

## CONSERVATION EASEMENT

THIS GRANT OF CONSERVATION EASEMENT is made this 8<sup>th</sup> day of January 2016, by and between TOWN COMMONAGE WHARF, LLC, a Rhode Island limited liability company with offices at 99 Tupelo Street, Bristol, Rhode Island 02809 ("TCW") and FORD-STRATTON TRUST, LLC, a Rhode Island limited liability company with offices at 11 Burton Street, Bristol, Rhode Island 02809 ("FST")(TCW and FST hereinafter collectively called the "Original Grantors"), the AQUIDNECK LAND TRUST, a non-profit corporation organized under the laws of the State of Rhode Island and under IRS Section 501(c)(3) (hereinafter "ALT" or "Grantee"), and the TOWN OF PORTSMOUTH, a Rhode Island municipal corporation whose address is 2200 East Main Road, Portsmouth, Rhode Island 02871 ("Town").

### WITNESSETH:

WHEREAS, Original Grantor is the owner in fee simple of certain real estate in Portsmouth, Rhode Island, being designated as Lot 32 on Portsmouth Tax Assessor's Plat 6, as presently constituted, more particularly described in Exhibit "A" attached hereto and made a part of hereof (hereinafter referred to as the "Premises"). The term "Grantor," as used herein, shall mean this Original Grantor, the Town, or any successor owner of the fee simple of the Premises, or any portion thereof; and

WHEREAS, ALT is a publicly supported, tax-exempt non-profit organization qualified under Section 501 (c)(3) and 170(h) of the Internal Revenue Code, as may be amended, whose primary purpose is the preservation, protection or enhancement of land in its natural, scenic, agricultural, forested and/or open space condition. The term "Grantee," as used herein, shall include any assignee of Grantee, as provided in Paragraphs 19 and 20 herein; and

WHEREAS, the Town is a Rhode Island municipal corporation whose Comprehensive Community Plan supports the protection of certain land in its natural, scenic, recreation, and/or open space condition; and

WHEREAS, there are limited public parks, especially with coastal access, in the northern part of Portsmouth where a greater density of residents live;

WHEREAS, the Premises possess significant open, scenic, recreational, water resource, and natural/ecological values (also collectively and generally referred to as the "Conservation Values" of the Premises); and

WHEREAS, the Premises are contiguous to the shores of beautiful Narragansett Bay and offer the opportunity for the creation of a spectacular coastal waterfront park and recreation area for the residents of Portsmouth and the general public; and

WHEREAS, the Premises, while not contiguous, is in close proximity to the Newport Corridor Railroad Line that is being considered for listing under the 2016/2017 Statewide Transportation Improvements Plan ("TIP"), as a possible location for a future rail-to-trail bike path project which in turn would create connectivity with other ALT conserved land, namely: the Town Pond property to the north along the coast and thereby build upon and enhance ALT's past conservation work; and

WHEREAS, the specific Conservation Values of the Premises are documented in an inventory of relevant features of the Premises and attached hereto as Exhibit "B" and incorporated by this reference (hereinafter "Baseline Documentation Report"), which consists of reports, maps, photographs, and other documentation that the parties agree collectively provide an accurate representation of the Premises at the time of this grant and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this Conservation Easement; and

WHEREAS, Grantee and the Town recognize the value and special character of the Premises and acknowledge a common purpose to act as partners in preservation to create this coastal waterfront park and recreation area and to prevent its use or development for any purpose or in any manner that would conflict such a free and open town park (as hereinafter defined); and

WHEREAS, Original Grantor, as owner of the Premises, intends to convey to ALT a Conservation Easement with the right to preserve and protect the Conservation Values of the

Premises in perpetuity and then, immediately thereafter, to convey the remaining fee-simple interest to the Town, subject to the Conservation Easement.

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein and in consideration of Three Hundred Thousand Dollars (\$300,000.00) paid by Grantee to Original Grantor, the receipt and sufficiency of which are hereby acknowledged, and 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, Original Grantor hereby voluntarily grants and conveys unto Grantee a Conservation Easement in perpetuity over the Premises, of the nature and character, and to the extent hereinafter set forth.

1. Purpose. It is the purpose of this Conservation Easement to assure that when Original Grantor simultaneously grants fee-simple title to the Town that the Premises will thereafter be forever used and maintained in its open, scenic, water resource, recreation, and natural/ecological condition and to prevent any use of the Premises that would significantly impair or interfere with the conservation values of the Premises. Grantor intends that this Conservation Easement will confine the use of the Premises to those uses consistent with the purpose of this Conservation Easement and the Management Plan (hereinafter referred to as the "Management Plan"), attached hereto as Exhibit "C" and incorporated by this reference. The Management Plan sets forth specific procedures by which the Premises shall be maintained including, but not limited to, the adequate maintenance of the Premises as a town park (as hereinafter defined) and to preserve the natural Conservation Values of the Premises. Grantor and Grantee shall have the right from time to time to propose amendments to the Management Plan. Any such amendment must be jointly approved as provided in Paragraph 18 herein.

2. Town Park. ALT and the Town are working in partnership to create a town park with passive forms of public recreation yet to be determined through a publically supervised but privately funded planning process. Said uses will most likely include but not necessarily be limited to the following: fishing, picnicking, small boating, sight-seeing, and bird-watching. The site will be free and open to the public. A parking area on the Premises or the adjacent Town Common property is anticipated. As with any park, public use and occupancy will be subject to reasonable land use and management rules and regulations set by the Town ("Town Park"). The short term priority is to get the parcel in compliance with site code requirements and in a safe

condition to open it for public access and use. Initially, this will mean excavating concrete building foundations and debris and topping much of the site with top-soil and grass, repairing the seawall and installing protective fences where necessary, securing the buildings on the premises from public access until the same are restored, and securing the piers and docks from public access unless and until they are restored. The longer-term goal is to conduct a planning and design review process with a public engagement component to determine the most appropriate and compatible long-term park and recreation uses for the Premises, while always seeking to protect the Conservation Values intended to be protected by this Conservation Easement. Upon its acquisition of the fee-simple title to the Premises, subject to this Conservation Easement, the Town will raise funds through federal and/or state grants, general fundraising, municipal bond funding, or general tax revenue generation, to fund the necessary site improvements to open the Premises for public access. The Town agrees to use best efforts to make such improvements to open the Town Park to public access within the first twelve (12) months of ownership but in no event shall the opening be delayed for more than eighteen (18) months. The park planning and design work will start forthwith upon the Town taking fee title to the Premises.

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

- A. to preserve and protect the conservation values of the Premises;
- B. a pedestrian and vehicular access easement is hereby granted to enter upon the Premises at all reasonable times from the road frontage along Bristol Ferry Road, after notice to Original Grantor and/or Subsequent Land Owner. Said access easement shall be used to perform the referenced activities on the Premises to wit: (i) monitor and inspect Original Grantors' or Subsequent Land Owners, or their successors' or assigns' for compliance with the covenants and purposes of this Conservation Easement, (ii) enforce the terms of this Conservation Easement, and (iii) take any and all actions as may be necessary or appropriate, to remedy or abate the violation hereof;
- C. the grant, hereby created, to a public access easement to pass and repass onto the Premises on foot, to become effective upon the Town making necessary improvements to make the premises ADA and site code compliant and to

formally opening the Premises for public access which shall occur no later than eighteen (18) months from the date hereof. Said right of access is subject to reasonable park management rules and regulations;

- D. to require restoration of such areas or features of the Premises that may be damaged by any inconsistent activity or use, pursuant to Paragraph 8 hereof; and
- E. to place and maintain one (1) sign on the Premises, in such location that the sign is clearly visible to the public, which indicates the Premises are conserved by the Grantee.

