

Declaration of Environmental Land Use Restriction and Grant of Easement
560 Newhall Street, Hamden, CT

After Recording Return to:

Environmental Land Use Restriction Coordinator
State of Connecticut Department of Energy and Environmental Protection
Remediation Division
Bureau of Water Protection and Land Reuse
79 Elm Street
Hartford, CT 06106

DECLARATION OF ENVIRONMENTAL LAND USE RESTRICTION
AND GRANT OF EASEMENT

This Declaration of Environmental land use restriction and Grant of Easement is made this ____ day of _____, 20____, between Town of Hamden (the "Grantor") and the Commissioner of Energy and Environmental Protection of the State of Connecticut (the "Grantee").

W I T N E S S E T H:

WHEREAS, Grantor is the owner in fee simple of certain real property (the "Property") described below:

Street address: 560 Newhall Street
City/Town: Hamden
State: Connecticut
Assessor's Map: 2126 Block: 058 Lot: 00 and/or Assessors' Account Number: NA
Volume and Page of Deed: Vol. 341, Page 147

A description of the property is attached hereto as Exhibit A, and which is made a part hereof; and

WHEREAS, the Grantee has the authority to enter into this declaration of environmental land use restriction pursuant to sections 22a-5, 22a-6, and 22a-133o *et seq.* of the General Statutes; and

Instructions - Select one of the two choices below by checking the applicable check box.

If the Commissioner of Energy and Environmental Protection signs the environmental land use restriction:

WHEREAS, the Grantee has determined that the environmental land use restriction set forth below is consistent with regulations adopted pursuant to section 22a-133k of the General Statutes; and

WHEREAS, the Grantee has determined that this environmental land use restriction will effectively protect human health and the environment from the hazards of pollution; and

WHEREAS, the Grantee's written approval of this environmental land use restriction is contained in the document attached hereto as Exhibit B (the Decision Document) which is made a part hereof; and

If a Licensed Environmental Professional signs the environmental land use restriction pursuant to section 22a-133y of the General Statutes:

WHEREAS, remediation of the property has been conducted in accordance with section 22a-133y of the General Statutes; and

WHEREAS, the Licensed Environmental Professional whose signature appears below has determined that the environmental land use restriction set forth below is consistent with regulations adopted by the Commissioner of Energy and Environmental Protection pursuant to section 22a-133k of the General Statutes; and

WHEREAS, the Licensed Environmental Professional whose signature appears below has determined that this environmental land use restriction will effectively protect human health and the environment from the hazards of pollution; and

WHEREAS, the Grantee's written approval of this environmental land use restriction is contained in the document attached hereto as Exhibit B (the Decision Document) which is made a part hereof; and

WHEREAS, the property or portion thereof identified in the class A-2 survey (the "Subject Area") which survey is attached hereto as Exhibit C which is made a part hereof, contains pollutants; and

WHEREAS, to prevent exposure to or migration of such pollutants and to abate hazards to human health and the environment, and in accordance with the Decision Document, the Grantor desires to impose certain restrictions upon the use, occupancy, and activities of and at the Subject Area, and to grant this environmental land use restriction to the Grantee on the terms and conditions set forth below; and

WHEREAS, Grantor intends that such restrictions shall run with the land and be binding upon and enforceable against Grantor and Grantor's successors and assigns;

NOW, THEREFORE, Grantor agrees as follows:

1. Purpose. In accordance with the Decision Document, the purpose of this environmental land use restriction is to assure that the use and activity at the property and the Subject Area is restricted in accordance with the requirements of the Decision Document attached hereto as Exhibit B.
2. Restrictions Applicable to the Subject Area: In furtherance of the purposes of this environmental land use restriction, Grantor shall assure that use, occupancy, and activity of and at the Subject Area are restricted in accordance with the requirements of the Decision Document, attached hereto as Exhibit B. Such restrictions shall remain in effect unless and until a release is obtained under paragraph 5 below.
3. Except as provided in Paragraph 4 below, no action shall be taken, allowed, suffered, or omitted if such action or omission is reasonably likely to:
 - i. Create a risk of migration of pollutants or a potential hazard to human health or the environment; or
 - ii. Result in a disturbance of the structural integrity of any engineering controls designed or utilized at the Property to contain pollutants or limit human exposure to pollutants.
4. Emergencies. In the event of an emergency which presents a significant risk to human health or the environment, the application of Paragraphs 2 and 3 above may be suspended, provided such risk cannot be abated without suspending said Paragraphs and the Grantor:
 - i. Immediately notifies the Grantee of the emergency;
 - ii. Limits both the extent and duration of the suspension to the minimum reasonably necessary to adequately respond to the emergency;
 - iii. Implements all measures necessary to limit actual and potential present and future risk to human health and the environment resulting from such suspension; and
 - iv. After the emergency is abated, implements a plan approved in writing by the Grantee, on a schedule approved by the Grantee, to ensure that the Subject Area is remediated in accordance with R.C.S.A. sections 22a-133k-1 through 22a-133k-3, inclusive, or restored to its condition prior to such emergency.

