

RECORD AND RETURN TO:

E. NEAL ZIMMERMANN, ESQ.  
Waters, McPherson, McNeill, P.C.  
300 Lighting Way  
Secaucus, New Jersey 07096



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Willie L. Flood  
Hudson County, Register of Deeds  
Receipt No. 55414

**CONSERVATION RESTRICTION**

This **CONSERVATION RESTRICTION** ("Conservation Restriction"), made on this 12th day of December, 2008, between BAYFRONT REDEVELOPMENT LLC, a limited liability company, having an address at c/o Honeywell International Inc., 101 Columbia Turnpike, Morristown, New Jersey 07962 (hereafter the "Grantor"), HONEYWELL INTERNATIONAL INC., a corporation of the State of Delaware, having an address at 101 Columbia Turnpike, Morristown, New Jersey 07962, and THE HACKENSACK WATERSHED LAND TRUST, a non-profit Corporation of the State of New Jersey with offices at 231 Main Street, Hackensack, New Jersey 07061 (hereafter "Grantee").

**WHEREAS**, the Grantee, is a non-profit corporation incorporated under the laws of the State of New Jersey as a tax exempt public charity under Section 501(c)(3) and 509(a)(1) of the Internal Revenue Code; is qualified under section 170(h) of the Internal Revenue Code to receive conservation contributions; is a charitable conservancy within the meaning of N.J.S.A. 13:8B-2(a); is qualified to do business in the State of New Jersey; and whose purpose is to preserve natural areas for scientific, charitable, educational, and aesthetic purposes; and

**WHEREAS**, Grantor is the owner in fee simple of certain AOC 1 Open Space Property consisting of approximately 11 acres and now known and designated as a portion of Block 1290.1, Lots 2D and 2E and Block 1290.1, Lot 16A.99 on the Tax Map of the City of Jersey City, as described in Schedule A and Exhibit A attached hereto (the "AOC 1 Open Space Property"); and

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**WHEREAS**, the AOC 1 Open Space Property is subject to a certain Option to Purchase in favor of the City of Jersey City which may be exercised upon the occurrence of certain conditions, which is being recorded simultaneously with this Conservation Restriction, and which provides for purchase subject to this Conservation Restriction; and

**WHEREAS**, on or about December 23, 2005, the Jersey City Municipal Utilities Authority ("JCMUA") filed litigation styled *Jersey City Municipal Utilities Authority v. Honeywell International Inc.*, D.N.J., Civ. No. 05-5955 (DMC), bringing claims against Honeywell International Inc. ("Honeywell") under, *inter alia*, Section 6972 of the Resource Conservation and Recovery Act ("RCRA"), and seeking remediation of chromium contamination on property then-owned by JCMUA, which included the area known as the AOC 1 Open Space Property; and

**WHEREAS**, on or about December 28, 2005, the Jersey City Incinerator Authority ("JCIA") filed litigation styled *Jersey City Incinerator Authority v. Honeywell International Inc.*, D.N.J., Civ. No. 05-5993 (DMC), bringing claims against Honeywell under, *inter alia*, Section 6972 of RCRA, and seeking remediation of chromium contamination on property then-owned by JCIA, which included the area known as the AOC 1 Open Space Property; and

**WHEREAS**, on or about January 4, 2006, the Hackensack Riverkeeper, Inc., ("Riverkeeper") filed litigation styled *Hackensack Riverkeeper, Inc. v. Honeywell International Inc.*, D.N.J., Civ. No. 06-022 (DMC), bringing a claim against Honeywell under RCRA and seeking remediation of chromium contamination to soils, groundwater,

surface waters, and sediments associated with various properties collectively designated by NJDEP as Study Areas 5, 6 North, and 6 South;

**WHEREAS**, Study Area 6 North includes the properties previously owned by JCMUA, JCIA, and the City of Jersey City and includes the AOC 1 Open Space Property.

**WHEREAS**, *JCMUA v. Honeywell*, *JCIA v. Honeywell*, and *Riverkeeper v. Honeywell* were consolidated by the United States District Court for the District of New Jersey (hereinafter the "Consolidated Litigation"); and

**WHEREAS**, the Consolidated Litigation was resolved, in part, by the "Consent Decree Regarding Remediation and Redevelopment of Study Area 6 North" (hereinafter the "Consent Decree"), which decree is being recorded simultaneously with this Conservation Restriction; and

**WHEREAS**, the AOC 1 Open Space Property is being remediated for chromium contamination and following the remediation, development of the AOC 1 Open Space Property is prohibited except in the limited circumstances set forth in the Consent Decree and this Conservation Restriction; and

**WHEREAS**, subject to certain roadway and utility improvements affecting portions of the AOC 1 Open Space Property, and consistent with the terms of the Consent Decree and this Conservation Restriction, the AOC 1 Open Space Property will, following implementation of the Chromium Remedy as defined in the Consent Decree, be re-developed from commercial/industrial purposes to open space/public park purposes. Following the remediation, the AOC 1 Open Space Property will be established as a predominantly green open space with associated pedestrian walkways

and outdoor recreation facilities for the use and enjoyment of the public, while serving to protect the long-term integrity of the Chromium Remedy; and