4. Prohibited Uses. Any activity on or use of the Premises inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

- A. any subsequent subdivision or development of the Premises, or the unnecessary disturbance or change in the natural habitat except as permitted pursuant to a Town Park Plan or Paragraphs 3 and 6 herein, and the Management Plan;
- B. except as provided in Paragraphs 3 and 6 herein, and the Management Plan, the placement or construction of any buildings, structures, or other improvements of any kind including, without limitation, camping accommodations or mobile homes, signs, billboards or other advertising material, tennis courts, swimming pools, asphalt driveways, roads, impermeable parking lots, utility poles, towers, conduits or lines, or other structures. No commercial or industrial activity shall be allowed except as permitted pursuant to Paragraphs 3 and 6 herein;
- C. any ditching, draining, diking, filling, excavating, dredging, mining or drilling, removal of topsoil, sand, gravel, rock, minerals or other materials in violation of any applicable State of Rhode Island recognized Best Management Practices;
- D. any building of roads, parking lots, or change in the topography of the land in any manner, except for those activities permitted pursuant to Paragraphs 3 and 6 herein, and the Management Plan;

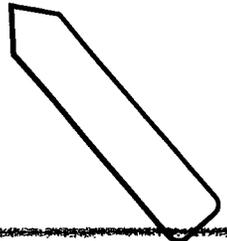
- E. any removal, destruction or cutting of trees or plants or planting of trees or plants (except in the maintenance or replacement of existing trees or plants on the Premises), use of fertilizers, spraying with biocides, introduction of non-native animals and invasive plant species, except for those activities permitted pursuant to Paragraphs 3 and 6 herein, and the Management Plan;
- F. the dumping or storing of ashes, trash, garbage, waste, refuse, debris, or other material, and the changing of the topography through the placing of soil or other substance or material such as landfill or dredging spoils, nor shall any activities be conducted directly on the Premises, or on adjacent Real Estate if owned by Original Grantor, which could cause erosion or siltation on the Premises, except for those activities permitted pursuant to Paragraphs 3 and 6 herein, and the Management Plan;
- G. the manipulation or alteration of natural ponds, water courses, marshes or other wet bodies, or activities which would be detrimental to water purity, or which could alter natural water level and/or flow, except for those activities permitted pursuant to Paragraphs 3 and 6 herein, and the Management Plan;  
and
- H. the operation of snowmobiles, dune buggies, motorcycles, all-terrain vehicles, or any other types of motorized vehicles, except such motorized vehicles as are necessary for the maintenance of the Premises or to protect the Premises during an emergency or as permitted pursuant to Paragraphs 3 and 6 herein, and the Management Plan.

5. Original Grantor's Rights of Ownership. It is the purpose and intent of all parties to restrict any uses of the Premises which are inconsistent with the Conservation Values. However, it is not the purpose or intent to restrict Grantors' Land Owner's exercise of its rights incident to ownership and alienation. Original Grantor and Subsequent Land Owner shall have the unfettered right to lease, sell, mortgage, give, grant or otherwise convey the Premises, provided that any such conveyances are expressly subject to the terms of this Conservation Easement.

6. Original Grantor's Reserved Rights or Discretionary Reserved Rights. Notwithstanding anything else set forth in this Conservation Easement, and without limiting the generality of the other rights granted to the Grantor, Grantor reserves for itself and its successors

and/or assigns the right to do and perform the following activities, with or without discretionary approval being required, on the Premises, or a portion of the Premises as the case may be, in accordance with applicable laws of the State of Rhode Island and the Town of Portsmouth and subject to this Conservation Easement and the Management Plan:

- A. To restore the existing Garage structures in the northeasterly corner of the Premises within the current footprint;
- B. To restore, erect and maintain all reasonably necessary fencing and concrete sea walls/bulkheads to bring the Premises up to code compliance for public park access;
- C. To excavate and clear all concrete foundations and debris from the Premises and to top cleared areas with topsoil and grass;
- D. To construct and maintain: a) an ISDS septic system in a design approved by RI Department of Environmental Management ISDS Division or Coastal Resources Management Council or b) a sanitary sewer line connection, as the case may be, necessary to service restrooms on the Premises;
- E. To construct a storm water collection and drainage systems to service the runoff from the Premises and roadways and subject to all applicable State of Rhode Island recognized Best Management Practices ("BMP's");
- F. To construct a unpaved permeable surface parking lot on the Premises for no more than six (6) motor vehicles and subject to all applicable State of Rhode Island recognized Best Management Practices ("BMP's");
- G. To restore, erect and maintain piers and docks to be used for public recreational boating purposes, if deemed appropriate by the Town; provided however, that said piers and docks may also be used for docking and access by emergency, police, fire and harbormaster marine vessels as well as limited commercial vessels provided that such commercial use is strictly ancillary to the public boating use and does not include any ferry service;
- H. To restore or create coastal saltmarsh areas to create wildlife habitat and to mitigate the effects of sea level rise to the surrounding areas;
- I. To generate limited commercial revenue from rental uses of portions of the Premises provided that such revenue generation: a) is placed in a park and recreation enterprise fund allocated solely to Town park and recreation



expenditures; b) is always ancillary to the primary use as a free and open Town Park; c) is restricted at any one time to no more than one quarter (1/4) of the Premises land area or in a way to limit public access to the water or picnic areas; and

- J. To construct additional structures deemed necessary to enhance, service and support the Town Park (i.e. gazebos, restrooms, storage buildings, utility facility structures) provided that any such structures shall be subject to the discretionary consent of ALT taking into consideration: a) whether the structure is reasonably incidental, accessory and necessary to the overall Town Park concept or a specific approved park use; and b) whether the structure materially adversely affects one or more of the conservation values on the Premises intended to be protected by this Conservation Easement; c) whether it is the least relief necessary to meet the need.

7. Notice of Intention to Undertake Certain Permitted Actions. In order to ensure that the activities in question are designed and carried out in a manner consistent with the purpose of this Conservation Easement, the Grantor shall notify the Grantee and submit plans prior to construction of any permitted or discretionary structure (permitted structures are those listed in Paragraph 6 A-I and discretionary structures are those listed in Paragraph 6 J.) on the Premises in writing not less than sixty (60) days prior to the date Grantor intends to undertake construction of any proposed structure on the Premises. The notice shall describe the size, height, design, proposed location and types of building materials of the proposed structure in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Conservation Easement, and to consent or object accordingly. Where Grantee's approval is required, as set forth herein, Grantee shall grant or withhold their approval within sixty (60) days of receipt of Grantor's complete written request therefore. To the extent such approval may be required, Grantee's approval may not be unreasonably withheld, and can only be withheld upon a reasonable determination by Grantee that the action, as proposed, would be inconsistent with the purpose of this Conservation Easement.