5. Release of Restriction; Alterations of the Subject Area. Grantor shall not make, or allow or suffer to be made, any alteration of any kind in, to, or about any portion of the Subject Area inconsistent with this environmental land use restriction until a release has been approved by the Commissioner and such release is either recorded on the land records in the municipality where such parcel is located or the requirement to record such a release is waived by the Commissioner pursuant to section 22a-133o of the General Statutes. The Grantee shall not approve any permanent release of the Property from the provisions of this environmental land use restriction unless the Grantor demonstrates to the Grantee's satisfaction that Grantor has remediated the Subject Area in accordance with R.C.S.A. sections 22a-133k-1 through 22a-133k-3, inclusive.

6. Grant of Easement to the Grantee. Grantor hereby grants and conveys to the Grantee, the Grantee's agents, contractors, and employees, and to any person performing pollution remediation activities under the direction thereof, a non-exclusive easement (the "Easement") over the Subject Area and over such other parts of the Property as are necessary for access to the Subject Area or for carrying out any actions to abate a threat to human health or the environment associated with the Subject Area. Pursuant to this Easement, the Grantee, the Grantee's agents, contractors, and employees, and any person performing pollution remediation activities under the direction thereof, may enter upon and inspect the Property and perform such investigations and actions as the Grantee deems necessary for any one or more of the following purposes:

- i. Ensuring that use, occupancy, and activities of and at the Property are consistent with this environmental land use restriction;
- ii. Ensuring that any remediation implemented complies with R.C.S.A. sections 22a-133k-1 through 22a-133k-3, inclusive;
- iii. Performing any additional investigations or remediation necessary to protect human health and the environment;
- iv. Ensuring the structural integrity of any engineering controls described in Exhibit B of this environmental land use restriction and Grant of Easement and their continuing effectiveness in containing pollutants and limiting human exposure to pollutants.

7. Notice and Time of Entry onto Property. Entry onto the Property by the Grantee pursuant to this Easement shall be upon reasonable notice and at reasonable times, provided that entry shall not be subject to these limitations if the Grantee determines that immediate entry is necessary to protect human health or the environment.

8. Notice to Lessees and Other Holders of Interests in the Property. Grantor, or any future holder of any interest in the property, shall cause any lease, grant, or other transfer of any interest in the Property to include a provision expressly requiring the lessee, grantee, or transferee to comply with this environmental land use restriction and Grant of Easement. The failure to include such provision shall not affect the validity or applicability to the Property of this environmental land use restriction and Grant of Easement.

9. Persons Entitled to Enforce Restrictions. The restrictions in this environmental land use restriction on use, occupancy, and activity of and at the Property shall be enforceable in accordance with section 22a-133p of the General Statutes.

10. Severability and Termination. If any court of competent jurisdiction determines that any provision of this environmental land use restriction or Grant of Easement is invalid or unenforceable, such provision shall be deemed to have been modified automatically to conform to the requirements for validity

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and enforceability as determined by such court. In the event that the provision invalidated is of such nature that it cannot be so modified, the provision shall be deemed deleted from this instrument as though it had never been included herein. In either case, the remaining provisions of this instrument shall remain in full force and effect. Further, in either case, the Grantor shall submit a copy of this restriction and of the Judgment of the Court to the Grantee in accordance with R.C.S.A. section 22a-133q-1(1). This environmental land use restriction shall be terminated if the Grantee provides notification pursuant to R.C.S.A. section 22a-133q-1(l).

11. **Binding Effect.** All of the terms, covenants and conditions of this environmental land use restriction and grant of easement shall run with the land and shall be binding on the Grantor, the Grantor's successors and assigns, and each owner and any other party entitled to possession or use of the Property during such period of ownership or possession.

12. **Terms Used Herein.** The definitions of terms used herein shall be the same as the definitions contained in sections 22a-133k-1 and 22a-133q-1 of the Regulations of Connecticut State Agencies as such sections existed on the date of execution of this environmental land use restriction.

Signature Page Follows

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In witness whereof, the undersigned has/have executed this Environmental Land Use Restriction this ____
day of _____, 20____.

Witnessed by:

Town of Hamden

Printed/Typed Name Witness 1:

By: _____
Curt Leng
Its duly authorized Mayor

Printed/Typed Name Witness 2:

Mailing Address:

Street Address: 2750 Dixwell Avenue

City/Town: Hamden

State and Zip Code: Connecticut 06518

Instructions Notarization Language for Grantor Acknowledgement - select appropriate notarization language from one of the choices below by checking the applicable check box and providing the information required.

