



DEPARTMENT OF THE NAVY

NAVAL FACILITIES ENGINEERING COMMAND
1322 PATTERSON AVENUE, SE, SUITE 1000
WASHINGTON NAVY YARD, DC 20374-5065

VIA FIRST-CLASS MAIL AND ELECTRONIC MAIL

Luly E. Massaro, Commission Clerk
State of Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, Rhode Island 02888

September 11, 2019

Re: DOCKET NO. 4933, IN RE: CITY OF NEWPORT, UTILITIES DEPARTMENT,
WATER DIVISION, APPLICATION TO CHANGE RATE SCHEDULES

Dear Ms. Massaro:

Enclosed for filing in the above-referenced matter, please find an original plus nine (9) copies of the Department of the Navy's Responses to the City of Newport, Utilities Department, Water Division's Third Set of Data Requests and Surrebuttal Testimony of Brian C. Collins.

Please note that an electronic copy of this document has been sent to the service list. Thank you for your assistance.

Very truly yours,

A handwritten signature in cursive script that reads "Kenneth M. Racette, Jr.".

Kenneth M. Racette, Jr., Esq.
Kelsey Harrer, Esq.
Department of the Navy
(202) 685-9118
Kenneth.Racette@navy.mil

cc: Service List for Docket No. 4933
Enclosures

CERTIFICATE OF SERVICE
RI PUC Docket No. 4933

I hereby certify on this 11th day of September, I mailed this Department of the Navy's Responses to the City of Newport, Utilities Department, Water Division's Third Set of Data Requests and Surrebuttal Testimony of Brian C. Collins, and nine (9) copies to the Rhode Island Public Utilities Commission. A true copy of the document was sent by electronic mail to the parties on the Service list, as of September 11, for Docket No. 4933.



Kenneth M. Racette Jr., Esq.
Department of the Navy

SERVICE LIST (11 SEPT 2019)

| Parties/Address | E-mail Distribution | Phone |
|--|--|--------------|
| Julia Fogue, Director of Public Works Newport Water Department 70 Halsey St. Newport, RI 02840 | jfogue@cityofnewport.com ; | 401-845-5601 |
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| | | |
|--|--|-----------------------|
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| Dr. Kay Davoodi, Director Larry Allen, Public Utilities Specialist Utilities Rates and Studies Office NAVFAC HQ, Department of the Navy 1322 Patterson Avenue SE Suite 1000 Washington Navy Yard, D.C. 20374 | Khojasteh.davoodi@navy.mil ; Larry.r.allen@navy.mil ; | |
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| Christopher P.N. Woodcock | Woodcock@w-a.com ; | 508-393-3337 |
| David Bebyn | dbebyn@gmail.com ; | |
| Town of Middletown (Middletown) Peter Regan, Esq. Mark Boivin, Esq. Sayer Regan & Thayer, LLP 130 Bellevue Ave. Newport, RI 02840 | Pregan@SRT-law.com ; mboivin@srt-law.com ; arichardson@srt-law.com ; | 401-849-3040 x-233 |

| | | |
|---|---|--|
| David Russell, P.E. Russell Consulting LLC | Davidrussell015@comcast.net; | |
|---|---|--|

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION**

**IN RE: CITY OF NEWPORT, UTILITIES DEPARTMENT, WATER DIVISION
APPLICATION TO CHANGE RATE SCHEDULES**

DOCKET NO: 4933

**THE UNITED STATES DEPARTMENT OF THE NAVY'S RESPONSES TO CITY OF
NEWPORT, UTILITIES DEPARTMENT, WATER DIVISION'S
THIRD SET OF DATA REQUESTS**

3-1: Regarding the Navy's response to the Town of Middletown's Data Request 1-1, the Navy states that it "estimates it will purchase 225,000 kgal from Newport Water each fiscal year for the next three fiscal years" (FY2020, FY2021 and FY2022):

- a. Please state all facts supporting the Navy's expectation that it will purchase 225,000 kgal from Newport Water in each of the next three fiscal years.
- b. Please provide a worksheet that shows how the Navy calculated its expected purchase of 225,000 kgal from Newport Water in each of the next three fiscal years and include all assumptions made in making the calculation.
- c. Please provide all documentation that supports the Navy's expectation that it will purchase 225,000 kgal from Newport Water in each of the next three fiscal years

Response:

Navy estimated 225,000 KGALs of purchased water in FY20 based on purchased water from FY18 (October 1, 2017-September 30, 2018). Navy purchased 223,299 KGALs of water in FY18. FY20 purchased water estimate of 225,000 KGALs was rounded up from FY18 purchased amount. Navy estimated 225,000 KGALs for FY21 and FY22 since no significant increases of water are expected.

Prepared by: James Carlson, Utilities Manager, Utility Manager, NAVFAC Mid-Lant Newport

3-2: Regarding the Navy's response to the Town of Middletown's Data Request 1-1, the Navy states that "Navy land owned by Melville Associates have been sold to WC Coastal Development." Please state the date of the closing and the date that title passed to WC Coastal Development.