8. Grantee's Remedies. If Grantee determines that Grantor is in violation of the terms of this Conservation 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 may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation 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 Conservation Easement or injury to any Conservation Values protected by this Conservation Easement, including damages for the loss of scenic and/or other conservation values, and to require the restoration of the Premises to the condition that existed prior to any such injury. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Premises. If Grantee shall determine that circumstances require immediate action in order to prevent or mitigate significant damage or other adverse consequences 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 Conservation Easement, and Grantor agrees that if Grantee's remedies at law for any violation of the terms of this Conservation 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 Conservation 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 Conservation 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, earth movement, or sea level rise.

9. Costs of Enforcement. In the event of the failure of Grantor to adhere to any one or more of the terms, conditions, or provisions herein, and in the event it becomes necessary for the Grantee to enforce its rights under the terms of this Conservation Easement, Grantor shall be liable for reasonable legal fees, court costs, and other reasonable and necessary expenses incurred by Grantee as a result of Grantor's breach should Grantee prevail in any enforcement actions.

10. Grantee's Discretion. Enforcement of the terms of this Conservation Easement shall be at the sole discretion of Grantee, and any forbearance or delay by Grantee to exercise its rights under this Conservation Easement, in the event of any breach of any term of this Conservation 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 terms of this Conservation Easement or of any of Grantee's rights under this Conservation Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

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

12. Access. A right of access by the general public to any portion of the Premises is conveyed by this Conservation Easement, as further provided above.

13. Upkeep and Maintenance of Premises. 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 in accordance with the purposes of this Conservation Easement, the Management Plan, and the requirements established by the Town of Portsmouth and the State of Rhode Island.

14. 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. Original Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any activity or use permitted by this Conservation Easement and requiring that such permits and approvals and all such activities or uses shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Grantor shall keep the Premises free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

15. Taxes. If the Premises are subject to taxes, assessments, fees, and/or charges of whatever description, then Grantor shall pay or seek abatement before delinquency of all such 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. Grantee is authorized, but in no event obligated, to make or advance, on

Grantor's behalf, any payment of delinquent taxes and/or assessments in accordance with any bill or statement procured from appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill or statement, provided it gives ten (10) days prior written notice to Grantor of its intention to do so. Grantor hereby agrees to reimburse Grantee for any such payment made on its behalf. The obligation created thereby shall bear interest until paid by the Grantor at the lesser rate of (1) Prime Rate of Interest plus two (2%) percentage points as defined by the Wall Street Journal or any successor publisher, or (2) the maximum rate allowed by law, whichever is lower, and shall be a lien upon the Real Estate.

16. Hold Harmless. Grantor hereby releases and agrees to hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, contractors, and the heirs, personal representatives, successors, and assigns of each of them from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with injury to or the death of any person, or physical damage to any Real Estate, resulting from any act, omission, condition, or other matter for which the Grantor or his invitees is responsible related to or occurring on or about the Premises, regardless of cause.

17. Maintenance of Insurance; Indemnification. Grantor retains all responsibilities and shall bear all costs of maintenance of adequate comprehensive general liability insurance coverage, in perpetuity, certifying Grantee as an additional insured against all claims and demands for bodily injury, death and real estate damage occurring on the Premises. Such insurance policies shall afford minimum limits of not less than Two Hundred Thousand Dollars (\$200,000) for real estate damage, Five Hundred Thousand Dollars (\$500,000) for injury or death of one person, and One Million Dollars (\$1,000,000) for injury or death of more than one person in a single accident and shall be adjusted for inflation. Such insurance shall be underwritten under valid, enforceable policies with insurers authorized to do business in Rhode Island. Certificates of all such insurance shall be delivered to Grantee upon the recording of this Conservation Easement. Each such policy shall provide against cancellation without at least ten (10) days prior written notice to each insured or loss payee named therein, pursuant to clauses typically available in the State of Rhode Island, if such clauses are available.

18. Amendment. If circumstances arise under which an amendment to or modification of this Conservation Easement and/or Management Plan would be appropriate, Original Grantor and Grantee is free to jointly amend this Conservation Easement and/or Management Plan, provided that no amendment shall be allowed that will affect the qualification of this Conservation Easement or the status of Grantee under any applicable laws, including Chapter 39 of Title 34 of the Rhode Island General Laws, as amended, or Section 170(h) of the Internal Revenue Code of 1954, as amended, and any amendment shall be consistent with: (a) the purposes of this Conservation Easement; (b) the ALT's Amendment Policy; and (c) RIGL, §34-39-5(b) and (c); and (d) and shall not be deemed to affect its perpetual duration. Furthermore, any such amendment must be recorded in the Land Evidence Records of the Town of Portsmouth, Rhode Island.

19. Assignment. This Conservation Easement is transferable, but Grantee may assign its rights and obligations under this Conservation Easement only to a non-governmental organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code (or any successor provision then applicable), and authorized to acquire and hold Conservation Easements under Rhode Island General Laws 34-39-1, et seq. (or any successor provision then applicable) or the laws of the United States. As a condition of any transfer, Grantee shall require that the conservation purposes that this grant is intended to advance continue to be carried out.

20. Executory Limitation. If ALT shall cease to exist or to be a qualified organization under Section 170(h) of the Internal Revenue Code, as amended, or to be authorized to acquire and hold Conservation Easements under Chapter 39 of Title 34 of the Rhode Island General Laws, as amended, and a prior assignment is not made pursuant to Paragraph 19 herein, then ALT's rights and obligations shall become immediately vested in the State of Rhode Island, acting by and through the Department of Environmental Management or any successor agency. If the State of Rhode Island, acting by and through the Department of Environmental Management or any successor agency, is no longer in existence at the time the rights and obligations under this Conservation Easement would otherwise vest in it, or if the State of Rhode Island, acting by and through the Department of Environmental Management or any successor agency, is not qualified or authorized to hold Conservation Easements at that time, or if it shall refuse such rights and obligations, then the rights and obligations under this Conservation

Easement shall vest in such organization with a similar mission as a court of competent jurisdiction shall direct pursuant to the applicable laws and with due regard to the requirements for an assignment pursuant to Paragraph 19 herein.

21. Subsequent Transfers. Grantor agrees to incorporate the terms of this Conservation Easement, by reference in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Premises, including, without limitation, a leasehold interest. The Grantor shall promptly notify the Grantee in writing of any proposed sale of the Premises, and provide the opportunity for the Grantee to explain the terms of this Conservation Easement to potential new owners prior to the sale closing. As the Original Grantors' obligations run with the land, and upon conveyance of the underlying fee interest in the Premises to the Town then all of Original Grantor's rights, duties, obligations and liability hereunder shall apply to the Town and automatically terminate and cease with respect to Original Grantors in regard to activities occurring after such transfer of the underlying fee interest.

