the Clean Water Act with respect to the Corps Section 404 permit.

b. Corps Permit Under Section 10 of the Rivers and Harbors Act ("Section 10 Permit"). 33 USC Section 403; 33 CFR Parts 320-330. A letter from the Corps dated \_\_\_\_\_, attached as Exhibit \_\_\_\_\_, states that the \_\_\_\_\_ (water body) in the vicinity of the Improvements is not a "navigable water of the United States" as that term is defined by 33 CFR Part 329.

c. State Environmental Agency Waterways Licenses. State Environmental Laws may provide that licenses must be obtained for projects (a) in or over any

tidelands, (b) in or over any river or stream with respect to which public funds (state or municipal) have been expended, or (c) in or over great pond or any outlet thereof.

A copy of the application and accompanying plans submitted to the State Environmental Agency for any required Waterways License are attached hereto as Exhibits \_\_\_\_\_ and \_\_\_\_\_. Unless the "project" is "categorically excluded" under the State Environmental Policy Act, notice of consideration of the application by the State Environmental Agency was (1) published in the State Register on \_\_\_\_\_ (date). See copy of published notice attached as Exhibit \_\_\_\_\_, and (2) mailed on or before \_\_\_\_\_ (date), to the Alderman, Selectmen, City Council of the Municipality.

A copy of any license issued by the State Environmental Agency for the Improvements is attached hereto as Exhibit \_\_\_\_\_. Said license authorizes construction of every part of the Improvements extending into or over any surface water body, including any area below the high water mark of a surface water body. If constructed as planned, the Improvements will comply with all the terms and conditions of the license and will be entitled to certificate of compliance.

The license was issued without any public hearing on \_\_\_\_\_ (date), within the applicable notice period after the application for the license was published and mailed as described above. The State Environmental Agency has indicated that (a) no request for a public, non-adjudicatory, hearing on the application was submitted to it by the Municipality before issuance of the license, (b) no comment on the application, or petition to intervene in consideration of the application by the State Environmental Agency, was submitted to it before the issuance of the license, and (c) no request for an adjudicatory hearing was received by it within the applicable period after issuance of the license.

The license was recorded in the \_\_\_\_\_ Registry of Deeds Book \_\_\_\_\_, Page \_\_\_\_\_, within the applicable period of its date of issuance

The Improvements authorized by the License comply with all applicable structural criteria, will not cause a hazard to navigation, or interfere with rights of adjacent littoral property owners, rights of the public in tidal foreshores, or rights of public lateral access below tidal high water mark, and do not require dredging, disposal of dredged material, or the installation of floats or rafts.

d. Underwater Archeological Resources Permit. To the best of my knowledge, no objects or artifacts of historical value have been discovered on the Land or on any adjacent land.

e. Division of Water Pollution Control Quality Certification. 33 USC sec. 1341; State Environmental Laws.

Note: This applies to any dredging or filling of waters or wetlands which requires a (a) State Environmental Agency Superseding Order of Conditions; (b) State Environmental Agency Waterways License; (c) U.S. Army Corps of Engineers Section 404 permit; or (d) any permit within the jurisdiction of the US Environmental Protection Agency as described under 33 USC sec. 1341 (such as a NPDES permit).

A copy of the application and accompanying plans submitted to DWPC for a water quality certification in connection with construction of the Improvements is attached as Exhibit \_\_\_\_\_. The application describes all aspects of the Improvements which could affect waters, wetlands, or waer quality. If the Improvements also require a State Environmental Agency Waterways License (a) the required notice of the license application under the State Environmental Laws included a statement regarding the pendency of the water quality certification, and (b) no public hearing was held with respect to the State Environmental Agency Waterways License.

A copy of the Department of Water Pollution Control water quality certification is attached as Exhibit \_\_\_\_\_. If the Improvements are constructed as planned, they will comply with all terms of the water quality certification. The Department of Water Pollution Control indicated on \_\_\_\_\_ (date) that it had not received a request for an adjudicatory hearing, or notice of appeal, with respect to the water quality certification.

f.Mineral Extraction in Coastal Waters. See State Environmental Laws.

g.Ocean Sanctuaries Act. See State Environmental Laws.

h.Marine Protection, Research and Sanctuaries Act of 1972 (MPRSA). 16 USC sec. 1432. [CHECK CITATION]

i.Alteration of Barrier Beaches and Coastal Land Which Could Affect Navigation. State Environmental Laws. Construction of the Improvements does not involve (a) the digging or removal of stones, gravel, sand or other materials or the destruction of any trees, shrubs, grass or other vegetation, upon any coastal beach, coastal bank, island or bar which could result in injury to any harbor or navigable tidewater, or (b) the removal of any stones, gravel, sand, or other materials from any natural coastal barrier which furnishes protection against erosion by the sea.

j.Marinas. See State Environmental Laws.

k.Petroleum Products Terminals. 33 CFR Parts 154-156 setting forth Coast Guard requirements for operation; see State Environmental Laws.

l.Dams. See State Environmental Laws.