Response:

A purchase and sales agreement was signed on September 26, 2018. Upon information and belief, title was obtained on October 29, 2018.

Prepared by: Cornelia Mueller, Community Planning Liaison Officer, NAVFAC Mid-Lant Newport

3-3: Regarding the Navy's response to the Town of Middletown's Data Request 1-1, the Navy states that "Melville Associates had submitted plans to permitting agencies for nearly 1,500 slips, 1,000 housing units and additional retail and commercial facilities."

- a. Please identify each permitting agency to which plans were submitted and identify the plan submitted to each agency.
- b. Please state whether any of plans submitted to permitting agencies were approved and identify the date the plan was submitted, a description of the plan that was approved, the approving agency and the date of approval.
- c. If any of the plans submitted to permitting agencies were not approved, please identify the date the plan was submitted, a description of the plan that was not approved, the agency to whom it was submitted and the date the plan was disapproved or rejected.

Response:

Navy has insufficient verifiable information to develop a response regarding the complete list of permitting agencies, any plans submitted to those agencies, or any actions by those agencies. Existing permits may be publicly available from RIDEM, CRMC, and the Town of Portsmouth. Navy is aware that a wave fence modification of CRMC (Coastal Resources Management Council) Assent 1990-08-029, for the property, was discussed at a Council meeting on June 11, 2019. The CRMC website contains documentation of CRMC meetings.

Prepared by: Cornelia Mueller, Community Planning Liaison Officer, NAVFAC Mid-Lant Newport

3-4: Regarding the Navy's response to the Town of Middletown's Data Request 1-1, the Navy states that "WC Coastal Development has not released a design for the site but it is expected that their intent will be similar to plans developed by J. Brian O'Neill for the Melville Associates property."

- a. Please identify in detail the plans developed by J. Brian O'Neill for the Melville Associates property.
- b. Please provide copies of the plans developed by J. Brian O'Neill for the Melville Associates property.
- c. Please state the basis upon which the Navy expects that WC Coastal Development's intent will be similar to plans developed by J. Brian O'Neill for the Melville Associates property.

Response:

Navy has a few drawings regarding the prior development concept in its possession; however, Navy does not believe they are relevant to the future proposed design and this rate case. Navy would need to check with the document originator in order to get their views on whether they consent to release of the drawings. Upon information and belief, the plans developed by Melville Associates are available at the permitting agencies identified in 3-3 above.

The best source of information regarding WC Coastal's current intent and proposed design is WC Coastal. Navy would propose that a meeting be set up with WC Coastal, Navy, and NWD to discuss these plans, issues and any questions that NWD has regarding current concept and project status.

Prepared by: Cornelia Mueller, Community Planning Liaison Officer, NAVFAC Mid-Lant Newport

3-5: Regarding the Navy's response to the Town of Middletown's Data Request 1-1, the Navy states that "Attorneys on behalf of WC Coastal Development have contacted Navy to execute a utility service agreement as outlined in the 1983 deed for the land. Under the agreement Navy would provide potable water and sewage."

- a. Please provide a copy of the proposed utility service agreement and provide an executed copy as soon as one is fully executed.
- b. Please provide a copy of the 1983 deed.
- c. Please confirm that the water the Navy would provide to WC Coastal Development would be water obtained from Newport Water.

- d. Please state whether the Navy needs to secure permits or approvals from any local, state or federal agencies or authorities to provide potable water and sewage to WC Coastal Development.
- e. Please state whether the Navy needs to secure permits or approvals from any local, state or federal agencies or authorities to provide potable water and sewage to WC Coastal Development and identify each permit or approval.
- f. For each permit or approval identified in subsection e., please state whether the Navy has secured the permit or approval, and if not, the timeline for obtaining each and every permit or approval.

Response:

- a. The draft agreement is under development. Navy proposes discussion of the potential future requirement with WC Coastal and NWD in a meeting.
- b. The deed is provided as Attachment Navy 3-5.b.
- c. Yes, the water Navy would provide to WC Coastal Development would be obtained from Newport Water.
- d. Navy has not determined that any special permits or approvals are required from any local, state or federal agencies or authorities to provide potable water to WC Coastal Development under the proposed utility services sales contract with WC Coastal. The Navy would, however, be available to discuss with NWD and WC Coastal any potential issues related to this potential future requirement, including whether NWD anticipates whether any specific permits or approvals are required. The Navy has yet to determine whether any wastewater permits will be required.
- e. See 3-5: d.
- f. See 3-5: d.

Prepared by: Cornelia Mueller, Community Planning Liaison Officer, NAVFAC Mid-Lant Newport and James Carlson, Utilities Manager, Utility Manager, NAVFAC Mid-Lant Newport

3-6: Regarding the Navy's response to the Town of Middletown's Data Request 1-1, the Navy states that potable water to be provided to WC Coastal Development "is estimated to be 86,500 gallons per day":

- a. Please state all facts and all assumptions upon which the Navy based its estimate.
- b. Please provide all documents that support the Navy's estimate.