If the Grantor is an individual:

State of _____
County of _____

On this _____ Day day of _____ Month, _____ Year before me, _____ Name of Notary Public or Commissioner of the Superior Court the undersigned officer, personally appeared _____ Name of Individual or Individuals, known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

Notary Public or Commissioner of the Superior Court
Date Commission Expires _____ Date

OR

If the Grantor is a Corporation:

State of _____
County of _____

On this _____ Day day of _____ Month, _____ Year before me, _____ Name of Notary Public or Commissioner of the Superior Court, the undersigned officer, personally appeared _____ Name of Officer, who acknowledged himself /herself to be the _____ Title of Officer of _____ Name of Corporation, a corporation, and that he/she, as such _____ Title of Officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as _____ Title of Officer.

In witness whereof I hereunto set my hand.

Notary Public or Commissioner of the Superior Court
Date Commission Expires _____ Date

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OR

If the Grantor is a Limited Liability Company:

State of _____
County of _____

On this _____ day of _____, _____, before me, _____, Name of Notary Public or Commissioner of the Superior Court, the undersigned officer, personally appeared _____, Name of Officer, who acknowledged himself/herself to be the _____, Title of Officer of _____, Name of Limited Liability Company, a (member managed or manager managed) limited liability company, and that he/she, as such _____, Title of Officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself/herself as _____, Title of Officer.

In witness whereof I hereunto set my hand.

Notary Public or Commissioner of the Superior Court
Date Commission Expires _____

OR

If the Grantor is any other type of entity, provide appropriate language for the Grantor Entity below:

State of _____
County of _____

On this _____ day of _____, 20____ before me _____, the undersigned officer, personally appeared Curt Leng, who acknowledged himself to be the Mayor of the Town of Hamden, a municipality, and that he, as such Mayor, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the agency by himself as Mayor.

In witness whereof I hereunto set my hand.

Date Commission Expires:

Instructions Grantee Signature Block - Select one of the two choices below, as applicable;

This choice is used for all environmental land use restrictions except those approved pursuant to section 22a-133y of the General Statutes.

Grantee: The Grantee, the Commissioner of Energy and Environmental Protection or by the Commissioner's duly designated agent, Graham J. Stevens, Bureau Chief.

By: _____

Date:

Name: Graham J. Stevens

Its Duly Authorized: Bureau Chief

Mailing Address:

Bureau of Water Protection and Land Reuse

Connecticut Department of Energy and Environmental Protection

Street Address: 79 Elm Street

City/Town: Hartford

State and Zip Code: Connecticut 06106

This choice is used solely for environmental land use restrictions approved pursuant to section 22a-133y of the General Statutes.

Grantee: The Grantee, the Commissioner of Energy and Environmental Protection, by the undersigned Licensed Environmental Professional authorized as a duly designated agent pursuant to section 22a-133y of the Connecticut General Statutes.

Licensed Environmental Professional as Duly Authorized Agent for Grantee, the Commissioner of Energy and Environmental Protection:

By: _____

Date:

Name: Printed/Typed Name of Licensed Environmental Professional

Its Duly Authorized Agent: Licensed Environmental Professional authorized pursuant to section 22a-133y of the Connecticut General Statutes

Grantee Mailing Address:

Bureau of Water Protection and Land Reuse

Connecticut Department of Energy and Environmental Protection

Street Address: 79 Elm Street

City/Town: Hartford

State and Zip Code: Connecticut 06106

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Information for Duly Authorized Agent for Grantee (Licensed Environmental Professional):

Name: Name of Licensed Environmental Professional
License Number License Number
Title, if applicable Title
Company, if applicable Name of Company

Mailing Address:
Street Address: Street Address
City/Town, State, Zip Code: City/Town, State, and Zip Code

Witnesses:

Signature

Printed/typed name

Signature

Printed/typed name

Instructions Notarization Language for Duly Authorized Agent for Grantee (Licensed Environmental Professional):

State of _____
County of _____

On this Day day of Month, Year before me, Name of Notary Public or Commissioner of the Superior Court the undersigned officer, personally appeared Name of Individual or Individuals, known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

Notary Public or Commissioner of the Superior Court
Date Commission Expires Date

Exhibit A. Property Description (Metes and Bounds)

Former Hamden Middle School
Town of Hamden
560 Newhall Street
Hamden, CT

The Property Description (Metes and Bounds) is as follows:

ALL THAT CERTAIN PIECE OR PARCEL OF LAND SITUATED IN THE TOWN OF HAMDEN, COUNTY OF NEW HAVEN, AND STATE OF CONNECTICUT AND BEING MORE PARTICULARLY BOUND AND DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN ON THE SOUTHWESTERLY STREET LINE OF NEWHALL STREET BEING AT THE NORTHEAST CORNER OF LAND NOW OR FORMERLY HAMDEN ECONOMIC CORPORATION AND THE SOUTHEAST CORNER OF THE PARCEL HEREIN DESCRIBE;