10.03 PAST DUMPING OR FILLING. To the best of my information and belief, no part of the Land has been used as a site for disposal of industrial, commercial, or residential wastes, specifically including, but not limited to, any "hazardous wastes" identified in 40 CFR Part 261 or State Environmental Laws. To the best of my information and belief, the Land does not contain any areas now filled which previously constituted a water body or any part thereof. To the best of my information and belief, no alteration of the physical characteristics of the Land which affected any water body, wetland, or land subject to flooding took place on the Land after 1962 except as authorized by the Order of Conditions and Nationwide Permits identified in paragraphs \_\_\_\_ and \_\_\_\_, respectively.

10.04 HISTORIC TIDELANDS [RESERVED]

10.05 FEMA FLOOD MAPS. Based upon the United States Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map for the Municipality, effective \_\_\_\_\_ (date), which map is the most recent released by FEMA, the Land is not within an area identified by FEMA as having special flood hazards. The Municipality is/is not participating in the emergency/regular phase of the FEMA Flood Insurance Program.

10.06 [RESERVED]

10.07 NATURAL LANDMARKS. The Land is not listed on the National Registry of Natural Landmarks.

10.08 AGRICULTURAL AND FOREST LANDS [RESERVED]

10.09 TITLE INFORMATION. The Land was not owned during the period of the title examination (19\_\_-19\_\_) by any unit, agency, or instrumentality of federal, state, or local government, or by any railroad or historic land preservation trust, society or organization. The Orders of Condition, Inland Wetlands Restrictive Orders, Scenic River Restrictive Orders, conservation restrictions, historic or agricultural preservation restrictions, or other preservation restrictions, public charitable trusts, historic district designations, or historic or archeological site certifications affecting the Land are as follows:  
NONE.

10.10 LAND BANKS. [RESERVED]

10.11 SOLE SOURCE AQUIFER. The Land has been designated as a sole source aquifer under the Safe Drinking Water

Act, 42 USC sec. 300h-3(e). See Federal Register 30282 (July 12, 1982)

[CHECK CITATIONS] No

commitment for Federal financial assistance through grant, contract, loan guarantee, or otherwise, may be entered into

for any project which EPA determines may contaminate the aquifer through a recharge zone so as to create a

significant hazard to public health.

10.12 STATE HISTORIC REGISTER. See State Environmental Laws. To the best of my knowledge, the only past or

anticipated undertaking, funding assistance, permit determination, license, approval or other form of entitlement or

permission by any State Body (any instrumentality of state government or any authority created pursuant to state

legislation) with respect to the construction and Intended Uses of the Improvements to the Land are (1)

\_\_\_\_\_, and (2) \_\_\_\_\_. If there is more than one state body action with

respect to the Improvements, the Executive Director of the State Historical Commission has designated

\_\_\_\_\_ (name of agency or authority) as the principal State Body responsible for coordinating compliance with the required review procedures.

#### a.Exemptions

1.No Area of Potential Impact. The \_\_\_\_\_ (State Body) has determined that

construction of the proposed Improvements and the Intended Uses of the Land does not have any area of potential impact within which it could reasonably be expected that a property listed on the State Register of Historic Properties is required before \_\_\_\_\_ (State Body) may lawfully

\_\_\_\_\_ (type of action to be undertaken).

2.Programmatic Exemption. The \_\_\_\_\_ (type of action to be taken) by the \_\_\_\_\_ (State Body) is subject to a programmatic Memorandum of Agreement entered into between the \_\_\_\_\_ (State Body) and the State Historical Commission on \_\_\_\_\_ (date). Under the terms of this Agreement, no review of properties included in the State Register of Historic Places is required before the \_\_\_\_\_ (State Body) may lawfully

\_\_\_\_\_ (type of action to be undertaken).

b. Review Procedures. The \_\_\_\_\_ (State Body) has consulted the 19\_\_ State Register of Historic Properties published in the State Register on \_\_\_\_\_ (date), the Update List of State Register of Properties issued by the State Historical Commission on \_\_\_\_\_ (date) entered in the State Historic Register between \_\_\_\_\_ (latter date) and \_\_\_\_\_ (current date).

1. No State Register Properties in Area of Potential Impact. Based on its review of State Register Properties, the \_\_\_\_\_ (State Body) has determined that no such properties exist within the area of potential impact associated with the proposed Improvements. This finding is documented in the letter/memorandum/report issued by the \_\_\_\_\_ (State Body) on \_\_\_\_\_ (date), a copy of which is attached as Exhibit \_\_\_\_\_. Accordingly, no further review of the effect of the proposed Improvements on properties listed on the State Register of Historic Properties is required before the \_\_\_\_\_ (State Body) may lawfully \_\_\_\_\_ (action to be undertaken).