- c. Please state whether the estimated 86,500 gallons per day is included in the Navy's expectation that it will purchase 225,000 kgal from Newport Water in each of the next three fiscal years.

Response:

- a & b: Upon further review, the 86,500 gallons per day is not an estimated quantity of potable water to be provided per day; rather, it is a proposed maximum quantity under the potential utility sales agreement between Navy and WC Coastal. As discussed above, Navy proposes a meeting with WC Coastal and NWD to discuss the potential future requirement, development of a realistic estimate and a time frame.
- c. The 86,500 gallons per day is not part of the Navy's 225,000 kgal estimate for the next three fiscal years.

3-7: Regarding the Navy's response to the Town of Middletown's Data Request 1-1, the Navy states that "However, along with environmental cleanup, State and Federal permits, and a potential phased construction approach that includes dredging the cove, Navy does not have the data necessary to estimate annual water demands for the proposed development. Navy can estimate that development may start in 2022 and could continue through 2032."

- a. Please identify all environmental cleanup that is needed for the site and include a timeline for the required clean up.
- b. Please identify all State and Federal permits needed for the site and include a timeline for approval of all necessary permits.

Response:

Navy does not have sufficient information to answer these two inquiries.

Prepared by: James Carlson, Utilities Manager, Utility Manager, NAVFAC Mid-Lant Newport and Cornelia Mueller, Community Planning Liaison Officer, NAVFAC Mid-Lant Newport

3:28 p.m.

1
DUPLICATE ORIGINAL

DEED

KNOW ALL MEN BY THESE PRESENTS: That the UNITED STATES OF AMERICA, acting by and through the ADMINISTRATOR OF GENERAL SERVICES, under and pursuant to the powers and authority contained in the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and the regulations and orders promulgated thereunder, for and in consideration paid to it in the sum of One Million One Hundred Thousand Dollars (\$1,100,000), does hereby remise, release, and forever quitclaim unto the Rhode Island Port Authority and Economic Development Corporation, a duly organized corporation and instrumentality of the State of Rhode Island and Providence Plantations, all its right, title and interest in and to the property described in Schedule A attached hereto and incorporated herein by reference together with all appurtenances and improvements thereto, subject to and with the benefit of the restrictions, easements and other matters set forth in Schedule B and Schedule C attached hereto and incorporated herein by reference, containing approximately 77.50. acres of land at the former Melville Training Center located in Portsmouth, Rhode Island.

TO HAVE AND TO HOLD the granted premises with all the privileges and appurtenances thereto belonging, to the said grantee and to its successors and assigns, to their own use and behoof forever.

This deed is executed and delivered to the said grantee, and to its successors and assigns, without any covenants whatsoever, either express or implied, except as set forth in the aforesaid Schedule B.

IN WITNESS WHEREOF, the UNITED STATES OF AMERICA, acting by and through the ADMINISTRATOR of GENERAL SERVICES, has caused these presents to be executed as a sealed instrument in its name and behalf this 19th day of September, 1983.

United States of America
Acting By and Through the
ADMINISTRATOR OF GENERAL SERVICES

By: Peter J. Thomas
Peter J. Thomas
Regional Administrator
General Services Administration
Region One, Boston, Massachusetts

WITNESSES:

Helen L. Badassarian
Patricia A. Carolo

10/11

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF SUFFOLK

In Suffolk on the 19th day of September, 1983, before me personally appeared Peter J. Thomas, the Regional Administrator of the General Services Administration, and he acknowledged said instrument by him executed to be his free act and deed and the free act and deed of the General Services Administration.

Peter J. Thomas
Notary Public

My Commission expires: *May 26, 1989*

By acceptance of the within deed, the Grantee agrees to the provisions of Schedule B and Schedule C attached hereto and incorporated herein by reference.

Rhode Island Port Authority and
Economic Development Corporation

By: *Virgil A. Nolan, Jr.*
Virgil A. Nolan, Jr.
Deputy Director of
Financial Services

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In Providence on the 19th day of September, 1983, before me personally appeared VIRGIL A. NOLAN, JR., the Deputy Director of Financial Services, and he acknowledged said instrument by him executed to be his free act and deed and the free act and deed of the Rhode Island Port Authority and Economic Development Corporation.

