

RECREATION EASEMENT

BK: 862 PG: 194
INSTRUMENT #: 00000138

This Grant of Easement is made this 9th day of Feb, 2015, between the CITY OF CENTRAL FALLS, hereinafter referred to as the "Grantor" and the STATE OF RHODE ISLAND, THROUGH THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, hereinafter referred to as the "Grantee",

WHEREAS, the Grantor is the owner in fee simple of certain real property in the City of Central Falls, Rhode Island, more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Premises"); and

WHEREAS, the Grantor was allocated assistance in the amount of Ninety Six Thousand Dollars (\$96,000.00) under Rhode Island Public Law Chapter 31, Article 5, 1998 Environmental Management Bonds promulgated pursuant to Chapter 42-17.1, Environmental Management in accordance with section Public Law 1998, which authorizes the Department of Environmental Management to administer in state bonds according to the Administrative Procedures Act, Rhode Island General Laws Chapter 42-35 as amended, to acquire the Premises, the allocation of such funds being hereafter referred to as the "Grant"; and

WHEREAS, the Grantor and Grantee recognize the value and special character of the Premises as a recreation resource,

WHEREAS, the Grantor as owner of the Premises intends to convey to the Grantee the right to preserve and protect the recreation values of the Premises in perpetuity,

WHEREAS, The Grant shall be made in accordance with the Rules and Regulations adopted pursuant to the Act (the "Rules and Regulations") the terms and conditions of said Rules and Regulations are hereby incorporated herein; and

WHEREAS, failure to meet the conditions: (i) herein, (ii) of the Act, (iii) of the Rules and Regulations and (iv) of the General Provisions, the terms of said General Provisions are hereby incorporated herein; can result in conversion of the title of the Premises to the Grantee.

NOW THEREFORE: In consideration of the Premises, the covenants contained in the Grant and this Easement, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged,

1. **The Grantor:**

(1) Hereby grants and conveys unto the Grantee pursuant to the laws of the State of Rhode Island and in particular Title 34, Chapter 39 and Title 45 Chapter 36 of the General Laws of Rhode Island as amended, an easement in Perpetuity over the Premises, of the nature and character, and to the extent hereinafter set forth. The Grantor agrees to perpetually use the Premises only for outdoor recreation purposes as more clearly set forth in the Rules and Regulations and to not divert the Premises to any other use or dispose of the Premises without prior approval of the Director of the Department of Environmental Management of the State of Rhode Island and shall perpetually maintain the Premises for outdoor recreation purposes as set forth in the Rules and Regulations.

(2) Purpose. It is the purpose of this Recreation Easement to assure that the Premises will be retained forever recreation purposes. Grantor intends that this Recreation

Easement will confine the use of the Premises to outdoor recreation and such uses as are consistent with the purpose of Recreation Easement.

Rights of Grantee. To accomplish the purpose of this Recreation Easement, the following rights are conveyed to Grantee by this Recreation Easement:

- a. To preserve and protect the recreation values of the Premises;
- b. To enter upon the Premises at all reasonable times and, if necessary, across other lands owned by Grantor adjacent to the Premises in order to: (i) monitor and inspect Grantor's or its successors or assigns compliance with the covenants and purposes of this Easement, (ii) enforce the terms of this Easement, (iii) take any and all actions as may be necessary or appropriate, with or without order of court, to remedy or abate violation hereof; and (iv) after prior notice to Grantor, its successors or assigns, to observe and study nature, make scientific and educational observations and studies in such manner as will not disturb the quiet enjoyment of the Premises by Grantor.
- c. To prevent any activity or use of the Premises that is inconsistent with the purpose of this Easement.
- d. To require restoration of such areas or features of the Premises that may be damaged by any inconsistent activity of use, pursuant to section 5 hereof.