2. No Effect on State Register Property(y/ies). Based on its review of State Register Properties, the \_\_\_\_\_ (State Body) has identified \_\_\_\_\_ (number) such Property(y/ies) located within the area of potential impact associated with the proposed Improvements. For each property so identified, the \_\_\_\_\_ (State Body) has determined that the construction and Intended Uses of the proposed Improvements will not have a direct or indirect effect upon the historic, architectural, archeological or cultural characteristics that qualified said property(y/ies) for inclusion in the State Register. A copy of the Determination of No Effect for each State Register Property located within the area of potential impact is attached as Exhibit (s) \_\_\_\_\_. Said determination was issued on \_\_\_\_\_ (date), made available for public inspection, and mailed/hand delivered to the State Historic Commission on \_\_\_\_\_ (date). To the best of my knowledge, no objection to said Determination(s) has been received by the Executive Director within the 10 day comment period, and no appeal from or challenge to said Determination(s) has been filed with any other authority. Accordingly, no further review of the effect of the proposed Improvements on properties listed on the State Register of Historic Properties is required before the \_\_\_\_\_ (State Body) may lawfully \_\_\_\_\_ (action to be undertaken).

3. No Adverse Effect on State Register Property(y/ies). Based on its review of State Register Properties, the \_\_\_\_\_ (State Body) has identified \_\_\_\_\_ (number) such Property(y/ies) located within the area of potential impact associated with the proposed Improvements. For \_\_\_\_\_ (number) such Property(y/ies), the \_\_\_\_\_ (State Body) has found that the construction and Intended Uses of the proposed

Improvements may have an effect upon the historic, architectural, archeological or cultural characteristics that qualified

such Propert(y/ies) for inclusion in the State Register. For each property potentially affected, the \_\_\_\_\_ (State Body) has completed a Notice of Effect to Historic Properties, (a) cop(y/ies) of which is/are attached as Exhibit(s) \_\_\_\_\_. Said Notice(s) was/were mailed/hand delivered to the State Historic Commission on \_\_\_\_\_ (date). Upon review of said Notice(s), the Executive Director determined that the proposed Improvements will not have an adverse effect on the characteristics that qualified the Propert(y/ies) under consideration for inclusion in the State Register. The Executive Director's Determination of No Adverse Effect, together with an Advisory report documenting his findings, was issued on \_\_\_\_\_ (date) and was received by the \_\_\_\_\_ (State Body) on \_\_\_\_\_ (date). A copy of said Determination and report is attached as Exhibit \_\_\_\_\_. To the best of my knowledge, no objection to said Determination(s) has been received by the Executive Director within the 10 day comment period, and no appeal from or challenge to said Determination(s) has been filed with any other authority. Accordingly, no further review of the effect of the proposed Improvements on Properties listed on the State Register of Historic Properties is required before the \_\_\_\_\_ (State Body) may lawfully \_\_\_\_\_ (action to be undertaken).

4. Adverse Effect on State Register Propert(y/ies). Based on its review of State Register Properties, the \_\_\_\_\_ (State Body) has identified \_\_\_\_\_ (number) such Propert(y/ies) located within the area of potential impact associated with the proposed Improvements. For \_\_\_\_\_ such Propert(y/ies), the \_\_\_\_\_ (State Body) has found that the construction and Intended Uses of the proposed Improvements may have an effect upon the historic, architectural, archeological, or cultural characteristics that qualified said Propert(y/ies) for inclusion in the State Register. For each property potentially affected, the \_\_\_\_\_ (State Body) has completed a Notice of Effect to Historic Properties, a copy of which is/are attached as Exhibit(s) \_\_\_\_\_. Said Notice(s) was/were mailed/hand delivered to the State Historical Commission on \_\_\_\_\_ (date). Upon review of said Notice(s), the Executive Director determined that the proposed Improvements will have an adverse effect on the characteristics that qualified the Propert(y/ies) under consideration for inclusion in the State Register. The Executive Director's Determination of Adverse Effect, together with an Advisory report documenting his findings, was issued on \_\_\_\_\_ (date). A copy of said Determination and report is attached as Exhibit \_\_\_\_\_. In response to said Determination, the \_\_\_\_\_ (State Body) consulted with the Executive Director on \_\_\_\_\_ (date/s) for the purpose of identifying and evaluating alternative measures to eliminate, minimize or mitigate the adverse effects on State Register Properties resulting from the proposed Improvements. Based on said consultation: . . . (insert (a), (b), or (c) below, as appropriate).

(a) Acceptance of Adverse Effect by Executive Director. The Executive Director determined that there exists no feasible and prudent alternative to eliminate, minimize or mitigate the adverse effects of the proposed Improvements. The Executive Director's Statement of Acceptance of Adverse Effects was issued on \_\_\_\_\_ (date) and was received by the \_\_\_\_\_ (State Body) on \_\_\_\_\_ (date). A copy of said Statement is attached as Exhibit \_\_\_\_\_. To the best of my knowledge, no objection to said Statement has been received by the Executive Director within the 15 day comment period, and no appeal from or other challenge to said Statement has been filed with any other authority. Accordingly, no further review of the effect of the proposed Improvements on properties listed on the State Register of Historic Properties is required before the \_\_\_\_\_ (State Body) may lawfully \_\_\_\_\_ (action to be undertaken).