22. Termination and Proceeds. This Conservation Easement constitutes a Real Estate right owned by the Grantee. Notwithstanding that this Conservation Easement is an obligation, and not a financial asset, should it be extinguished, which may be accomplished only by judicial proceedings, or should any interest in the Premises be taken by the exercise of the power of eminent domain or acquired by purchase in lieu of condemnation subject to the prior written consent of Grantee, Grantee is entitled to a share of the proceeds of any sale, exchange, or involuntary conversion of the Premises formerly subject to this Conservation Easement, according to Grantee's proportional interest in the Premises, as determined and as required under Treasury Regulations §1.170-A-14(g)(6)(ii), or other fair and reasonable apportionment methodology. Grantee's proportional interest is determined as of the date of this grant and will not include value attributable to authorized improvements to the Premises made after the date of this grant, except as to improvements that are made by or at the expense of Grantee. Grantee will use such proceeds for its conservation purposes.

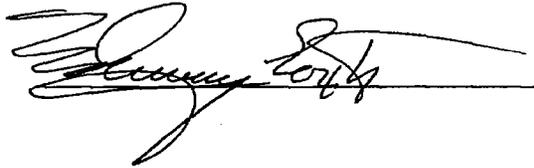
23. General Provisions.

A. Entire Agreement. This Conservation Easement, the exhibits and attachments hereto including the Baseline Documentation Report and Management Plan, set forth all of the covenants, provisions, agreements, conditions and understandings between the parties hereto.

- B. Successors. The covenants, terms, conditions and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of the parties hereto and their respective successors and assigns, and shall continue as a servitude running in perpetuity with the Premises.
- C. Rhode Island Law. This Conservation 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. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of this grant to effect the purpose of this Conservation Easement and the policy and purposes of the Grantee. If any provision in this Conservation Easement is found to be ambiguous, an interpretation consistent with the purpose of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- E. Severability. If any provision of this Conservation Easement or the application thereof to any entity or circumstance is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby.
- F. Duplicate Originals. Original Grantor and Grantee shall execute this Conservation Easement in duplicate, each party retaining an original.
- G. Notice(s). Any notices shall be mailed to the address(es) listed after each party in the execution. Upon any transfer of the ownership of the fee, or the assignment of the rights of Grantee as provided in Paragraphs 19 and 20 under this Conservation Easement, any change in the address(es) shall be provided to the other party.
- H. Counterpart. This easement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same easement.

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

WITNESS:

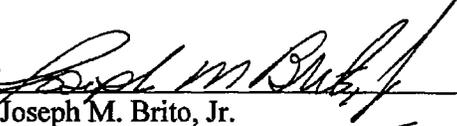






**ORIGINAL GRANTOR:**

**TOWN COMMONAGE WHARF, LLC**

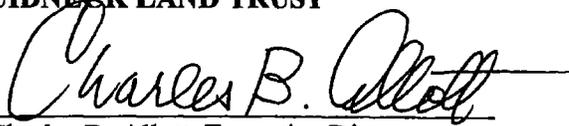
By:   
Joseph M. Brito, Jr.  
Address: 99 TUPPER ST.  
BRISTOL, R.I. 02809

**FORD-STRATTON TRUST, LLC,**

By:   
David Ford  
Address: 11 Bunton St  
Bristol RI 02809

**GRANTEE:**

**AQUIDNECK LAND TRUST**

By:   
Charles B. Allott, Executive Director

Address: 790 Aquidneck Avenue, Middletown,  
RI 02842

TOWN:

TOWN OF PORTSMOUTH

OPA

By: Keith E. Hamilton  
Keith E. Hamilton, Town Council  
President

Address:

Portsmouth Town Hall  
2200 East Main Road  
Portsmouth, RI 02871

STATE OF RHODE ISLAND  
COUNTY OF Newport

In Portsmouth on this 8th day of January, 2016, before me personally appeared Joseph M. Brito, Jr., proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency, or  personal knowledge of the undersigned, to be the party executing the foregoing instrument, as Managing Member of Town Commonage Wharf, LLC, and he acknowledged said instrument, by him executed to be his free act and deed and the free act and deed of said Town Commonage Wharf, LLC,

William P. [Signature]  
Notary Public  
Printed Name: William P. [Signature]

COMM expires  
7-31-17

STATE OF RHODE ISLAND  
COUNTY OF Providence

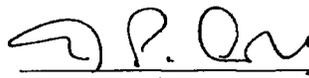
In East Providence on this 8th day of January, 2016, before me personally appeared David Ford, proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency, or  personal knowledge of the undersigned, to be the party executing the foregoing instrument, as sole member of Ford-Stratton Trust, LLC, and he acknowledged said instrument, by him executed to be his free act and deed and the free act and deed of said Ford-Stratton Trust, LLC,

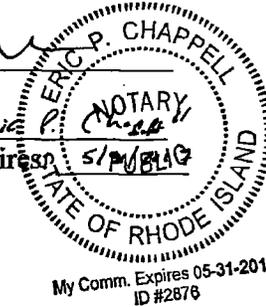
Bruce H. Cox  
Notary Public  
Printed Name: Bruce H. Cox  
My Commission Expires: Notary Public

State of Rhode Island  
My Commission Expires 06/17/2017

STATE OF RHODE ISLAND  
COUNTY OF Westerly

In Westerly on this 8<sup>th</sup> day of January, 2016, before me personally appeared Charles B. Allott, proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency, or  personal knowledge of the undersigned, to be the party executing the foregoing instrument, as Executive Director of the Aquidneck Island Land Trust, and he acknowledged said instrument, by him executed to be his free act and deed and the free act and deed of said Aquidneck Land Trust.

  
Notary Public  
Printed Name: ERIC P. CHAPPELL  
My Commission Expires 5/31/16

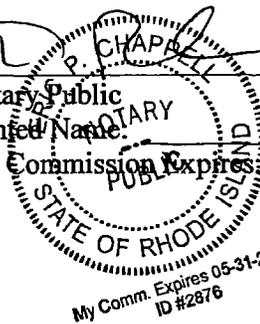


My Comm. Expires 05-31-2017  
ID #2876

STATE OF RHODE ISLAND  
COUNTY OF Westerly

In Portsmouth on this 8<sup>th</sup> day of January, 2016, before me personally appeared Keith E. Hamilton, proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency, or  personal knowledge of the undersigned, to be the party executing the foregoing instrument, as President of Town Council for the Town of Portsmouth, Rhode Island, and he acknowledged said instrument, by him executed to be his free act and deed and the free act and deed of said Town of Portsmouth.

  
Notary Public  
Printed Name: ERIC P. CHAPPELL  
My Commission Expires 5/31/16



My Comm. Expires 05-31-2017  
ID #2876

## Exhibit "B"

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**BASELINE DOCUMENTATION REPORT  
Portsmouth-Mount Hope Park  
Portsmouth, Rhode Island**



**Prepared December 2015 to January 2016  
For the Aquidneck Land Trust**

Baseline Documentation Report for Conservation Easement granted by Town Commonage Wharf, LLC and Ford-Stratton Trust, LLC on property located in Portsmouth, Newport County, Rhode Island, to the Aquidneck Land Trust.