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3. Prohibited Uses. Any activity on or use of the Premises inconsistent with the purpose of this Recreation Easement is prohibited. Without limiting the generality of the foregoing no subdivision of the property is permitted and no construction of buildings or other structures shall be permitted unless the buildings or structures directly support the outdoor activities on the Premises. No commercial operations, except concessions that support the outdoor recreation activities shall be permitted and no construction of buildings or other structures shall be permitted unless the buildings or structures support the outdoor recreation activities on the Premises. To sell, give or otherwise convey the Premises or any interest in the Premises.
4. Grantee's Remedies. If Grantee determines that Grantor is in violation of the terms of this Recreation Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Recreation Easement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, to recover any damages to which Grantee may be entitled for violation of the terms of this Recreation Easement or injury to any conservation values protected by this Recreation Easement, including damages for the loss of recreation values, and to require the restoration of the Premises to the condition that existed prior to any such injury. Without limiting Grantor's liability therefore, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Premises. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Premises, Grantee may pursue its remedies under this paragraph without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Recreation Easement, and Grantor agrees that if Grantee's remedies at law for any violation of the terms of this Recreation Easement are inadequate, that Grantee shall be

entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Recreation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity. Nothing contained in this Recreation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Premises resulting from any causes beyond Grantor's control, including, without limitation, fire, flood, storm, or earth movement.

4.1 Costs of Enforcement. Any costs incurred by Grantee in enforcing the terms of this Recreation Easement against Grantor, including, without limitation, costs of suit and attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Recreation Easement, shall be borne by Grantor.

4.2 Grantee's Discretion. Enforcement of the terms of this Recreation Easement shall be at the sole discretion of Grantee, and any forbearance or delay by Grantee to exercise its rights under this Recreation Easement, in the event of any breach of any term of this Recreation Easement by Grantor, shall not be deemed or construed to be a waiver by Grantee of such terms or of any subsequent breach of the same or any other term of this Recreation Easement or any of Grantee's rights under this Recreation Easement

4.3 Waiver of Certain Defenses. Grantor hereby waives any defense of laches, estoppel, or prescription.

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5. Costs and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Premises, including the maintenance of adequate comprehensive general liability insurance coverage. Grantor shall keep the Premises free of any liens arising out of any work performed for, materials, furnished to, or obligations incurred by Grantor.

5.1 Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Premises by competent authority, and shall furnish Grantee with satisfactory evidence of payment upon request.

5.2 Hold Harmless. Grantor shall hold harmless, indemnify, and defend Grantee and its directors, officers, employees, agents, contractors and the heirs, personal representatives, successors, and assigns of each of them from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney's fees, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Premises, regardless of cause.

6. Assignment. This Recreation Easement is transferable, but Grantee may assign its rights and obligations under this Recreation Easement only to an organization authorized to acquire and hold easements under R.I. General Laws 34-39-1 et seq. (or any successor provision then applicable). As a condition of such transfer, Grantee shall require that the purposes that this grant is intended to advance continue to be carried out.

7. Condemnation. If the Premises is taken in whole or in part, by exercise of the power of eminent domain, Grantee shall be entitled to fifty(50%) percent of any such condemnation award paid to Grantor.

8. General Provisions.

a. Successors. The covenants, terms, conditions, and restrictions of this Recreation Easement shall be binding upon, and inure to the benefit of the parties hereto and their

respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Premises.

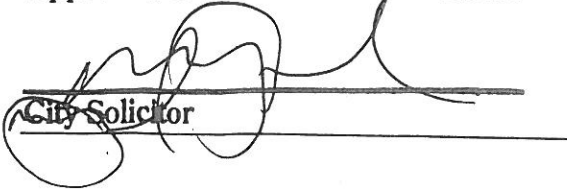
- b. Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.
- c. Rhode Island Law. This Recreation Easement shall be and is deemed to be a conservation restriction under the laws of the State of Rhode Island only, and shall be construed and given effect in accordance with the laws of the State of Rhode Island and not otherwise.
- d. Severability. If any provision of this Recreation Easement or the application hereof to any person or circumstance shall be to any extent invalid or unenforceable, the remainder of this Recreation Easement and the application to persons or circumstances other than those as to which it is invalid or unenforceable shall not be effected thereby, and each term and provision of this Recreation Easement shall be valid and enforceable to the fullest extent permitted by law.
- e. Waiver. No consent or waiver, express or implied by either party to or of any breach in the performance by the other party of its agreements hereunder shall be construed as a consent or waiver to or of any breach in the performance by such party of the same or any other agreement. The failure on the part of either party to complain of any such action or inaction on the part of the other or to declare the other in default, no matter how long such failure may continue, shall not be deemed to be a waiver by either party of any of its rights hereunder.
6. Construction. This Recreation Easement shall not be construed, without regard to any presumption or other rule requiring construction, against the party causing this Recreation Easement to be drafted.