THENCE RUNNING ALONG SAID LAND OF HAMDEN ECONOMIC CORPORATION THE FOLLOWING SIX (6) COURSES AND DISTANCES: NORTH 80°00'34" WEST A DISTANCE OF 99.67 FEET TO A MAGNETIC NAIL, SOUTH 54°48'55" WEST A DISTANCE OF 144.96' TO AN IRON PIN, NORTH 56°43'04" WEST A DISTANCE OF 105.73 FEET TO AN IRON PIN, NORTH 11°45'29" EAST A DISTANCE OF 94.11' TO AN IRON PIN, NORTH 80°08'28" WEST A DISTANCE OF 139.73' TO AN IRON PIN, SOUTH 09°51'32" WEST A DISTANCE OF 194.65' TO AN IRON PIN;

THENCE RUNNING ALONG PARCELS DEPICTED ON A MAP ENTITLED "MAP OF 74 BUILDING LOTS SITUATED IN TOWN OF HAMDEN, CONN. OWNED BY THE FEDERAL REALTY CO" RECORDED WITH HAMDEN TOWN LAND RECORDS AS MAP NO. 199: NORTH 80°08'28" WEST A DISTANCE OF 809.91 FEET TO A POINT ALONG LAND NOW OR FORMERLY SOUTHERN NEW ENGLAND TELEPHONE COMPANY;

THENCE RUNNING ALONG SAID LAND OF SOUTHERN NEW ENGLAND TELEPHONE COMPANY THE FOLLOWING THREE (3) COURSES AND DISTANCES: NORTH 05°48'28" WEST A DISTANCE OF 333.35 FEET TO A POINT, NORTH 22°28'32" EAST A DISTANCE OF 32.20 FEET TO A POINT, NORTH 10°01'28" WEST A DISTANCE OF 352.65 FEET TO A CONCRETE MONUMENT;

THENCE RUNNING ALONG LAND NOW OR FORMERLY ELIGIO FERRUCCI FAMILY, LLCA AND LAND NOW OR FORMERLY DEXSIL CORPORATION, IN PART BY EACH SOUTH 89°59'35" EAST A DISTANCE OF 325.58 FEET TO A POINT;

THENCE RUNNING ALONG LAND NOW OR FORMERLY SAID DEXSIL CORPORATION, LAND NOW OR FORMERLY SM ASSOCIATES, LLC, AND LAND NOW OR FORMERLY ANNETTE HOLLANDER, LLC, IN PART BY EACH SOUTH 83°07'28" EAST A DISTANCE OF 456.85 FEET TO A POINT,

THENCE RUNNING ALONG LAND OF SAID ANNETTE HOLLANDER, LLC NORTH 13°50'32" EAST A DISTANCE OF 5.70 FEET TO AN IRON PIN,

THENCE RUNNING ALONG LAND NOW OR FORMERLY SOUTH CENTRAL CONNECTICUT REGIONAL WATER AUTHORITY AND THE SOUTHERLY LINE OF MILL ROCK ROAD, IN PART BY EACH SOUTH 81°30'28" EAST A DISTANCE OF 569.91 FEET TO A POINT ALONG THE WESTERLY STREET LINE OF NEWHALL STREET;

THENCE RUNNING ALONG SAID STREET LINE SOUTH 0°36'32" WEST A DISTANCE OF 630.08 FEET TO AN IRON PIN AND THE POINT AND PLACE OF BEGINNING.

SAID PARCEL CONTAINING 21.25 ACRES OR 925,577 SQUARE FEET.

Exhibit B. Decision Document Overview

Property/Facility Name ("Property"): Former Hamden Middle School

Grantor Legal Name: Town of Hamden

Address: 560 Newhall Street

City/Town: Hamden

The purpose of this Decision Document is to describe:

1. The type and location of substances present in soil, groundwater or soil vapor on or underlying the Property or portion thereof ("Subject Area") which is the subject of the Environmental Land Use Restriction (ELUR);
2. The provisions of the ELUR and why such restrictions or limitations on the use of the Property or portion thereof are necessary to adequately protect human health and the environment; and
3. Description of the reason for the ELUR, including an explanation why such restriction is consistent with Sections 22a-133k-1 through 22a-133k-3, inclusive, of the Regulations of Connecticut State Agencies (RCSA).