Baseline Documentation Report Author: Alex Chuman, M.E.M, Stewardship Director

Date Completed: January 7, 2016

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### Portsmouth-Mount Hope Park Baseline Documentation Report Portsmouth, Rhode Island

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**Acknowledgement of Condition Statement**

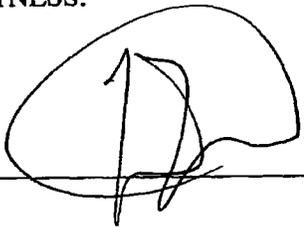
**Baseline Documentation Report  
Portsmouth-Mount Hope Park  
Portsmouth, Rhode Island**

The Grantor and the Grantee hereby certify that this Baseline Documentation Report is an accurate representation of the property, described in Exhibit "A" of the Conservation Easement (hereinafter referred to as the "Premises"), at the time of the conveyance of the Conservation Easement. This Baseline Documentation Report contains the following: Cover Page; Table of Contents; Acknowledgement of Condition Statement; Background Information; Location Map; Aerial Photo / Property Map; Portsmouth Tax Assessor's Plat 6; Topo Map; Premises in Relation to Other Conserved Properties Map; Soil Survey Map; Flood Zone Map; Sea Level Rise Map; RICRMC Water Type Map; Class 1 Survey Plan; Photo Point Map; Photo Point Description Sheet; and Photographs.

The Grantor further certifies that to the best of the Grantor's knowledge, there are no structures or improvements on the Premises other than as described in this Baseline Documentation Report, and no activities are conducted on the Premises which are inconsistent with the terms contained in the Conservation Easement.

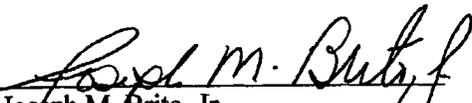
**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals the day and year first above written.

WITNESS:

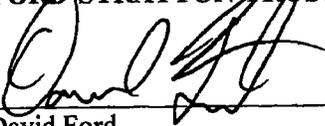
  
\_\_\_\_\_

GRANTOR:

**TOWN COMMONAGE WHARF, LLC**

  
\_\_\_\_\_  
Joseph M. Brito, Jr.  
Address: 99 Tupelo St, Bristol, RI 02809

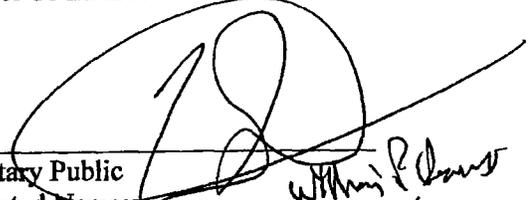
**FORD STRATTON TRUST, LLC**

  
\_\_\_\_\_  
\_\_\_\_\_  
David Ford  
Address: 11 Burton St, Bristol, RI 02809

STATE OF RHODE ISLAND

COUNTY OF: Norfolk

In Providence on this 8th day of January, 2016, before me personally appeared Joseph M. Brito, Jr., proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency, or  personal knowledge of the undersigned, to be the party executing the foregoing instrument, as Managing Member of Town Commonage Wharf, LLC, and he acknowledged said instrument, by him executed to be his free act and deed and the free act and deed of said Town Commonage Wharf, LLC.

  
Notary Public  
Printed Name: William P. Davis  
My Commission Expires: 7/31/17

STATE OF RHODE ISLAND

COUNTY OF: Bristol

In Bristol on this 8<sup>th</sup> day of January, 2016, before me personally appeared David Ford, proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency, or  personal knowledge of the undersigned, to be the party executing the foregoing instrument, as sole member of Ford-Stratton Trust, LLC, and he acknowledged said instrument, by him executed to be his free act and deed and the free act and deed of said Ford-Stratton Trust, LLC.

  
Notary Public  
Printed Name: \_\_\_\_\_  
My Commission Expires: June 17, 2017  
**James H. Cox**  
Notary Public  
State of Rhode Island  
My Commission Expires 06/17/2017

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

WITNESS:

GRANTEE:

AQUIDNECK LAND TRUST

[Signature]

By: Charles B. Allott

Charles B. Allott, Executive Director  
Address: 790 Aquidneck Ave., Middletown, RI  
02842

STATE OF RHODE ISLAND  
COUNTY OF Narragansett

In Portsmouth on this 8th day of January, 2016, before me personally appeared CHARLES B. ALLOTT, proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency, or  personal knowledge of the undersigned, to be the party executing the foregoing instrument in his capacity as Executive Director of the Aquidneck Land Trust and he acknowledged said instrument, by him so executed to be his free act and deed, individually and in said capacity, and the free act and deed of the Aquidneck Land Trust.

[Signature]

Notary Public  
Printed Name: Stephen A. Hawk  
My Commission Expires: 6/29/17

WITNESS:

TOWN:

TOWN OF PORTSMOUTH

[Signature]

By: Keith Hamilton

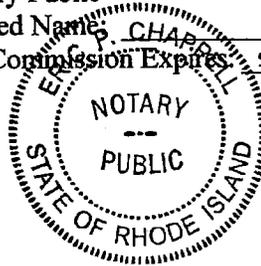
Keith E. Hamilton, Town Council President  
Address: 2200 East Main Road, Portsmouth, RI  
02871

STATE OF RHODE ISLAND  
COUNTY OF Providence

In Providence on this 5th day of August, 2016, before me personally appeared Keith E. Hamilton, proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency, or  personal knowledge of the undersigned, to be the party executing the foregoing instrument, as President of Town Council for the Town of Portsmouth, Rhode Island, and he acknowledged said instrument, by him executed to be his free act and deed and the free act and deed of said Town of Portsmouth.



Notary Public  
Printed Name: E. P. CHAPPELL  
My Commission Expires 5/31/2017



My Comm. Expires 05-31-2017  
ID #2876

## Background Information

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### Portsmouth-Mount Hope Park Baseline Documentation Report Portsmouth, Rhode Island

**File Name:** Portsmouth-Mount Hope Park

**Current Landowner:** Town Commonage Wharf, LLC and Ford-Stratton Trust, LLC

#### Location of Premises

- *Street Address:* North End of Bristol Ferry Rd at intersection of Bayview Ave
- *Municipality:* Portsmouth
- *County:* Newport
- *State:* Rhode Island
- *Plat/Lot Information:* Lot 32 of Portsmouth Tax Assessor's Plat Map 6

#### Premises Description:

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##### Acreage:

Land Acreage: 1.4 acres

Water Acreage: 3.5 acres

Total Area: 4.9 acres

##### Prior Land Uses:

Beginning in approximately 1680, the Premises was used as a ferry service between Portsmouth and Bristol. By the mid-1800s a ferry house had been constructed and a stable appeared to be present in 1900. In 1929 the ferry service ended with completion of the Mount Hope Bridge. Around 1950, the Marina House Restaurant opened in the original ferry building. In circa 1940, the pump-house (still standing at present) on the property was built and the garage (still standing on the property at present time) was built circa 1950. In 1983, The Marina House Restaurant closed, and the original ferry house burned down and was razed in 1985. The cement pads of the buildings remain on site. The site has been vacant since that time, although was used briefly as a staging area for Mount Hope Bridge repairs in the 2000's<sup>1</sup>.