Thomas V. Moses
Notary Public *Thomas V. Moses*

My Commission Expires: June 30, 1986

Affix Raised Notarial Seal here

SCHEDULE A

PARCEL J-2-1
DESCRIPTION

A certain lot or parcel of land situated westerly of Stringham Road and easterly of the Defense Highway in the Town of Portsmouth, County of Newport and State of Rhode Island, said parcel being Parcel J-2-1 on a plan entitled: "Naval Education and Training Center, Newport, Rhode Island, Metes & Bounds, Excess Real Estate, Melville", NETC DWG. NO. 19654-203, prepared June 10, 1975, revised September 7, 1983, recorded herewith, which is bounded and more particularly described as follows:

Beginning at the most southeasterly corner of the herein described parcel at land, now or formerly of Herbert M. Chase and other land of this grantor;--

Thence N. 67° 03' 52" W., with said Chase land and other land now or formerly of this grantor, two hundred seventy and eighteen one hundredths (270.18) feet to the easterly side of the Defense Highway;--

Thence Northeasterly on a curved line having a radius of two thousand, six hundred seventy-five (2675.00) feet for a distance of four hundred thirty-five and thirty-two one hundredths (435.32) feet to the point of tangent;--

Thence N. 16° 03' 19" E., with the aforesaid Defense Highway, seven hundred fifty-six and fourteen one hundredths (756.14) feet;--

Thence southeasterly on a curved line having a radius of four hundred twenty-two and twenty-five one hundredths (422.25) feet for a distance of three and sixty-two one hundredths (3.62) feet;--

Thence S. 02° 11' 18" W. one thousand two hundred fifty-two and sixty-eight one hundredths (1252.68) feet to the point of beginning, the last two (2) lines bounded by other land now or formerly of this grantor;--

Containing four (4.00) acres, more or less.

PARCEL J-2-2
DESCRIPTION

A certain lot or parcel of land situated on the westerly side of the Defense Highway and easterly of the former Penn Central Railroad layout, now or formerly land of the State of Rhode Island Department of Transportation, in the Town of Portsmouth, County of Newport and State of Rhode Island, said parcel being Parcel J-2-2 on a plan entitled "Naval Education and Training Center, Newport, Rhode Island, Metes & Bounds, Excess Real Estate, Melville", NETC DWG. No. 19654-203, prepared June 10, 1975, revised September 7, 1983, recorded herewith, which is bounded and more particularly described as follows:

Beginning at the most southeasterly corner of the herein described parcel being the westerly side of the Defense Highway and other land now or formerly of this grantor;--

Thence N. $80^{\circ} 18' 07''$ W. seventy-nine and three one hundredths (79.03) feet to land formerly of the Penn Central Railroad now or formerly owned by the State of Rhode Island Department of Transportation;--

Thence northwesterly on a curved line having a radius of five thousand, seven hundred sixty-four and nine-tenths (5764.90) feet for a distance of eight and two one hundredths (8.02) feet; --

Thence N. $04^{\circ} 08' 09''$ E. seven hundred thirty-six and fifty-seven one hundredths (736.57) feet;--

Thence S. $67^{\circ} 39' 56''$ E. fifty-two and fifty-six one hundredths (52.56) feet;--

Thence N. $04^{\circ} 08' 09''$ E. seven hundred seventy-one and sixty-four one hundredths (771.64) feet to other land now or formerly of this grantor the last four (4) lines bounded by land now or formerly of the State of Rhode Island Department of Transportation;--

Thence southeasterly on a curved line having a radius of one hundred fifty-three and forty-nine one hundredths (153.49) feet for a distance of ninety-eight and eighty-eight one hundredths (98.88) feet to a point of tangent;--

Thence S. $27^{\circ} 33' 42''$ E., with said other land now or formerly of this grantor, two hundred seventy-two and seven one hundredths (272.07) feet to a point of curve;--

Thence southeasterly on a curved line having a radius of four hundred twenty-two and twenty-five one hundredths (422.25) feet for a distance of eighty-seven and forty-six one hundredths (87.46) feet to the westerly side of the Defense Highway, the last three (3) lines bounded by other land now or formerly of this grantor;--

Thence S. 16° 03' 19" W. eight hundred seventy-three and thirty-one one hundredths (873.31) feet to a point of curve;--

Thence southwesterly on a curved line having a radius of two thousand, seven hundred and twenty-five (2725.00) feet for a distance of two hundred eighty-four and sixty-seven one hundredths (284.67) feet to the point of beginning, the last two (2) lines bounded by the Defense Highway.

Containing 5.68 acres, more or less.