This Decision Document consists of the following restriction(s), for which the applicable individual Restriction Forms are attached:

Restriction <i>(Check box(es) that apply; enter Subject Area(s) designation.)</i>	Subject Area(s)
<input type="checkbox"/> <u>Residential Activity Restriction - Soil</u>	
<input type="checkbox"/> <u>Residential Activity Restriction – Soil (PCBs)</u>	
<input checked="" type="checkbox"/> <u>Exposure of Inaccessible Soil Restriction</u>	A, B, C
<input type="checkbox"/> <u>Exposure of Environmentally Isolated Soil to Infiltration of Water Restriction</u>	
<input type="checkbox"/> <u>Disturbance of Engineered Control and Polluted Soil Restriction</u>	
<input type="checkbox"/> <u>Residential Activity Restriction - Groundwater</u>	
<input type="checkbox"/> <u>Residential Activity Restriction – Soil Vapor</u>	
<input checked="" type="checkbox"/> <u>Building Construction Restriction</u>	D
<input type="checkbox"/> <u>Groundwater Use Restriction</u>	

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Public Notice of Grantor's Intent to Record an Environmental Land Use Restriction

(Check box that applies.)

Public Notice is not Required for **Residential Activity Restriction ELUR**

In accordance with Section 22a-133q-1(c)(2) of the RCSA, Public Notice need not be published if the proposed ELUR provides solely that the use of the subject Property, or portion thereof is restricted to industrial or commercial activities and the municipal zoning already limits the Property to such use.

or

Public Notice is Required for Proposed ELUR

(Enter information as requested.)

Date Published: 8/10/2020

Name of Newspaper: New Haven Register

and

(Check box that applies.)

No public comments were received.

or

A summary of all written public comments that were received within thirty (30) days after the date of publication of the Public Notice and a brief response to each comment is provided below:

NA.

Approval of this Decision Document is hereby granted.

GRANTEE: The Grantee, the Commissioner of the Department of Energy and Environmental Protection or by the Commissioner's duly designated agent, Graham J. Stevens, Bureau Chief, Bureau of Water Protection and Land Reuse.

Date

Graham J. Stevens, Bureau Chief
Bureau of Water Protection and Land Reuse
Connecticut Department of Energy and Environmental Protection

Exhibit B. Decision Document

Exposure of Inaccessible Soil Restriction Form

In accordance with Section 22a-133k-2(b)(3) of the Regulations of Connecticut State Agencies (RCSA) **the Direct Exposure Criteria for substances other than polychlorinated biphenyls (PCBs) do not apply to inaccessible soil** at a release area provided that if such inaccessible soil is less than fifteen (15) feet below the ground surface an Environmental Land Use Restriction is in effect with respect to the subject Property or portion of such Property containing such release area, which ensures that such soils will not be exposed as a result of excavation, demolition or other activities and that any pavement which is necessary to render such soil inaccessible is maintained in good condition.¹

In accordance with Section 22a-133k-2(b)(3) of the RCSA **inaccessible soil containing PCBs** (as indicated below) may be left in place at a release area provided that if such inaccessible soil is less than (15) feet below the ground surface an Environmental Land Use Restriction is in effect with respect to the subject Property or portion of such Property containing such release area, which ensures that such soils will not be exposed as a result of excavation, demolition or other activities and that any pavement which is necessary to render such soil inaccessible is maintained in good condition.

For inaccessible soil polluted with PCBs, the following Direct Exposure Criteria apply:

- An alternative criterion, as approved in accordance with Section 22a-133k-2(d)(7); or
- Ten (10) ppm PCBs by weight; or
- Twenty-five (25) ppm PCBs by weight if such inaccessible soil is located on a Property which is an other restricted access location, as defined in 40 Code of Federal Regulations Part 761.123 (40 CFR 761.123); or
- Twenty-five (25) ppm PCBs by weight if such inaccessible soil is located on a Property which is an outdoor electrical substation, as defined in 40 CFR 761.123; or
- Fifty (50) ppm PCBs by weight if such inaccessible soil is located on a Property which is an outdoor electrical substation, as defined in 40 CFR 761.123, and a label or notice is visibly placed in the area in accordance with 40 CFR Part 761.

Purpose:

The purpose of this Environmental Land Use Restriction (ELUR) is to ensure that polluted soil that is inaccessible (as defined in RCSA Section 22a-133k-1(32)) at the Subject Area(s) ("Subject Area") designated below will not be exposed as a result of excavation, demolition or other activities and that any pavement which is necessary to render such soil inaccessible is maintained in good condition.

Check the applicable box(es) to identify the Property-specific approach(es) taken to render the polluted soil inaccessible pursuant to RCSA Section 22a-133k-1(32), or "NA" (not applicable), as follows:

¹ For a complete description of the rationale for the restriction, see the referenced regulatory citation.

Pursuant to RCSA Section 22a-133k-1(32):

The inaccessible soil is polluted soil which is more than four (4) feet below the ground surface.

or

NA

Restrictions Applicable to the Subject Area:

The Grantor shall ensure that use, occupancy, and activity of and at the Subject Area (as depicted on Exhibit C – Class A-2 Survey) are restricted as follows:

(Check box(es) for Option A and Option B, as applicable; enter Subject Area(s) designation.)