##### Current Land Uses:

The land portion of the Premises is currently vacant and has a locked chain-link fenced gate.

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<sup>1</sup> Prior land use description is based on the January 2015 Phase 1 Environmental Assessment by Northeast Engineers & Consultants, Inc, which used historic aerial imagery and references as well as landowner interview to document prior land use.

**Proposed Future Uses:**

After acquisition, the Premises will be converted into a publically accessible community park owned by the Town of Portsmouth. Design of the park will include an extensive planning process with community input and necessary repairs and renovation. The overall design of the park could take on different forms depending on the outcome of the planning process. The site needs work in many ways for both safety and aesthetics before public access could even be granted such as sea wall repair; repair or demolition of outbuildings; addition of nearby parking infrastructure; landscaping; excavation of fill or unnecessary infrastructure; and removal of debris and trash.

**Topography:**

The property is coastal and includes open water, ranging from sea level to 8 feet above sea level. The lowest elevation not covered by water is along the coast.

**Soils:**

According to the RI Soil Survey<sup>2</sup>, the 1.4 acres of land within the Premises consists of Pittstown silt loam 3-8% slopes (PmB). Soil information and description is based on the RI Soil Survey and RIGIS spatial soil data<sup>3</sup>.

PmB makes up the entirety of the land in the Premises. It is gently sloping and moderately well drained. The permeability of this soil is moderate in the surface layer and subsoil and slow in the substratum. Available water capacity is moderate and runoff is medium. This soil has a seasonal high water table at a depth of about 20 inches from late fall through midspring and is very strongly acid through medium acid. The soil is suitable for community development but is limited by high water table and slow permeability of the substratum. The soil is also suited for farming, and is a USDA prime farmland soil. The soil is suited to woodland and openland wildlife habitat but poorly suited for wetland wildlife habitat because it is too dry during the summer season.

**Conservation Values:**

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**Agricultural Resources**

While the soil is a USDA prime farmland soil, the site is not suitable for agriculture due to its land use history, small size, and location.

**Water Resources**

The Premises is located in the Mount Hope Bay (HUC12) and Narragansett Bay watershed (HUC10). The property is coastal and includes both land (1.4 acres) and water (3.5 acres). There is approximately 830 feet of coastal frontage along the main peninsular land portion, including a

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<sup>2</sup> Rhode Island Soil Survey, United States Department of Agriculture in cooperation with the Rhode Island Agricultural Experiment Station, 1981.

<sup>3</sup> RIGIS, 2014. Soils; soils14. Rhode Island Geographic Information System (RIGIS) Data Distribution System, URL: <http://www.edc.uri.edu/rigis>, Environmental Data Center, University of Rhode Island, Kingston, Rhode Island.

small section of beach beyond the sea wall. The Premises also has 340 feet of narrow coastal frontage consisting of beach/shore along part of its southern border. The entirety of the parcel is bordered by beaches of sand and shell on each side of the shore. The water portion of the Premises includes 3.5 acres of open estuarine waters.

The Premises is a RI Coastal Resources Management Council Type 2 Water Type, which is defined as an area with high scenic value that supports low intensity recreational and residential uses<sup>4</sup>. Type 2 waters allow for boating infrastructure such as boat ramps, provided a number of conditions are met. These conditions as well as prohibitions for Type 2 waters can be further investigated in RICRMC's "The Red Book" Section 200.2, which outlines policies for Type 2 waters in the state.

Sea Level Rise maps from RI Division of Planning<sup>5</sup> as well as the RICRMC StormTools<sup>6</sup> show the Premises will be completely submerged in a future scenario that includes 5 feet of sea level rise. The coastal edges of the property are susceptible to inundation from sea level rise at the 1 and 3 foot levels as well. The entirety of the property is also within the 100 year flood zone (FEMA Zone VE). Thus, the property is susceptible to flooding and submersion of seawater from both sea level rise as well as storm events in present time and in future years with climate change impacts.

#### **Wildlife Habitat/Conservation Resources**

Numerous bird species were observed in the shrubs and trees located along the southern border of the Premises. The property is connected to other publically accessible open space, the Portsmouth Town Common, which consists of 1.5 acres, increasing habitat connectivity. The coastal location also leads to the possibility of serving as a stopover for sea birds like gulls or osprey, particularly if vegetation is restored or planted in the currently vacant areas of the parcel. The rip-rap stones as well as the rocky beaches included in the Premises may also be used by estuarine invertebrates.

The Premises also includes 3.5 acres of open estuarine water which very likely serves as habitat for a number of fish and invertebrate species, although none were observed on site visits.

The following flora and fauna were recorded at the site on December 9th of 2015. Because a site visit took place on just 1 day at one time of year, it is likely numerous species, both uncommon and common, were not recorded that use or grow on the site at different times of year. This is not a comprehensive list of species. Only those seen or heard and identifiable on the site visit performed are recorded below. Invasive species are shown in bold print below and are defined by the RI Natural History Survey Invasive Species List for Plants (present and widespread; localized distribution and early detection).<sup>7</sup>

<sup>4</sup> State of Rhode Island. Coastal Resources Management Program, as amended ("The Red Book"). Last updated 2012. <http://www.crmc.ri.gov/regulations/RICRMP.pdf>

<sup>5</sup> RIGIS, 2014. Sea Level Rise: Rhode Island Division of Planning; slrRIDOP14. Rhode Island Geographic Information System (RIGIS) Data Distribution System, URL: <http://www.edc.uri.edu/rigis>, Environmental Data Center, University of Rhode Island, Kingston, Rhode Island (last date accessed: 26 September 2014)

<sup>6</sup> RICRMC. Shoreline Change Special Area Management Plan. 2015. <http://www.beachsamp.org/resources/stormtools/>

<sup>7</sup> RI Natural History Survey Invasive Species List for Plants Present in the State, October 2013.

**FAUNA**

<b>Common Name</b>	<b>Scientific Name</b>
American Crow	<i>Corvus brachyrhynchos</i>
American Goldfinch	<i>Carduelis tristis</i>
Black Capped Chickadee	<i>Poecile atricapillus</i>
Eastern Cottontail	<i>Sylvilagus floridanus</i>
Gull	<i>Laridae</i> spp.
House Finch	<i>Carpodacus mexicanus</i>
Song Sparrow	<i>Melospiza melodia</i>

**FLORA** (*Species in bold are listed as invasive by the RI Invasive Species Council, and those that are bold with a \* are widespread and invasive*)

<b>Common Name</b>	<b>Scientific Name</b>
American Pokeweed	<i>Phytolacca americana</i>
<b>Autumn Olive*</b>	<b><i>Elaeagnus umbellate</i></b>
Eastern Red Cedar	<i>Juniperus virginiana</i>
Goldenrod	<i>Solidago</i> spp.
Grasses	Family Poaceae
<b>Japanese Honeysuckle*</b>	<b><i>Lonicera Japonica</i></b>
Joe-Pye weed	<i>Eutrochium purpureum</i>
Milkweed	<i>Asclepias</i> spp.
<b>Multiflora Rose*</b>	<b><i>Rosa multiflora</i></b>
<b>Oriental Bittersweet*</b>	<b><i>Celastrus orbiculatus</i></b>
Queen Anne's Lace	<i>Daucus carota</i>
Red Maple	<i>Acer rubrum</i>

**Scenic, Recreational, Educational, and Historic Resources**

The Premises is extremely scenic due to its peninsular shape and coastal location. Water surrounds the main land section of the property on 3 sides and the fourth is connected to the Portsmouth Town Common. The Premises also includes sheltered open waters and a small stretch of rocky shore near the Newport Secondary Railroad Line. The Mount Hope Bridge looms in the background to the west creating architectural scenery. Along each side of the coast there are sand and shell beaches. To the northeast lies Mount Hope Bay. Across the water, one can easily see the shoreline of Bristol. While driving on the Mount Hope Bridge entering or leaving Aquidneck Island, the parcel is also clearly viewable.