PARCEL G-1
DESCRIPTION

A certain lot or parcel of land situated easterly of the Defense Highway in the Town of Portsmouth, County of Newport and State of Rhode Island, said parcel being Parcel G-1 as shown on a plan entitled "Naval Education and Training Center, Newport, Rhode Island, Metes & Bounds, Excess Real Estate, Melville (South and Midway)", NETC DWG. NO. 19653-203, prepared June 12, 1975, revised September 7, 1983, recorded herewith which is more particularly bounded and described as follows:

Beginning at the most northwesterly corner of land, now or formerly of Herbert M. Chase and being the most northeasterly corner of the parcel herein described;--

Thence S. 10° 03' 50" W. nine hundred fifty-five and twenty-nine one hundredths (955.29) feet, with said Chase land to land now or formerly of the Raytheon Company;--

Thence S. 22° 44' 48" W. with said Raytheon Company land, five hundred sixty-two and nine one hundredths (562.09) feet;--

Thence S. 39° 20' 46" W., with the aforesaid Raytheon land and land now or formerly of this grantor one thousand, six hundred five and ninety-three one hundredths (1605.93) feet to the center line of Lawton's Brook;--

Thence in a northwesterly direction with the center line of Lawton's Brook two hundred forty (240.00) feet to the easterly side of the Defense Highway;--

Thence N. 52° 53' 48" E., with the easterly line of the Defense Highway, ninety-five and thirteen one hundredths (95.13) feet to a point of curve;--

Thence northeasterly on a curved line having a radius of two thousand, six hundred eleven and seventeen one hundredths (2611.17) feet for a distance of five hundred ninety and thirty-nine one hundredths (590.39) feet to a point of tangent;--

Thence N. 39° 56' 31" E. five hundred thirty-seven and forty two one hundredths (537.42) feet to a point of curve;--

Thence Northeasterly on a curved line having a radius of one thousand, seven hundred sixteen and seventy-two one hundredths (1716.72) feet for a distance of four hundred sixty-seven and sixty-one one hundredths (467.61) feet to a point of compound curve;--

Thence northeasterly on a curved line having a radius of two thousand, six hundred seventy-five and thirty-two one hundredths (2675.32) feet for a distance of five hundred fifty-eight and eighteen one hundredths (558.18) feet to a point of compound curve;--

Thence northeasterly on a curved line having a radius of six thousand, two hundred and three (6203.00) feet for a distance of seven hundred sixty two and ninety-eight one hundredths (762.98) feet to a point of compound curve; --

Thence northeasterly on a curved line having a radius of two thousand, six hundred seventy-five (2675.00) feet for a distance of eighty-four and twenty-three one hundredths (84.23) feet to the southerly line of Parcel J-2-1, the last seven (7) lines bounded by the easterly side of the Defense Highway;--

Thence S. $67^{\circ} 32' 35''$ E., with the southerly line of Parcel J-2-1, two hundred eleven and sixty-four one hundredths (211.64) feet to the point of beginning.

Containing 12.19 acres, more or less.

PARCEL G-2
DESCRIPTION

A certain lot or parcel of land situated easterly of the former Penn Central Railroad layout now or formerly owned by the Rhode Island Department of Transportation and westerly by the Defense Highway in the Town of Portsmouth, County of Newport and State of Rhode Island, said parcel being Parcel G-2 as shown on a plan entitled "Naval Education and Training Center, Newport, Rhode Island, Metes & Bounds, Excess Real Estate, Melville (South & Midway)", NETC DWG. No. 19653-203, prepared June 12, 1975, revised September 7, 1983, recorded herewith, which is more particularly bounded and described as follows:

Beginning at the most southeasterly corner of Parcel J-2-2 and being the most northeasterly corner of the lot hereby described;--

Thence southeasterly on a curved line having a radius of two thousand, seven hundred twenty-five (2725.00) feet for a distance of two hundred forty-four and fifty-nine one hundredths (244.59) feet to a point of reversed curve;--

Thence southwesterly on a curved line having a radius of six thousand, one hundred fifty-three (6153.00) feet for a distance of seven hundred fifty-six and eighty-three one hundredths (756.83) feet to a point of compound curve;--

Thence southwesterly on a curved line having a radius of two thousand, six hundred twenty-five and thirty-two one hundredths (2625.32) feet for a distance of five hundred forty-seven and seventy-five one hundredths (547.75) feet to a point of compound curve;--

Thence southwesterly on a curved line having a radius of one thousand, six hundred sixty-six and seventy-two one hundredths (1666.72) feet for a distance of four hundred fifty-three and ninety-nine one hundredths (453.99) feet to a point of tangent;--

Thence S. 39° 56' 31" W. two hundred forty-eight and forty-five one hundredths (248.45) feet to land now or formerly of the Penn Central Railroad layout, now or formerly owned by the Rhode Island Department of Transportation, the last five (5) lines bounded by the westerly side of the Defense Highway.

Thence northwesterly on a curved line having a radius of two thousand, nine hundred and eighteen one hundredths (2900.18) feet for a distance of nine hundred eighteen and four tenths (918.40) feet to a point of compound curve;--

Thence northwesterly on a curved line having a radius of five thousand, seven hundred sixty-four and nine tenths (5764.90) feet for a distance of one thousand, three hundred and twenty-seven one hundredths (1300.27) feet to the southerly line of Parcel J-2-2, the last two lines bounded by land formerly of the Penn Central Railroad layout, now or formerly owned by the Rhode Island Department of Transportation;--

Thence S. 80° 18' 07" E., with the southerly line of Parcel J-2-2, seventy-nine and three one hundredths (79.03) feet to the westerly line of the Defense Highway and point of beginning.