Option A – No Disturbance or **NA**
(Check applicable boxes.)

The polluted soil rendered inaccessible at Subject Area [redacted] will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited below the ground surface (“No Disturbance”).

and

The ground surface at Subject Area [redacted] will be repaired when necessary to maintain the elevation and topography that existed prior to any disturbance caused by natural occurrences (such as erosion and frost heaves).

Option B – Allowable Limited Disturbance or **NA**
(Check applicable boxes.)

The polluted soil rendered inaccessible at **Subject Area A** is at a depth of **4 (feet)** below the ground surface and will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited at depths greater than **3 (feet)**, and **such disturbance is limited to purpose of landscaping activities such as planting of shrubs and trees or installation/repair of utilities** below the ground surface (“Allowable Limited Disturbance”).

and

The ground surface at **Subject Area A** will be repaired when necessary to maintain the elevation and topography that existed prior to any Allowable Limited Disturbance or any disturbances by natural occurrences (such as erosion and frost heaves).

and/or

Pursuant to RCSA Section 22a-133k-1(32):

The inaccessible soil is polluted soil which is more than two (2) feet below a paved surface comprised of a minimum of three (3) inches of bituminous concrete or concrete, which two (2) feet may include the depth of any material used as sub-base for the pavement.

or

NA

Restrictions Applicable to the Subject Area:

The Grantor shall ensure that use, occupancy, and activity of and at the Subject Area (as depicted on Exhibit C – Class A-2 Survey) are restricted as follows:

(Check box(es) for Option A and Option B, as applicable; enter Subject Area(s) designation.)

Option A – No Disturbance or NA
(Check all boxes.)

The polluted soil rendered inaccessible at **Subject Area B** will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited below the paved surface (“No Disturbance”).

and

The pavement at **Subject Area B** will be maintained in good condition in accordance with the maintenance and monitoring plan specified below.

Title and Date: Pavement Monitoring and Maintenance Plan, 560 Newhall Street, Hamden, CT dated August 2020

and, in addition

The maintenance and monitoring plan includes provisions to repair the pavement at the Subject Area when necessary to maintain the elevation and topography that existed prior to any disturbance caused by natural occurrences (such as erosion and frost heaves).

Option B – Allowable Limited Disturbance or NA
(Check all boxes.)

The polluted soil rendered inaccessible at Subject Area [redacted] is at a depth of insert depth (feet) below a paved surface and will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited at depths greater than insert depth of allowable disturbance (feet), see instructions for acceptable depths below the paved surface (“Allowable Limited Disturbance”).

and

The pavement at Subject Area [redacted] will be maintained in good condition in accordance with the maintenance and monitoring plan specified below.

Title and Date: [redacted]

and, in addition

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- The maintenance and monitoring plan includes provisions to repair the pavement at the Subject Area when necessary to maintain the elevation and topography that existed prior to any Allowable Limited Disturbance or any disturbance by natural occurrences (such as erosion and frost heaves).

and/or

Pursuant to RCSA Section 22a-133k-1(32):

- The inaccessible soil is polluted soil which is polluted fill beneath a bituminous concrete or concrete surface comprised of a minimum of three (3) inches of bituminous concrete or concrete if such fill is (i) polluted in excess of applicable Direct Exposure Criteria only by semi-volatile substances or petroleum hydrocarbons that are normal constituents of bituminous concrete, (ii) polluted by metals in concentrations not in excess of two (2) times the applicable Direct Exposure Criteria, or (iii) any combination of the substances or limits identified in clause (i) or (ii).**

or

- NA

Restrictions Applicable to the Subject Area:

The Grantor shall ensure that use, occupancy, and activity of and at the Subject Area (as depicted on Exhibit C – Class A-2 Survey) are restricted as follows:

(Check box(es) for Option A and Option B, as applicable; enter Subject Area(s) designation.)

- Option A – No Disturbance** or NA
(Check all boxes.)

- The polluted soil rendered inaccessible at **Subject Area B** will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited below the paved surface (“No Disturbance”).

and

- The pavement at **Subject Area B** will be maintained in good condition in accordance with the maintenance and monitoring plan specified below.

Title and Date: Pavement Monitoring and Maintenance Plan, 560 Newhall Street, Hamden, CT dated August 2020

and, in addition

- The maintenance and monitoring plan includes provisions to repair the pavement at the Subject Area when necessary to maintain the elevation and topography that existed prior to any disturbance caused by natural occurrences (such as erosion and frost heaves).

- Option B – Allowable Limited Disturbance** or NA
(Check all boxes.)

- The polluted soil rendered inaccessible at Subject Area [redacted] is at a depth of insert depth (feet) below a paved surface and will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited at depths greater than insert depth of allowable disturbance (feet), see instructions for acceptable depths below the paved surface (“Allowable Limited Disturbance”).