The site has tremendous potential recreational value as a community waterfront park once renovation and repair occurs on site coupled with a planning process. The site provides potential coastal access for boating or fishing, scenic views to enjoy passively, space for picnicking or play, and potential for historic interpretation of the site or surrounding area. The Newport Secondary Railroad Line runs just south of the property, creating the possibility for a bicycling

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[http://rinhs.org/wp-content/uploads/2011/10/Rhode-Island-Invasive-Species\\_2013\\_b.pdf](http://rinhs.org/wp-content/uploads/2011/10/Rhode-Island-Invasive-Species_2013_b.pdf)

stop-over should the railroad line ever be converted to a multi-use path. The 45 acre Town Pond trail and preserve owned by the State of Rhode Island and conserved by ALT is also connected to the Secondary Railroad Line, and is located approximately one-third of a mile from the Premises, creating potential opportunity for a trail connection or kayak route.

The Premises has historical significance dating back to the 1600s when it was the site of a ferry service between Portsmouth and Bristol. The historic ferry building associated with this service was on site, but burned to the ground in 1983.

#### **Human Made Features**

The southern border of the property has a chainlink fence and gate. A sea wall in disrepair surrounds the section of the Premises abutting the water. Below the sea wall is rip-rap stone/concrete blocks. There are multiple piles of rubble. Two outbuildings built in the mid-1900s exist at the southern border totaling approximately 500 square feet and include a garage and pumphouse. There is also an underground bunker accessible currently from the eastern side of the garage. Three concrete pads that likely served as the foundation of the restaurant remain near the northern boundary of the Premises. Three manhole covers were seen on the Premises, the sites of old septic systems. Remnants of an old gravel/stone road exist entering the property from the chainlink gate.

#### **Summary of the Purpose of the Conservation Easement:**

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It is the purpose of the Conservation Easement to assure that the Premises will be retained forever in its current open, recreational, water resource, scenic, historic, and natural/ecological condition and to prevent any use of the Premises that will significantly impair or interfere with the conservation values of the Premises. Grantor intends that the Conservation Easement will confine the use of the Premises to those uses consistent with the purpose of the Conservation Easement and Management Plan. The Management Plan sets forth specific procedures by which the Premises shall be maintained including, but not limited to, the adequate maintenance of the Premises to preserve the conservation values and other matters as may be required for the preservation of the Premises.

**This is not an actual legal description. For a more complete description, see the Conservation Easement.**

LEGAL DESCRIPTION

PREMISES AREA:

That certain tract or parcel of land with the buildings and improvements thereon or at any time or times hereafter constructed or made on said tract, situated in the Town of Portsmouth, State of Rhode Island, being the Bristol Ferry Wharf, so-called, and shown on that certain plan entitled "A.P. 6, Lot 32 Bay View Avenue, Portsmouth, Rhode Island, Plan of Land, by Northeast Engineers & Consultants, Inc., dated December 2015", and bounded and described as follows:

Beginning at the northeasterly corner of the Common at Bristol Ferry Wharf aforesaid;

Thence, running Southwesterly by said Common and over a stone bound situated at the Westerly corner of said Common for a distance of two hundred and ninety seven and eighty hundredths (297.80) feet for a corner;

Thence, turning an interior angle of  $254^{\circ}46'00''$  and running Southerly, bounded easterly by the land now or formerly of Angelo Pirri Trustee, to land now or formerly of the State of Rhode Island (formerly Providence and Worcester Railroad Company), for a distance of one hundred and sixty five hundredths (100.65) feet to a point;

Thence turning and running along the arc of a curve to the left, said curve having a radius of 2,912.18 feet and a chord length of 342.73', for a distance of three hundred forty two and ninety two hundredths (342.92) feet by said railroad location to a bound and land now or formerly of Pier Road LLC, chord of said curve forming an interior chord angle  $98^{\circ}45'05''$  with the last described course;

Thence, turning an interior angle of  $82^{\circ}28'39''$  from the chord of the last described arc and running Northerly for a distance of three hundred eighty and seventy three hundredths (380.73) feet to a point;

Thence, turning an interior angle of  $106^{\circ}57'11''$  and running Northeasterly for a distance of three hundred fifteen and zero hundredths (315.00) feet to said Wharf;

Thence, continuing Northeasterly along the northerly face of said Wharf for a distance of ninety eight and fifty three hundredths (98.53) feet to point;

Thence, turning an interior angle of  $181^{\circ}45'05''$  and running Northeasterly for a distance of one hundred twenty four and eighteen hundredths (124.18) feet to a point;

Thence, turning an interior angle of  $59^{\circ}53'12''$  and running Southwesterly for a distance of thirty six and sixty two hundredths (36.62) feet to a point;

Thence, turning an interior angle of  $214^{\circ}52'49''$  and running Southeasterly for a distance of three hundred thirteen and sixty hundredths (313.60) feet to the place and point of beginning;

The last described course forms an interior angle of  $80^{\circ}32'00''$  with the first described course;

Said parcel contains 4.9 acres, more or less.

## **Exhibit "C"**

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### **MANAGEMENT PLAN Portsmouth-Mount Hope Park Portsmouth, Rhode Island**



**Prepared December 2015  
For the Aquidneck Land Trust**

Baseline Documentation Report for Conservation Easement granted by Town Commonage Wharf, LLC and Ford-Stratton Trust, LLC on property located in Portsmouth, Newport County, Rhode Island, to the Aquidneck Land Trust.

Baseline Documentation Report Author: Alex Chuman, M.E.M, Stewardship Director

Date Completed: December 14, 2015

**Management Plan  
Portsmouth-Mount Hope Park  
Portsmouth, Rhode Island**

*This Management Plan contains a mixture of suggestions that the Grantor/Landowner may follow and requirements that the Grantor/Landowner must follow.*

**Property Description:**

The Premises is a 4.9 property that includes a 1.4 acre peninsula and 3.5 acres of open estuarine waters in northern Portsmouth. The Premises was the site of the Bristol-Portsmouth ferry in the 1600s and includes scenic views of Mount Hope Bay, the Mount Hope Bridge, and across the water to Bristol. The property connects with the publically accessible Portsmouth Town Common to the south and has private sand and shell beaches on either side. The site also includes a separate (from the peninsula) stretch of rocky shore adjacent to the Newport Secondary Railroad Line. The land portion of the site is mostly barren or grass with remnants of previous infrastructure and two small outbuildings, but does also include some shrub habitat and trees at the southern boundary. A seawall in disrepair surrounds much of the Premises. Currently the site lies vacant, but is intended to be turned into a community park and open space owned by the Town of Portsmouth. Prior to establishment of the site as a publically accessible park, much renovation and repair work is needed on site to ensure safety and enjoyment including, but not limited to, sea wall repair; repair of outbuildings; addition of nearby parking infrastructure; landscaping; excavation of fill or unnecessary infrastructure; and removal of debris and trash.