Containing 3.52 acres, more or less.

PARCEL G-3
DESCRIPTION

A certain lot or parcel of land situated southerly of Parcel K and westerly of land now or formerly of the Penn Central Railroad layout, now or formerly owned by the Rhode Island Department of Transportation in the Town of Portsmouth, County of Newport and State of Rhode Island, said parcel being Parcel G-3 as shown on a plan entitled "Naval Education and Training Center, Newport, Rhode Island, Metes & Bounds, Excess Real Estate, Melville (South and Midway)", NETC DWG. NO. 19653-203, prepared June 12, 1975, revised September 7, 1983, recorded herewith, which is more particularly bounded and described as follows:

Beginning at the most southeasterly corner of Parcel K, said point being the most northeasterly corner of the lot herein described;--

Thence southwesterly on a curved line having a radius of five thousand, six hundred eighty-two and four tenths (5682.40) feet for a distance of one thousand, two hundred eighty-nine and fifty-seven one hundredths (1289.57) feet to a point of compound curve;--

Thence southwesterly on a curved line having a radius of two thousand, eight hundred seventeen and sixty-eight one hundredths (2817.68) feet for a distance of one thousand, seven hundred seventy-four and thirty-six one hundredths (1774.36) feet to a point of tangent;--

Thence S. 52° 44' 16" W. eighty-four and seventeen one hundredths (84.17) feet to the center line of Lawton's Brook, the last three (3) lines bounded by land now or formerly of the Penn Central Railroad layout now or formerly owned by the Rhode Island Department of Transportation;--

Thence southwesterly along the center line of Lawton's Brook eighty-four (84.00) feet, more or less, to the point of high water of Narragansett Bay;--

Thence northerly and northwesterly along the high water line of Narragansett Bay two thousand, eight hundred forty-two and five tenths (2842.50) feet to the southerly line of Parcel K.

Thence N. 56° 02' 59" E. with the southerly line of Parcel K, four hundred twenty-seven and nine tenths (427.90) feet;--

Thence S. 80° 18' 07" E. twenty-five and sixty-eight one hundredths (25.68) feet to the point of beginning, the last two (2) lines bounded by Parcel K.

Containing 13.94 acres, more or less.

PARCEL K
DESCRIPTION

A certain lot or parcel of land, with all buildings and improvements thereon, situated westerly of the land formerly of the Penn Central Railroad layout, being now or formerly owned by the Rhode Island Department of Transportation, and easterly by Narragansett Bay in the Town of Portsmouth, County of Newport and State of Rhode Island, said parcel being a portion of Parcel K on a plan entitled: "Naval Education and Training Center, Newport, Rhode Island, Metes and Bounds, Excess Real Estate, Melville", NETC Dwg. No. 19654-203, prepared June 10, 1975, revised September 7, 1983, recorded herewith, which parcel is more particularly bounded and described as follows:

Beginning at a point in the westerly line of land formerly owned by the Penn Central Railroad layout, being now or formerly owned by the Rhode Island Department of Transportation and being the most southeasterly corner of the lot hereby described;--

Thence N. 80° 18' 07" W. twenty-five and sixty-eight one hundredths (25.68') feet;--

Thence S. 56° 02' 59" W. four hundred twenty-five (425.00') feet, more or less to the high water mark of Narragansett Bay, the last two (2) lines bounded by land of the United States of America (Department of the Navy).

Thence northwesterly, northerly and northeasterly, with the high water mark of Narragansett Bay two thousand, three hundred (2300.00') feet, more or less; --

Thence N. 02° 39' 00" E., with the westerly line of a concrete bulkhead bounded by Narragansett Bay five hundred and sixty-five and five tenths (565.50') feet to other land of the United States of America (Department of the Navy);--

Thence S. 86° 38' 00" E. one hundred fifty (150.00') feet;--

Thence S. 36° 16' 00" E. three hundred seventy-four and fifty five one hundredths (374.55') feet;--

Thence S. 02° 32' 00" W. three hundred fourteen and fifteen one hundredths (314.15') feet; --

Thence S. 87° 28' 00" E. five hundred seventy-nine and five tenths (579.50') feet;--

Thence N. 10° 20' 00" E. two hundred ninety-one and forty-nine one hundredths (291.49') feet, the last five (5) lines bounded by land now or formerly of the United States of America (Department of the Navy) and shown as Parcel M on the aforesaid Plan;--

Thence S. 11° 57' 41" E. two hundred ninety-four and twelve one hundredths (294.12') feet to a point of curve;--

Thence southeasterly on a curved line having a radius of two hundred ninety (290.00') feet for a distance of one hundred sixty-two and ninety-four one hundredths (162.94') feet to the former land of the Penn Central Railroad layout now or formerly owned by the Rhode Island Department of Transportation;--

Thence S. 04° 08' 09" W., with the aforementioned former railroad land seven hundred eighty-six and seventy-two one hundredths (786.72') feet;--

Thence S. 67° 39' 56" E. seventy-eight and eighty-three one hundredths (78.83') feet;--

Thence S. 04° 08' 09" W. seven hundred sixty-three and eighteen one hundredths (763.18') feet to the point of beginning, the last three (3) lines bounded by the aforementioned former railroad layout land.