**WHEREAS**, pursuant to the Bayfront I Redevelopment Plan, adopted by Jersey City on March 12, 2008, the AOC 1 Open Space Property has been zoned for open space and park use and certain roadways and utility improvements; and

**WHEREAS**, the AOC 1 Open Space Property is subject to certain provisions in the Consent Decree; and

**WHEREAS**, paragraph 60(b) of the Consent Decree provides that Bayfront Redevelopment LLC shall grant an open space conservation restriction over the AOC 1 Open Space Property; and

**WHEREAS**, the parties hereto wish to set forth certain terms and conditions that will restrict future uses of, and activities on, the AOC 1 Open Space Property and assure appropriate monitoring and enforcement of the conservation, open space, parks, and recreation purposes of this Conservation Restriction.

**NOW THEREFORE, WITNESSETH:** For and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by Grantee to Grantor, the receipt and sufficiency of which is acknowledged by Grantor, and in consideration of the covenants hereinafter contained, the parties to this Conservation Restriction, intending to be legally bound, do

**HEREBY AGREE AS FOLLOWS:**

1. **Purpose.** It is the purpose of this Conservation Restriction to protect and preserve the AOC 1 Open Space Property; to permit Honeywell to implement, monitor, maintain, repair, and replace the Chromium Remedy; to prevent any use of the AOC 1

Open Space Property that will significantly impair or interfere with the purposes of the Consent Decree; and to preserve the AOC 1 Open Space Property as predominantly green open space with associated pedestrian walkways and outdoor recreation facilities for the use and enjoyment of the public. However, nothing in this Conservation Restriction shall grant a public right of access to enter upon, or use, the AOC 1 Open Space Property, or any portion thereof, during the time that the Chromium Remedy required by the Consent Decree is being implemented. Thereafter, Grantor and Grantee intend that this Conservation Restriction will confine the use of the AOC 1 Open Space Property to such activities as are consistent with the purpose of the Consent Decree. In the event of any conflict between the Consent Decree and this Conservation Restriction, the Consent Decree shall control.

2. **Title.** Grantor covenants and represents that Grantor is the sole owner and is seized of the AOC 1 Open Space Property in fee simple and has good right to grant and convey this Conservation Restriction and that Grantee(s) shall have the use of, and enjoyment of, the benefits derived from and existing out of this Conservation Restriction.

3. **Definitions.**

3.1 Capitalized terms in this Conservation Restriction which are not defined herein shall have the meaning ascribed to them in the Consent Decree.

3.2 AOC 1 Open Space Property shall mean the property consisting of approximately 11 acres and now known and designated as a portion of Block 1290.1, Lots 2D, 2E, and Block 1290.1, Lot 16A.99 on the Tax Map of the City of Jersey City, as described more fully in Schedule A and Exhibit A attached hereto. The AOC 1 Open

Space Property is the same property as the AOC 1 Open Space Area in the Consent Decree.

3.3 Bayfront Redevelopment LLC shall mean the limited liability company created by Honeywell for the purposes described in paragraph 4.1 of the Settlement Consent Order by and between the Jersey City Entities and Honeywell International Inc., filed simultaneously with the Consent Decree in the Consolidated Litigation.

3.4 Consent Decree shall mean the Consent Decree Regarding Remediation and Redevelopment of Study Area 6 North, entered in the Consolidated Litigation and being recorded simultaneously with this Conservation Restriction.

3.5 Consolidated Litigation shall mean *Jersey City Municipal Utilities Authority v. Honeywell International Inc.*, D.N.J., Civ. No. 05-5955 (DMC), *Jersey City Incinerator Authority v. Honeywell International Inc.*, D.N.J., Civ. No. 05-5993 (DMC), and *Hackensack Riverkeeper, Inc. v. Honeywell International Inc.*, D.N.J., Civ. No. 06-022 (DMC).

3.6 The Court shall mean the United States District Court for the District of New Jersey, which has jurisdiction over the Consolidated Litigation.

3.7 Hackensack River Watershed Land Trust shall mean the dedicated fund of the Hackensack Riverkeeper, Inc., established under Section 501(c) of the Internal Revenue Code for the purpose of acquiring and preserving open space within the Hackensack River watershed and administered by the Board of Trustees of the Hackensack Riverkeeper, Inc.

3.8 Holders of this Conservation Restriction shall mean Grantee and its successors and assigns and, in the event a Secondary Grantee is designated pursuant to paragraph 7.3, its successors and assigns.