Management and renovation of the Premises should be focused with the goal to develop a public community park with passive recreation uses with input from the community. Potential uses include picnicking, fishing, wildlife-viewing, sight-seeing, relaxing, and low intensity boating, or other passive uses established in the park planning process. The Premises must not lie vacant for an extended period of time. During the park planning process and implementation, a new Management Plan specific to the newly planned park must be developed that builds upon the recommendations and requirements set here.

**Management of Conservation values:**

**Agriculture:**

The Premises is not intended to serve as agriculture.

**Water and Coastal Resources**

The Premises includes over 800 feet of coastal frontage along the main peninsula and another 340 feet of rocky shore frontage at its southern boundaries, while also abutting sand and shell beaches. Activities in the park should not contribute pollutants via stormwater run-off or dumping to Mount Hope Bay or Narragansett Bay. Green infrastructure such as rain gardens should be considered as a possibility to filter stormwater run-off in the park or from the adjacent Town Common before entering Mount Hope Bay. Stormwater drainage to prevent stormwater run-off from nearby streets and the park should follow all applicable State of Rhode Island recognized Best Management Practices.

The Premises is a RICRMC Type 2 Water Type, defined as an area with high scenic value that supports low intensity recreational and residential uses. Type 2 waters allow for boating and park infrastructure under certain conditions. Prior to any implementation and as part of the initial planning process, RICRMC should be consulted to determine if the proposed park is compliant with CRMC regulation and if any permits are required for the proposed park and associated new or renovated infrastructure. Consultation with RICRMC should be done early in the park planning process.

The Premises includes 3.5 acres of open estuarine waters. Waters should not be filled or altered apart from approved RICRMC structures related to a future park such as a dock, small boat launch, or fishing pier.

#### **Flooding and Sea Level Rise**

This property is susceptible to flooding from storm events as well as sea level rise. The Premises is located within the 100 year FEMA floodzone and would be entirely submerged in a 5 feet of sea level rise scenario. Current scenarios reported by RI Sea Grant predict 1 foot of sea level rise by 2050 and 3-5 feet by 2100 for Rhode Island<sup>1</sup>. Heavy storms and storm surges are expected to increase with climate change as well. The property and future park should be designed and managed with these considerations in mind. Future plantings should be resistant to saltwater and wind and exposed conditions. Any park infrastructure, such as benches, fencing, boat ramps, docks, or signage should be designed to withstand powerful storms, wind, and saltwater flooding. The park may be considered for salt marsh restoration projects to mitigate effects of sea level rise and flooding in the future as conditions allow.

#### **Wildlife Habitat**

Currently the site has shrubs and trees at its southern border that provide wildlife habitat for birds and small mammals. Invertebrates may use parts of the rip-rap, sea wall, and beach as habitat. Sea birds like gulls could use the site as a stopover.

- When possible, ALT or the Town will monitor and study wildlife on the Premises. Outside research studies are encouraged, provided they are non-invasive and do not detract from the conservation values of the parcel.
- Nest boxes or other structures designed for the sole purpose of providing wildlife habitat are encouraged if they fit in with the design of the future park.
- Invasive species noted on the property include Multiflora Rose, Autumn Olive, Japanese Honeysuckle, and Oriental Bittersweet. These and any newly discovered invasive species should be monitored and managed when possible. However, these species were not widespread across the entire property as of December 2015. As a coastal property, any management or removal of vegetation is subject to RICRMC regulations and should follow best management practices for managing invasive plants. Any invasive species management activities should weigh the impacts of invasive species removal to water quality and wildlife habitat.

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<sup>1</sup> RI Sea Grant. 2014. Sea Level Rise in Rhode Island Trends and Impacts Fact Sheet  
<[http://seagrant.gso.uri.edu/wp-content/uploads/2014/05/climate\\_slr\\_trends.pdf](http://seagrant.gso.uri.edu/wp-content/uploads/2014/05/climate_slr_trends.pdf)>

- All plantings should be native and should be resistant to exposure, wind, and possible saltwater flooding. No invasive species may be planted or released on the property.

### **Recreation**

The site has high recreation potential as a waterfront community park and should be managed with this goal in mind.

- After closing of the conservation easement and transfer of ownership to the Town of Portsmouth, the site will go through a park planning process that involves community engagement and input. The Town of Portsmouth will make best efforts to open the future park to the public within 12 months of ownership and no later than 18 months.
- Prior to opening of the park to the public, all necessary public safety renovations and repairs must be made to the site firstly. Following safety improvements, aesthetic and functional recreational infrastructure or improvements as allowed in the conservation easement should occur. Improvements to the site include, but are not limited to:
  - Repair and reconstruction of the current sea wall or rip-rap as needed to ensure safety
  - Repair, renovation, or demolition of the two outbuildings (garage and pumphouse) on the property in their current footprint
  - Repair, reconstruction, or closing of the existing dock as needed for safety compliance
  - Repair or replacement of the existing chainlink fence. Addition of any other fencing as needed for safety or boundary marking.
  - Removal of the large pile of rubble on the Premises, removal of the existing concrete blocks on the Premises, and removal of any other debris and trash
  - Addition of nearby pervious parking infrastructure as allowed in the conservation easement
  - Excavation of fill or unnecessary infrastructure such as the concrete pads on the property. Addition of topsoil and grass as necessary.
  - Landscaping as necessary using native and non-invasive plants to better aesthetics and provide habitat
  - Improvements to mitigate possible flooding from storms such as the addition of green infrastructure like rain gardens
- All park design plans should be made with the input of the community, the Town of Portsmouth, and the Aquidneck Land Trust.
- A new Management Plan will be developed prior to or shortly after completion of the proposed park. This Management Plan will serve as a plan for future maintenance and management of the park and should be reviewed and updated as needed.
- Park infrastructure such as benches, interpretative signage documenting the site's history, docks, boat ramps/launches, and paths are encouraged, provided they are considered as part of a park planning process that includes community involvement and are within the terms established by the conservation easement.
- Signage, boundary markers, fences, or other means should be installed to prevent trespassing of park visitors onto neighboring properties. Fencing should be a style that does not detract from the scenic value of the Premises.

**Scenic**

The future park should be designed to maintain scenic value both on site and from other vantage points such as Mount Hope Park and Mount Hope Bay itself.

**Historic**

The site has a rich history. Interpretive signage of the history of the site or of wildlife in Mount Hope and Narragansett Bays is encouraged.

*\*This Management Plan is subject to Paragraph 1 and all other applicable provisions of the Conservation Easement.*