(b) Elimination or Mitigation of Adverse Effect Under Agreement with Executive Director. The Executive Director and the \_\_\_\_\_ (State Body) reached agreement on prudent and feasible measures that eliminate/minimize/mitigate the adverse effects resulting from the proposed Improvements to the Land. Said measures are incorporated into a Memorandum of Agreement executed by the Executive Director on \_\_\_\_\_ (date) and received by the \_\_\_\_\_ (State Body) on \_\_\_\_\_ (date). A copy of said Memorandum is attached as Exhibit \_\_\_\_\_. To the best of my knowledge, no objection to the said Memorandum has been received by the Executive Director within the applicable comment period, and no appeal from or other challenge to said Memorandum has been filed with any other authority. Accordingly, no further review of the effect of the proposed Improvements on properties listed on the State Register of Historic Properties is required before the \_\_\_\_\_ (State Body) may lawfully \_\_\_\_\_ (action to be undertaken).

(c) Acceptance of Adverse Effect by Commission; Elimination or Mitigation of Adverse Effect Under Agreement with Commission; Refusal to Eliminate or Mitigate Adverse Effect by State Body. (insert (i), (ii), or (iii) below, as appropriate)

- (i) the Executive Director issued a Statement of Acceptance of Adverse Effects, objection to which was filed within the 15 day comment period;
- (ii) the Executive Director and the \_\_\_\_\_ (State Body) executed a Memorandum of Agreement, objection to which was filed within a 15 day comment period; or
- (iii) the Executive Director proposed a Memorandum of Agreement, but said Memorandum was rejected by the \_\_\_\_\_ (State Body).

The (i) contested Statement of Acceptance, (ii) contested Memorandum of Agreement, or (iii) proposed Memorandum of Agreement was reviewed at a meeting of the State Historical Commission held on \_\_\_\_\_ (date). On \_\_\_\_\_ (date) the State Historical Commission issued: (insert (1), (2), or (3) below, as appropriate):

- (1) A Statement of Acceptance of Adverse Effect. Said Statement, a copy of which is attached as Exhibit \_\_\_\_\_, was received by the \_\_\_\_\_ (State Body) on \_\_\_\_\_ (date);
- (2) A Joint Memorandum of Agreement, which agreement was accepted and executed by the \_\_\_\_\_ (State Body) on \_\_\_\_\_ (date). A copy of said Joint Memorandum is attached as Exhibit \_\_\_\_\_; or
- (3) A statement specifying prudent and feasible alternatives to the proposed Improvements. The \_\_\_\_\_ (State Body) refused to comply with said Statement, and submitted a detailed explanation of its refusal to the State Historical Commission on \_\_\_\_\_ (date). A copy of the Commission's statement and the \_\_\_\_\_ (State Body) Counter Statement is attached as Exhibits \_\_\_\_\_ and \_\_\_\_\_. To the best of my knowledge, no appeal from or other challenge to the decision of the \_\_\_\_\_ (State Body) has been filed with any authority within the applicable period.

Accordingly, no further review of the effect of the proposed Improvements on properties listed on the State Register of Historic Properties is required before the \_\_\_\_\_ (State Body) may lawfully

\_\_\_\_\_ (action to be taken).

10.13 NATURAL HERITAGE PROGRAM. NOTE: The Natural Heritage Program, administered by the State Environmental Agency, offers advisory comments on a project's effect upon "Threatened and Endangered Species" during state and federal environmental review processes under NEPA and the State Environmental Policy Act. They also maintain a comprehensive statewide database on the location and status of the state's rarest and most vulnerable natural features.

10.14 COASTAL BARRIER RESOURCES ACT. 16 USC 3501; 47 Fed. Reg. 35697.  
[RESERVED] [CHECK CITATIONS]

10.15 AVIGATIONAL SERVITUDES [RESERVED]

11.00 STATE ENVIRONMENTAL POLICY ACT

11.01 STATE ENVIRONMENTAL POLICY ACT—SCOPE OF THE “PROJECT”.

The following existing or proposed facilities in the vicinity of the Land are related to the Land or Improvements in terms of ownership, control, use, or period of construction: \_\_\_\_\_. The Land is/is not part of a subdivision which involves a common scheme of recent or anticipated development. The Improvements are/are not a single phase of a multi-phase development project.

11.02 ACTION SUBJECT TO STATE ENVIRONMENTAL POLICY ACT. To the best of my knowledge, the only past or anticipated funding, permit determination, approval or involvement by any instrumentality of state government or any authority created pursuant to state legislation (such as a Municipal Redevelopment Authority) with respect to the Land or construction of the Improvements is: (1) issuance of a State Environmental Agency sewer connection permit; (2) \_\_\_\_\_; (3) \_\_\_\_\_. The road abutting the Land is not a state highway, and no state permit is required to establish or maintain access to the Land or Improvements.