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and

- The pavement at Subject Area [redacted] will be maintained in good condition in accordance with the maintenance and monitoring plan specified below.

Title and Date: [redacted]

and, in addition

- The maintenance and monitoring plan includes provisions to repair the pavement at the Subject Area when necessary to maintain the elevation and topography that existed prior to any Allowable Limited Disturbance or any disturbance by natural occurrences (such as erosion and frost heaves)

and/or

Pursuant to RCSA Section 22a-133k-1(32):

- The inaccessible soil is polluted soil which is beneath an existing building.**

or

- NA**

Restrictions Applicable to the Subject Area:

The Grantor shall ensure that use, occupancy, and activity of and at the Subject Area (as depicted on Exhibit C – Class A-2 Survey) are restricted as follows:

(Check box(es) for Option A and Option B, as applicable; enter Subject Area(s) designation.)

- Option A – No Disturbance** or **NA**
(Check applicable boxes.)

- The polluted soil rendered inaccessible at **Subject Area C** will not be exposed as a result of excavation, demolition or other activities in accordance with RCSA Section 22a-133k-2(b)(3). The concrete building slab or foundation shall not be disturbed in any manner by activities such as demolition, excavation or other intrusive activities (“No Disturbance”).

and

- The concrete building slab or foundation at **Subject Area C** will be repaired when necessary to maintain the conditions that existed prior to any disturbance caused by natural occurrences.

and, in addition

(Check box that applies.)

- Demolition of the **building at the Subject Area** is not permitted.

or

- Demolition of the **entire building** (including portions outside the Subject Area) is not permitted.

- Option B – Allowable Limited Disturbance** or **NA**
(Check applicable boxes.)

- The polluted soil rendered inaccessible at Subject Area [redacted] is at a depth of insert depth (feet) beneath the concrete building slab or foundation and will not be exposed as a result of excavation, demolition or other activities in accordance with RCSA Section 22a-133k-2(b)(3).

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Excavation, demolition or other activities are prohibited at depths greater than insert depth of allowable disturbance (feet), see instructions for acceptable depths beneath the concrete building slab or foundation ("Allowable Limited Disturbance").

and

The concrete building slab or foundation at Subject Area [redacted] will be repaired when necessary to maintain the conditions that existed prior to any Allowable Limited Disturbance or any disturbance by natural occurrences.

and, in addition

(Check box that applies.)

Demolition of the **building at the Subject Area** is not permitted.

or

Demolition of the **entire building** (including portions outside the Subject Area) is not permitted.

and/or

Pursuant to RCSA Section 22a-133k-1(32):

The inaccessible soil is polluted soil which is beneath an existing permanent structure provided written notice that such structure will be used to prevent human contact with such soil has been provided to the Commissioner.

Description of permanent structure: [redacted]
Date of notice submitted to Commissioner for use of permanent structure: [redacted]

or

NA

Restrictions Applicable to the Subject Area:

The Grantor shall ensure that use, occupancy, and activity of and at the Subject Area (as depicted on Exhibit C – Class A-2 Survey) are restricted as follows:

(Check box(es) for Option A and Option B as applicable; enter Subject Area(s) designation.)

Option A – No Disturbance or **NA**
(Check applicable boxes.)

The polluted soil rendered inaccessible at Subject Area [redacted] will not be exposed as a result of excavation, demolition or other activities in accordance with RCSA Section 22a-133k-2(b)(3). The permanent structure shall not be disturbed in any manner by activities such as demolition, excavation or other intrusive activities ("No Disturbance").

and

The permanent structure at Subject Area [redacted] will be repaired when necessary to maintain the conditions that existed prior to any disturbance caused by natural occurrences.

and, in addition

(Check box that applies.)

Demolition of the **permanent structure at the Subject Area** is not permitted.

or

Demolition of the **entire permanent structure** (including portions outside the Subject Area) is not permitted.

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Option B – Allowable Limited Disturbance or **NA**
(Check applicable boxes.)

- The polluted soil rendered inaccessible at Subject Area [redacted] is at a depth of insert depth (feet) beneath the permanent structure and will not be exposed as a result of excavation, demolition or other activities in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited at depths greater than insert depth of allowable disturbance (feet), see instructions for acceptable depths beneath the permanent structure (“Allowable Limited Disturbance”).

and

- The permanent structure at Subject Area [redacted] will be repaired when necessary to maintain the conditions that existed prior to any Allowable Limited Disturbance or any disturbance by natural occurrences.

and, in addition

(Check box that applies)

- Demolition of the **permanent structure at the Subject Area** is not permitted.

or

- Demolition of the **entire permanent structure** (including portions outside the Subject Area) is not permitted.