Containing 37.65 acres, more or less.

PARCEL K-1

DESCRIPTION

A certain triangular-shaped parcel of land situated westerly of the former Penn Central Railroad layout, said land being now or formerly owned by the Rhode Island Department of Transportation in the Town of Portsmouth, County of Newport and State of Rhode Island, said parcel being a portion of Parcel K on a plan entitled: "Naval Education Training Center, Newport, Rhode Island, Metes and Bounds, Excess Real Estate, Melville", NETC Dwg. No. 19654-203, prepared June 10, 1975, revised September 7, 1983, recorded herewith, which parcel is more particularly bounded and described as follows:

Beginning at the westerly side of the former Penn Central Railroad layout, now or formerly land of the Rhode Island Department of Transportation, and being the most northeasterly corner of the parcel K-1 herein described;--

Thence S. $04^{\circ} 08' 09''$ W., with said land formerly of the Penn Central Railroad layout, now or formerly land of the Rhode Island Department of Transportation, four hundred four and seventy-eight one hundredths ($404.78'$) feet to a point of curve;--

Thence northwesterly on a curved line having a radius of two hundred ten ($210.00'$) feet for a distance of twenty-six and two tenths ($26.20'$) feet to a point of tangent;--

Thence N. $11^{\circ} 57' 41''$ W. three hundred sixty-four and three one hundredths ($364.03'$) feet;--

Thence N. $78^{\circ} 40' 00''$ E. one hundred thirteen and eighty-seven one hundredths ($113.87'$) feet to the point of beginning, the last three (3) lines bounded by other land of this grantor.

Containing 22,515 square feet or 0.52 acres, more or less.

SCHEDULE B

The land described in Schedule A annexed hereto is hereinafter collectively referred to as the "Property".

The Property is conveyed together with easements for all purposes for which streets and rights of way may be utilized including, without limitation, for passage on foot and with vehicles to and from State Route 114 (West Main Road) over all existing streets, ways, and rights of way located on other land of the United States of America, acting by and through the Administrator of General Services (the "Grantor") contiguous to the Property which at any point abut the Property (including, without being limited to, the Defense Highway, so called, Burma Road [as far as Greene Lane] and Stringham Road, so called), all as shown on the plans referred to in Schedule A annexed hereto (the "Plans"), said easements to expire as to any of such streets or rights of way that hereafter become public highways. The Grantor shall have no obligation to maintain the aforesaid streets, ways or rights of way. The Grantee agrees to indemnify and hold the Grantor harmless from and against any and all claims, demands, actions, causes of action or other liabilities arising out of or in connection with the use of said portions of Burma Road and Stringham Road, so called, by the Grantee, any employees or business invitees of Grantee, or any duly authorized agent of Grantee. Upon the conveyance of the Property, the Grantee shall have no further liability to the Grantor with respect to the aforesaid indemnification agreement excluding, however, any events which shall have occurred up to and including the time of recording of the deed conveying the Property to a third party.

RESERVING, EXCEPTING, & RETAINING ownership of, and non-exclusive easement rights for, the operation, maintenance, repair and replacement of all water, sewer, electric, telephone, fuel and any other utility lines and services owned by Grantor and located on the Property to the extent required to provide such utility service to other land of Grantor adjacent to the Property wherever shown on the Plans, and wherever such utilities are shown on the following plans of Grantor, numbered 22573-232 (fuel), 22574-232 (sanitary and storm sewer), 22575232 (water), and 22576-232 (electrical), which plans are more particularly described on Schedule B-1 attached hereto and incorporated herein by reference.

The Rhode Island Port Authority and Economic Development Corporation (the "Grantee") shall have the right to connect to and use the aforesaid water, sewer, electric, telephone, fuel and other utility lines and services, with others lawfully entitled thereto; provided that the Grantee shall be obligated to pay the Grantor for the use of same, on a pro rata basis, which shall fairly reflect the cost of such use and maintenance, repair, and

replacement thereof as required; and further provided, that Grantee agrees not to construct any improvements thereon or thereunder without the prior written consent of the Grantor, which consent shall not be unreasonably withheld or delayed.

In the event that the Grantee desires to modify, enlarge, remove, or change the location of any utility lines or services in which the Grantor retains an interest hereunder or in which the Grantor otherwise holds an interest, it may do so at its own expense provided it shall first obtain the approval of the Grantor, which approval shall not be unreasonably withheld or delayed.