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IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

WITNESS:
Approved as to form and correctness

CITY OF CENTRAL FALLS

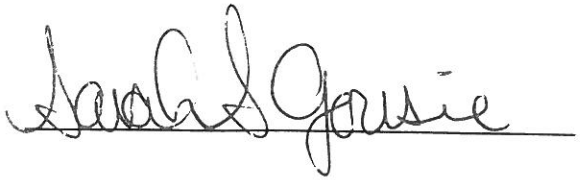


City Solicitor

By: 
James Diossa, Mayor

WITNESS:

STATE OF RHODE ISLAND,
DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT



Sarah Goussie

By: 
Janet L. Coit, Director
Reviewed per F.S.A.

Leonard Merganis
Administration & Finance Officer

Approved this 6 day of January, 2014 by the State Properties Committee.

Approved
as to Terms and
Conditions:


Chairman, State Properties Committee

Approved as to Form:

Richard B. Woolley Asst. Atty. Gen.
for Attorney General
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Approved as to
Substance:


RESIGNEE

Director of Administration

Approved:

Public Member, State Properties Committee



Approved:

Public Member, State Properties Committee

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In Central Falls, in said County and State, on the 6th day of October, 2014, before me personally appeared James Diossa, the Mayor, of the City of Central Falls, to me known and known by me to be the party executing the foregoing instrument for and on behalf of the City of Central Falls and he acknowledged said instrument by him executed to be his free act and deed, his free act and deed in his capacity as aforesaid, and the free act and deed of the City of Central Falls.

Lisa A. Dias

Notary Public
My Commission Expires:



STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In Providence, in said County and State, on the 2nd day of January, ~~2014~~ 2015, before me personally appeared Janet L. Coit, the Director of the STATE OF RHODE ISLAND, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, to me known and known by me to be the party executing the foregoing instrument for and on behalf of the STATE OF RHODE ISLAND, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT and she acknowledged said instrument by her executed to be her free act and deed, her free act and deed in her capacity as aforesaid, and the free act and deed of the STATE OF RHODE ISLAND, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.

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Janet L. Coit

Notary Public # 754 243
My Commission Expires: 07/05/2016

Return original Recreation Easement to:
State of Rhode Island
Department of Environmental Management
Division of Planning and Development
235 Promenade Street
Providence, RI 02908-5767
Attn: Lisa Primiano

EXHIBIT "A"

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406 HUNT STREET
CENTRAL FALLS, R.I.
AP-4
LOT 123

That certain lot or parcel of land with all the buildings and improvements thereon, situated on the southerly line of Hunt Street, in the City of Central Falls, County of Providence and State of Rhode Island, being more particularly described as follows:

Beginning at a point, said point being an iron rod set at the intersection of the southerly line of said Hunt Street with the easterly line of Illinois Street;

Thence running easterly bounding northerly on said Hunt Street a distance of 211.33' to a drill hole set at the intersection of the southerly line of said Hunt Street with the westerly line of Perry Street;

Thence turning an interior angle of 71-10'-34" and running southerly bounding easterly on said Perry Street a distance of 295.43' to a iron rod set, said point is also the northeasterly corner of land now or formerly of the City of Central Falls;

Thence turning an interior angle of 101-14'-51" and running westerly bounding southerly on land of said City of Central Falls a distance of 203.39' to a drill hole set in the easterly line of said Illinois Street, said point is also the northwesterly corner of other land now or formerly of said City of Central Falls;

Thence turning an interior angle of 78-52'-10" and running northerly bounding westerly on said Illinois Street a distance of 266.91' to the point and place of beginning, said last course forms an interior angle of 108-42'-25" with the first described course, said property contains 1.29 acres more or less.

Received
Recorder of Deeds
Feb 09, 2015 12:07P
City of Central Falls, RI
Sonia M. Grace
City Clerk