11.03 STATE ENVIRONMENTAL POLICY ACT “CATEGORICAL INCLUSIONS”. The Land and Improvements do not fall within the scope of any of the “categorical inclusions” listed in State Environmental Laws. The Land and Improvements are not:

1. within 100 feet away from any coastal dune, barrier beach, coastal beach, coastal bank, salt marsh, salt pond, or shellfish bed; or
2. within an area designated by the State Environmental Agency as an “Area of Critical Environmental Concern>”

The Land contains approximately \_\_\_\_\_ acres. The total land area which will be altered by construction of the Improvements is less than 50 acres. If an Order of Conditions is required under the State Wetlands Protection Act for the Improvements, the Land, together with all adjacent wetlands affected by construction of the Improvements, contains less than the threshold number of acres. The Improvements will have no less than the threshold square footage of gross interior floor area and fewer than the threshold number of parking spaces. Traffic caused by the Improvements will be less than (a) the threshold number of vehicle trips daily, or (b) the threshold percentage of the Average Daily Traffic on any roadway adjacent to the Land, whichever of (a) or (b) is greater.

11.04 CERTIFICATIONS REQUIRED TO CONFORM TO STATE ENVIRONMENTAL PROTECTION ACT “CATEGORICAL EXCLUSIONS”. The items listed in Paragraph 79 [CHECK] have the benefit of the following “categorical exclusions” set forth in the State Environmental Policy Act.

11.05. ENVIRONMENTAL NOTIFICATION FORM (ENF) FOR PRIVATE PROJECTS.

(a) The Municipality is the only community which will be affected by construction or use of the Improvements. Notice of Intent to submit an ENF to the State Environmental Agency was published in a newspaper of general circulation in the Municipality in the

form required by the State Environmental Policy Act on \_\_\_\_\_ (date), no sooner than 30 days before, and no later than the date of, submission of the ENF to the State Environmental Agency. A copy of the published notice of intent indicating the date and newspaper of publication is attached hereto as Exhibit \_\_\_\_\_.

(b) The ENF was submitted to the State Environmental Agency on \_\_\_\_\_ (date). Notice of the State Environmental Agency's receipt of the ENF was published in the State Register on \_\_\_\_\_ (date). See copy of published notice attached as Exhibit \_\_\_\_\_.

(c) The ENF was submitted to the State Environmental Agency no later than ten days after the earliest date of submittal of an application for any permit of approval listed above in paragraph 79. [CHECK] The earliest date of submittal of an application for a permit or approval listed in paragraph 79 was \_\_\_\_\_ (date).

(d) The ENF was circulated on \_\_\_\_\_ (date) by regular mail/certified mail/delivery to:

1. those listed on Exhibit \_\_\_\_\_ attached hereto, including all agencies designated in State Environmental Laws, and all state agencies or local authorities subject to the State Environmental Policy Act from which any permit, approval, or funding will be required for the Improvements; and

2. the municipal clerk or conservation commission (as stated in the published notice of intent to submit an ENF).

(e) The public comments on the ENF received by the State Environmental Agency on or before \_\_\_\_\_ (date), which date is the minimum number of days after the State Environmental Agency's publication of receipt of the ENF in the State Monitor, are attached as Exhibit \_\_\_\_\_.

(f) The State Environmental Agency did not extend the public comment period on the ENF, or accept any late comments, and on \_\_\_\_\_ (date), issued the determination attached hereto as Exhibit \_\_\_\_\_. Notice of the State Environmental Agency's determination was published in the State Monitor on \_\_\_\_\_ (date). See copy attached as Exhibit \_\_\_\_\_.

#### 11.06 NO ENVIRONMENTAL IMPACT REPORT (EIR) DETERMINATION— STATUTE OF LIMITATIONS

(a) No notice of intention to challenge the State Environmental Agency's determination that no EIR is required for the Improvements was filed with the State Environmental Agency, the State Attorney General, or the Owner as of \_\_\_\_\_ (date), which is after the period required after the State Environmental Agency's determination in the State Monitor.

(b) No action of proceeding challenging the State Environmental Agency's determination that no EIR is required for the Improvements was filed with the State Court having jurisdiction over the Land, which is after the period after final issuance of the following state permit listed in the ENF: \_\_\_\_\_.

(c) To the best of my knowledge, the Owner did not conceal any material fact from the State Environmental Agency, or submit false information to the State Environmental Agency, in connection with the ENF, any meeting of communication with the State Environmental Agency, or any submittal to the State Environmental Agency.

(d)The Improvements are fully and accurately described in the ENF and, based on what is described in the ENF, there has been no (1) increase in the size of the Improvements; (2) increase in the use or depletion of resources during or after completion of the Improvements; (3) increase in emission of pollutants during or after construction of the Improvements; (4) change in the expected commencement or completion date of construction of the Improvements or schedule of work on the Improvements; (5) change in the location of the Improvements; (6) additional permit application or request for financial assistance for the Improvements not listed in the ENF; or (7) any other change in the Improvements which affects the natural environment.