The Grantor will authorize and permit the Grantee to utilize the existing 12 inch water line, and any replacement thereof, with connections made between the two (2) meters shown on the aforesaid waterline plan, so long as said use is appropriately metered. The Grantor will review the meter system proposed by the Grantee for its acceptability with Grantor's standards. Upon completion of such review, the Grantor shall send to the Grantee a letter of acceptance or a letter of acceptance with modifications. The Grantor will impose a 30,000 gallon per day average water limitation on the Grantee. The Grantor agrees to review this limitation from time to time and to increase said limitation if requested by Grantee if such an increase is considered feasible by Grantor, which request shall not be unreasonably denied by Grantor.

The Grantor will also authorize and permit the Grantee to utilize the existing sewage disposal system for up to 100,000 gallons per day of effluent, 60,000 gallons per day of which capacity shall be used in conjunction with storage tanks and an off-peak hour pumping system to be constructed at Grantee's sole expense upon approval of plans by the Grantor, which approval shall not be unreasonably withheld or delayed. The time period for off-peak pumping will be established by the Grantor and a metering system will be determined in the same manner as provided above with respect to water usage.

The fees to be charged by the Grantor with respect to both water and sewer use shall be on a pro rata basis and shall fairly reflect the cost of such use, maintenance, repair and replacement as required.

The Grantee acknowledges that there is an active underground fuel line of the Grantor on the Property used for off loading of fuel and covenants and agrees that the Grantor shall be permitted access to said line for the purpose of inspection on a twenty-four hour basis. Grantee covenants and agrees not to construct upon or otherwise obstruct said fuel line easement. The aforesaid shall be the only restriction on the Grantee on the use of the Property as a result of said fuel line.

check land condition

The Grantor shall be responsible for the maintenance, replacement and repair of all of its utility lines, services and easements located in or upon the Property. The Grantor shall give the Grantee reasonable advance notice prior to any entry onto the Property except in the case of emergency repairs. The use and operation of the aforesaid utility lines, services and easements by the Grantor shall be in compliance, at Grantor's sole cost and expense, with any applicable laws.

The Grantor agrees that neither the Grantor nor any other third person has the right to use the existing small boat launch ramp located on the Property.

The Grantee covenants with the Grantor that the Property is hereby conveyed subject to compliance with the provisions of FAA Advisory Circular 70/7460-2G 14 C.F.R Part 77 entitled "Proposed Construction or Alteration of Object That May Affect the Navigable Air Space", as amended or replaced, which Advisory Circular is hereto as Schedule B-2.

The Property is hereby conveyed subject to any applicable federal, state or local laws or regulations regarding land located within a wetland area, so called, and regarding land located within a flood hazard area within the meaning of the Flood Disaster Act of 1973, as amended.

The Grantee covenants and agrees that the electrical switching gear in buildings 46 and 59 will be relocated and removed from said buildings by or on behalf of the Grantee at the Grantee's sole cost and expense on or before the expiration of two (2) years from the date of the recording of this deed. The switching gear will be relocated in an underground area located within the Property. The Grantee reserves the right to demolish or destroy either or both of the buildings as long as the switching gear is relocated as aforesaid.

All covenants and agreements contained herein, whether made by the Grantor or the Grantee, shall be deemed and shall constitute covenants running with the land and shall be binding upon, and inure to the benefit of, the successors and assigns of the Grantee and the Grantor, as applicable, and on those claiming by, through or under the Grantee or the Grantor.

CERTIFICATE OF COMPLIANCE

Any third party (including, without limitation, any prospective purchaser, lending institution or any other person, firm, corporation, trust, partnership, governmental agency or authority or other entity dealing with the Grantee or the Property) may con-

clusively rely upon any written certificate executed from time to time by the Grantor with respect to any matters relevant to the provisions of this Schedule B or of Schedule C annexed hereto including, without limitation, as to whether the Grantee is in compliance with the terms and provisions thereof. The Grantor agrees not to unreasonably withhold or delay its consent to any request from Grantee to execute such a written certificate from time to time. Notwithstanding anything contained herein to the contrary or which might be construed to the contrary, any breach by the Grantee of any of the terms, covenants, restrictions or conditions contained herein (or in said Schedule C) shall not constitute or result in any forfeiture, reversion of title or any other form of divestiture.

SCHEDULE B-1

1. Melville Excess Property - N-R.I. - 471A Utility Plan Fuel Lines, Dwg. No. 22573-232, dated March 16, 1982, Scale 1" = 200'.
2. Melville Excess Property - N-R.I. - 471A Utility Plan Sanitary & Storm Sewer, Dwg. 22574-232, dated March 16, 1982, Scale 1" = 200'.
3. Melville Excess Property - N-R.I. - 471A Utility Plan Water, Dwg. No. 22575-232, dated March 16, 1982, Scale 1" = 200'.
4. Melville Excess Property - N-R.I. - 471A Utility Plan Electrical, Dwg. No. 22576-232, dated March 16, 1982, Scale 1" = 200'.