AND

Type and Location of Substances at Subject Area:

(At concentrations greater than the Direct Exposure Criteria for soil)

(Enter the type of substances, e.g., by substance name or category, at each Subject Area.)

Subject Area A contains polychlorinated biphenyls, vinyl chloride, extractable total petroleum hydrocarbons, benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, bis(2-ethylhexyl)phthalate, antimony, arsenic, barium, copper, lead and mercury.

Subject Area B and C contain extractable total petroleum hydrocarbons, benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, arsenic, barium, copper, lead and mercury.

Reasons Restriction or Limitation are Necessary to Adequately Protect Human Health and the Environment:

If humans were to come into contact with the substance(s) present in such polluted soil, these substance(s) may pose an unacceptable risk to human health.

Provided the soil is not exposed such that people may come in contact with it, such polluted soil does not pose an unacceptable risk to human health.

Restriction or Limitation is Consistent with the Remediation Standard Regulations (RSRs) Sections 22a-133k-1 through 22a-133k-3, inclusive, of the RCSA, as amended, and as follows:

(Check applicable boxes; enter Subject Area(s) designation.)

- The Direct Exposure Criteria for substances other than polychlorinated biphenyls (PCBs) do not apply to inaccessible soil (as defined in RCSA Section 22a-133k-1(32)) at **Subject Area A, B & C**.

and/or

- The Direct Exposure Criteria for PCBs applied to inaccessible soil (as defined in RCSA Section 22a-133k-1(32)) at **Subject Area A** are:

(Check applicable box(es).)

- An alternative criterion, as approved in accordance with Section 22a-133k-2(d)(7); or
- Ten (10) ppm PCBs by weight; or
- Twenty-five (25) ppm PCBs by weight if such inaccessible soil is located on a Property which is an other restricted access location, as defined in 40 Code of Federal Regulations Part 761.123 (40 CFR 761.123); or
- Twenty-five (25) ppm PCBs by weight if such inaccessible soil is located on a Property which is an outdoor electrical substation, as defined in 40 CFR 761.123; or
- Fifty (50) ppm PCBs by weight if such inaccessible soil is located on a Property which is an outdoor electrical substation, as defined in 40 CFR 761.123, and a label or notice is visibly placed in the area in accordance with 40 CFR Part 761.

and

- Such soils will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Exhibit B. Decision Document

Building Construction Restriction Form

In accordance with Section 22a-133k-3(c)(5)(A) of the Regulations of Connecticut State Agencies (RCSA), **the Volatilization Criteria do not apply to groundwater** polluted with volatile organic substances, where the water table is less than fifteen (15) feet below the ground surface, if no building exists over the groundwater polluted with volatile organic substances at a concentration above the applicable Volatilization Criteria, and it has been documented that best efforts have been made to ensure that each owner of any property or portion thereof overlying such polluted groundwater records an Environmental Land Use Restriction which ensures that no building is constructed over such polluted groundwater.¹

Purpose:

The purpose of this Environmental Land Use Restriction (ELUR) is to ensure that no building is constructed over groundwater at the Subject Area(s) ("Subject Area") designated below polluted with volatile organic substances in concentrations exceeding the Volatilization Criteria for groundwater, as defined in Section 22a-133k-1(75) of the Regulations of Connecticut State Agencies (RCSA).

Restrictions Applicable to the Subject Area:

The Grantor shall ensure that use, occupancy, and activity of and at the Subject Area (as depicted on Exhibit C – Class A-2 Survey) are restricted as follows:

(Check box.)

Construction of buildings at the Subject Area is not permitted in accordance with RCSA Section 22a-133k-3(c)(5)(A).

(Check box that applies; enter Subject Area(s) designation.)

Subject Area [] is the entire Property

or

Subject Area D is/are a portion, or portions thereof the Property

Type and Location of Substances at Subject Area:

(At concentrations greater than the Volatilization Criteria for groundwater)

(Enter the type of substances, e.g., by substance name or category, at each Subject Area.)

Vinyl Chloride is present in groundwater beneath Subject Area D.

¹ For a complete description of the rationale for the restriction, see the referenced regulatory citation.

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AND

Reasons Restriction or Limitation are Necessary to Adequately Protect Human Health and the Environment:

If buildings are constructed at the Subject Area, the volatilization of volatile organic substances from the polluted groundwater may pose an unacceptable risk to human health.

Such polluted groundwater does not pose an unacceptable risk to human health, provided that a building is not constructed at the Subject Area.

Restriction or Limitation is Consistent with the Remediation Standard Regulations (RSRs) Sections 22a-133k-1 through 22a-133k-3, inclusive, of the RCSA, as amended, and as follows:

(Check box; enter Subject Area(s) designation.)

Construction of buildings at **Subject Area D** is prohibited, in accordance with RCSA Section 22a-133k-3(c)(5)(A).

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Exhibit C. ELUR Class A-2 Survey

Place Holder