#### 11.07 EIR PROCEDURES

(a)The Draft EIR transmitted herewith and marked as Exhibit \_\_\_\_\_ was circulated on \_\_\_\_\_ (date) by regular mail/certified mail/delivery to:

1. those listed on Exhibit \_\_\_\_\_ attached hereto, which includes all agencies designated under State Environmental Laws, and all state agencies or local authorities subject to the State Environmental Policy Act from which any permit, approval, or funding will be required for the Improvements; and
2. the State Attorney General.

(b)The Draft EIR was made available to the general public upon request at \_\_\_\_\_ (location).

(c)Notice of availability of the Draft EIR was published in the State Monitor on \_\_\_\_\_ (date). See copy of notice attached as Exhibit \_\_\_\_\_.

(d)The public comments on the Draft EIR received by the State Environmental Agency on or before \_\_\_\_\_ (date), which date is after the required period after the State Monitor's publication of the draft EIR in the State Monitor, are contained in the Final EIR transmitted herewith.

(e)The State Environmental Agency did not extend the public comment period on the Draft EIR, or accept any late comments, and on \_\_\_\_\_ (date), issued a comment on the Draft EIR contained in the final EIR transmitted herewith.

(f)Notice of the State Environmental Agency's comment on the Draft EIR was published in the State Monitor on \_\_\_\_\_ (date). See copy attached as Exhibit \_\_\_\_\_.

(g)The Final EIR transmitted herewith and marked as Exhibit \_\_\_\_\_ was circulated on \_\_\_\_\_ (date) by regular mail/certified mail/delivery to all those listed in

(a) above.

(h)Notice of availability of the Final EIR was published in the State Monitor on \_\_\_\_\_ (date). See copy of notice attached as Exhibit \_\_\_\_\_.

(i)The public comments on the Final EIR received by the State Environmental Agency in the State Monitor, are attached as Exhibit \_\_\_\_\_.

(j)The State Environmental Agency did not extend the thirty day public comment period on the Final EIR, or accept any late comments, and on \_\_\_\_\_ (date), issued a comment on the Final EIR attached as Exhibit \_\_\_\_\_.

(k)Notice of the State Environmental Agency's comment on the Final EIR was published in the State Environmental Monitor on \_\_\_\_\_ (date). See copy attached as Exhibit \_\_\_\_\_.

(l)No permit or approval listed in Paragraph 79 [CHECK] was issued, no funding listed in paragraph 79 [CHECK] was granted, and no other involvement by state government or

any local authority took place, until \_\_\_\_\_ (date), which date is after the required period after publication on notice of availability of the Final EIR in the State Monitor.

(m) Attached as Exhibit \_\_\_\_\_ is a certified copy of the finding based on the Final EIR made by each agency or authority listed in Paragraph 79 describing the environmental action as required under State Environmental Laws.

#### 11.08 EIR STATUTE OF LIMITATIONS

(a) No notice of intention to challenge the Final EIR was filed with the State Environmental Agency, the Attorney General, or the Owner, as of \_\_\_\_\_ (date), which date is after the period after notice of the availability of the Final EIR was published in the State Monitor.

(b) No action or proceeding challenging the Final EIR was filed with the appropriate State Court, as of \_\_\_\_\_ (date), which date is at least 30 days after final issuance of the following state permit listed in the EIR: \_\_\_\_\_.

(c) To the best of my knowledge, the Owner did not conceal any material fact from the State Environmental Agency, or submit false information to the State Environmental Agency, in any meeting or communication with the State Environmental Agency, or any submittal to the State Environmental Agency, including the ENF, the draft EIR, and the Final EIR.

(d) The Improvements are fully and accurately described in the Final EIR and, based on what is described in the Final EIR, there has been no (1) increase in the size of the Improvements, (2) increase in the used or depletion of resources during or after completion of the Improvements; (4) change in the expected commencement or completion date of construction of the Improvements or schedule of work on the Improvements; (5) change of location of the Improvements; (6) additional permit application or request for financial assistance for the Improvements not listed on the Final EIR, or (7) any other change in the Improvements which affects the natural environment.

#### 11.09 EIR WAIVER [RESERVED]

#### 12.00 STATE PERMITS

12.01 STATE HIGHWAY. (curb cut, pole and wire crossings, sidewalks, storm drainage, tree removal, underground utility installation, pavement marking, safety islands, traffic signals, signs)

12.02 [RESERVED]

12.03 RESERVED

#### 12.04 CONSTRUCTION PERMITS

a. Storage of Inflammables, includes Removal of Gasoline Tanks, Steam Engines and Furnaces, Boilers, Gas Fittings, Air Conditioning with required tonnage capacity, Elevators, Window Washing Equipment. State Environmental Laws.

b. State Department of Public Health. State Environmental Laws.

c. Energy Facilities Siting. May have thresholds for capacity and cost of facility. State Environmental Laws.

d. Solid Waste Disposal. State Environmental Laws.

#### 12.04 TRADE PERMITS.

Health Care Facilities: (1) Department of Public Health "determination of need," (2) Department of Public Health and Department of Public Safety certificate of new construction and licensing (hospitals, institutions for unwed mothers, clinics, out of hospital dialysis units), (3) Department of Public Health registration of equipment causing radioactive emissions, (4) Licensing of nursing homes, infirmaries and rest homes. State Environmental Laws.

Restaurants: (1) common victualers license, (2) milk dealer license, milk sale license, milk certificate of registration, milk transfer license, (3) food services establishment, (4) frozen dessert license, (5) liquor license, (6) sale of non-intoxicating beverages, (7) coffee houses, (8) clubs dispensing food or beverages, (9) lunch carts.

Public Warehouses

Cold Storage Warehouse

Open Air Parking

Trading stamp company registration

Private trade schools license

Collection agency license

Buses

Tow Trucks and Movers

Bakery permit

Manufacture of non-alcoholic beverages

Egg canning license

Slaughterhouse license

Sale or Transportation of Poultry license

Upholstered furniture and stuffed toys

Retail dealer of petroleum products license

Methyl or wood alcohol license

Sale of Anti-Freeze solutions license

Vending machine license

Pesticide Registration

Pesticide wholesale or distribution license

License to apply pesticides

Pharmacy registration

Auctioners license

Transient vendors, hawkers & peddlers license

Permit for removal and transportation of garbage

Noisome trades

Stables

Ambulance service

Registration of Physicians and Surgeons

Podiatrists

Physical Therapists

Pharmacists

Registration for wholesale sale or distribution of drugs or medicines

Retail drug stores

Dentists

Veterinarians

Architects

Optometrists

Dispensing Opticians  
Nurses  
Engineers and Land Surveyors  
Embalmers and Funeral Directors  
Certified Public Accountants  
Hairdressers and manicurists  
Sanitarians  
Real estate brokers and salesmen  
Electrologists  
Radio and television technicians  
Operators of waste water treatment facilities  
Operators of drinking water supply facilities  
Chiropractors  
Landscape Architects  
Nursing home administrators  
Psychologists  
Cemeteries and burials  
Nursery agents  
Horse and dog races  
Dealers in bovine or porcine animals license  
Pet shop license  
Fish dealers  
Dry cleaning

Lodging houses

Public lodging houses

Recreational camps, cabins, motels or mobile home parks

Employment agencies

Junk dealers

Automobile graveyards

Shooting galleries

Used car sales

Pawnbrokers

Loans

Sale of firearms or ammunition

Billiard tables, bowling alleys, automatic amusement devices

Theatrical booking agents, personal agents, managers

Theatrical exhibitions, public amusements

Dancing schools

Fortune telling

Skating rinks

Picnic groves

Electricians

Plumbing

Swimming pools

Elevator installers license

Recreational tramways license

Cinematographer license

Engineers and fireman inspectors licenses

Piping

Boiler inspection

Compressed air tank inspection

License for hoisting machinery

Beano license

Displays of fireworks

### 13.00 MUNICIPAL LAWS AND REGULATIONS

13.01 MUNICIPAL SEWER CONNECTION PERMIT. The Muncipal sewer connection permit allowing construction of the sewer connection for the Land and Improvements is attached as Exhibit \_\_\_\_\_.

13.02 CURB CUT AND STREET EXCAVATION PERMITS

13.03 STORAGE OF INFLAMMABLES. See Paragraph 6.12 above.

13.04 MUNICIPAL TRADE PERMITS. See Paragraph 12.05 above.

13.05 NON-ZONING WETLANDS BYLAW OR ORDINANCE. To the best of my knowledge, the Municipality has not enacted a non-zoning wetlands protection law.

13.06 OTHER NON-ZONING LAND USE CONTROLS. [RESERVED]

13.07 HISTORIC DISTRICTS. The Municipality does/does not contain a historic district. If the Municipality contains a historic district, the Land is not within said district.

13.08 HISTORIC CONSERVATION ORDINANCE OR BYLAW.

13.09 DEMOLITION OF HISTORIC STRUCTURES

13.10 PUBLIC SHADE TREE LAW. State Environmental Laws. Construction of the Improvements does not require the removal of any tree within, encroaching upon, or on the boundary of, a public way.

- 13.11 SCENIC ROADS BYLAW OR ORDINANCE. The road or roads abutting the Land have not been designated as "scenic" by the Municipality.
- 13.12 [RESERVED]
- 13.13 AIRPORT COMMISSION – AIRPORT APPROACH ZONES. The Improvements will be less than the ceiling requirement above the adjacent grade and more than the distance required from the nearest airport or heliport.
- 13.14 PARKS COMMISSION. If the Land abuts a way under the control of the Municipal Park Commissioners or a park is directly across the way from the Land, and the Park Commissioners have established a building line for the Land, the Improvements will not exceed the maximum height limitation.
- 13.15 EARTH REMOVAL. Construction of the Improvements does not involve removal of earth materials from the Land.
- 13.16 AIR POLLUTION BYLAW OR ORDINANCE. The Land and Improvements will comply with the Air Pollution Control Commission regulations of the Municipality, including, without limitation, limiting sulfur content in fuels, prohibiting the combustion of coal or residual fuel oil except in specified circumstances, and restricting visible emission from equipment burning distillate fuel oil or gas and having a rated capacity of more than the threshold BTU per hour.
- 13.17 NOISE POLLUTION BYLAW OR ORDINANCE.
- 13.18 HAZARDOUS MATERIALS BYLAW OR ORDINANCE
- 13.19 ENVIRONMENTAL IMPACT REVIEW BYLAW OR ORDINANCE
- 13.20 BOARDS OF HEALTH REGULATIONS
- 13.21 CONSERVATION COMMISSION. Unofficial wetlands "regulations" or maps; unrecorded Order of Conditions; Order of Conditions outside chain of title; cease and desist orders; enforcement actions.
- 13.22 PLANNING BOARD. Unrecorded Subdivision or "Approval Not Required" plans with conditions affecting development.
- 13.23 BUILDING DEPARTMENT. Building permits, certificates of occupancy, variances, special permits, building and zoning violations.
- 13.24 MUNICIPAL CLERK. Variances and special permits.

#### 14.00 FEDERAL LAWS

- 14.01 FEDERAL ACTION. To the best of my knowledge, there has been no federal funding, permit determination, approval or involvement relative to the Land or the Improvements; not is such federal action required for the Improvements.
- 14.02 LIMITATIONS ON FEDERAL ACTION. To the best of my knowledge, the only past of anticipated federal funding, loan guarantee, financial assistance, permit determination, approval or involvement relative to the Land or Improvements is: (1) \_\_\_\_\_; (2) \_\_\_\_\_; (3) \_\_\_\_\_.
- (a) National Environmental Policy Act, 42 USC sec. 4321 et seq.; 40 CFR Part 1500-1508 [CHECK]
  - (b) National Historic Preservation Act of 1966, 16 USC sec. 470 et seq.; 36 CFR Part 800-801.[CHECK]
  - (c) Executive Order 11988 on Floodplain Management, 42 Federal Register 26951 (May 4, 1977), as implemented by US Water Resources Commission Flood Plain Management Guidelines, 43 Federal Register 6030 (Feb. 10, 1978).[CHECK]
  - (d) Executive Order 11990 on Protection of Wetlands, 42 Federal Register 26961 (May 4, 1977) (inapplicable to permit determinations).[CHECK]
  - (e) Coastal Zone Management Consistency Certification, 15 CFR Part 930 et seq.; State Environmental Laws [CHECK]
  - (f) Water Quality Certification, 33 USC sec. 1341; 40 CFR Part 123; State Environmental Laws (permits for projects affecting water quality)[CHECK]
  - (g) Safe Drinking Water Act, 42 USC sec. 300f et seq (protection of sole source aquifers).[CHECK]
  - (h) Executive Order 11593 Protection and Enhancement of the Cultural Environment (May 13, 1971). [CHECK]
  - (i) U.S. Army Corps of Engineers "404" Permits for Discharges of Dredged or Fill Material Into Waters of the United States; 33 USC sec. 1341;33 CFR 323 et seq. [CHECK]
  - (j) Executive Order 193, Preservation of State Owned Agricultural Land (March 19, 1981) [CHECK]
  - (k) Executive Order 181, Protection of Barrier Beaches (August 8, 1980)[CHECK]
  - (l) Endangered Species Act, 16 USC sec. 1531 et seq., 50 CFR Parts 17, 222, 226, 227, 402, 424.[CHECK]
  - (m) Fish and Wildlife Coordination Act, 16 USC sec. 661 et seq.[CHECK]
  - (n) The Archeological and Historic Data Preservation Act, 16 USC sec. 469-469c-2. [CHECK]
  - (o) Coastal Barrier Resources Act, 16 USC sec. 3501, 47 Fed. Reg. 35697. [CHECK]

14.03 INTERSTATED LAND SALES ACT (Sale of vacant land in subdivisions consisting of 50 or more lots). [CHECK]

14.03 SECURITIES REGISTRATION. (Caution re: advertising condominiums in New York).

#### 15.0 SUMMARY

15.01 SUMMARY OF DISCHARGES. The Intended Uses of the Improvements will not cause any discharge or disposal from the Improvements on the Land of any solid, liquid, or gaseous waste into or onto the ground, or air, or any surface or subsurface waters, other than as described in this Checklist.

15.02 SUMMARY OF COMPLIANCE. The undersigned is not aware of any violations of federal, state, or local laws or regulations with respect to the Land, the Improvements thereon, or the Intended Uses thereof. Nor is the undersigned aware of the issuance of any notice of violation by any authority having jurisdiction over the Land or Improvements. To the best of the undersigned's knowledge, if the Improvements are constructed as planned, the Improvements will comply with all applicable building, zoning, land use, environmental, subdivision, health and sanitation laws, ordinances, rules and regulations.

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[ARC unit project manager]