3.9 Honeywell shall mean Honeywell International Inc.

3.10 Grantee shall mean Hackensack Watershed Land Trust and/or its designated successors and assigns. Grantee shall also mean the Secondary Grantee, in the event that the Secondary Grantee is designated pursuant to paragraph 7.3, and must fill the role of Grantee pursuant to paragraph 7.4.

3.11 Grantor shall mean Bayfront Redevelopment LLC as the current holder of the fee simple title to the AOC 1 Open Space Property and any subsequent holder of the fee simple title to the AOC 1 Open Space Property, including Jersey City.

3.12 Jersey City shall mean the City of Jersey City, New Jersey.

3.13 The Jersey City Entities shall mean the City of Jersey City, including the Department of Public Works ("DPW") and other agencies and branches thereof, the JCIA, and the JCMUA.

3.14 Party or Parties shall mean any one or all of the signatories to the Consent Decree.

3.15 Qualified Holder shall mean (a) an organization exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code that satisfies the requirements to be a qualified organization within the meaning of Section 170(h)(3) of the Internal Revenue Code, or under any substantially similar provision of any successor tax code, and that is authorized to hold a conservation restriction with respect to property located within the State of New Jersey, (b) any trust or other entity

created by the legislature of the State of New Jersey or by Hudson County for substantially similar purposes, or (c) the State of New Jersey, Hudson County, or any other public body in New Jersey that is empowered to hold and administer a conservation restriction.

3.16 Riverkeeper shall mean the plaintiffs in *Hackensack Riverkeeper, Inc. v. Honeywell International Inc.*, D.N.J., Civ. No. 06-22 (DMC), and includes the Hackensack Riverkeeper, Inc., William Sheehan, Reverend Winston Clarke, and Lawrence Baker.

3.17 Secondary Grantee shall mean a qualified holder designated by Grantee pursuant to paragraph 7.3.

3.18 The Special Master shall mean Senator Robert G. Torricelli, appointed as the Special Master in *ICO v. Honeywell* and the Consolidated Litigation, and his successors or whomever the Court may appoint as Special Master.

4. **Conservation Restriction.**

4.1 Grant. Grantor hereby grants and conveys to Grantee, a non-public conservation restriction on, over and across the AOC 1 Open Space Property as is depicted on the recorded Plat, which area is described in Schedule A and Exhibit A attached hereto and made a part hereof.

4.2 Grantor's Retained Responsibilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership of the AOC 1 Open Space Property, including the payment of taxes. Grantor shall keep Grantee's interest in the AOC 1 Open Space Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by



Grantor. Honeywell shall be solely responsible for the implementation, monitoring, maintenance, repair, and replacement of the Chromium Remedy in the AOC 1 Open Space Property as provided for under the Consent Decree. Neither Grantee nor Secondary Grantee, if such a grantee is designated pursuant to paragraph 7.3, shall have any responsibility whatsoever with respect to the implementation, monitoring, maintenance, repair, and/or replacement of the Chromium Remedy in the AOC 1 Open Space Property.

4.3 Recordation, Notice in Future Instruments. This Conservation Restriction shall be recorded in the office of the Hudson County Register and a conspicuous reference to this Conservation Restriction shall be included in all instruments concerning title to the AOC 1 Open Space Property. Any Party to the Consent Decree and Grantee shall have the right, periodically, but no more than once every 25 years, to record memoranda or other instruments that reference, incorporate, or attach this Conservation Restriction in the real estate records related to the AOC 1 Open Space Property. This right of recordation shall be exercised in conjunction with the right of recordation provided in paragraph 60(d) of the Consent Decree.

4.4 Notice of Future Transfers. Grantor shall give written notice to Grantee(s) of any sale, lease, or other transfer of any interest in the Property not later than ten days following the date of such sale, lease, or transfer, which notice shall include the name and address of each party to whom an interest was sold, leased, or transferred. However, sales, leases, or transfers other than in accordance with the terms of paragraph 60 of the Consent Decree are prohibited.

5. **Permitted Activities.**

5.1 Remediation and Redevelopment as Open Space/Public Park. Grantor and/or Honeywell shall be permitted to undertake all activities reasonably required in connection with: (i) the implementation, maintenance, monitoring, repair, and replacement of the Chromium Remedy consistent with the Consent Decree, (ii) the construction of roads and associated utilities at the AOC 1 Open Space Property as permitted by the Consent Decree, and (iii) such further development of the AOC 1 Open Space Property into an open space/public park as is consistent with paragraphs 60(j) and 60(k) of the Consent Decree and paragraphs 5.2 and 5.3 of this Conservation Restriction. In addition, the Jersey City Entity Study Area 6 North Operations (as defined in the Settlement Consent Order by and between the Jersey City Entities and Honeywell International Inc. attached as Exhibit A to the Consent Decree) shall be allowed to continue on the AOC 1 Open Space Property until such time as those Operations are relocated prior to implementation of the Chromium Remedy pursuant to the Consent Decree.

5.2 Prohibited Development in the AOC 1 Open Space Property. Only development satisfying the requirements of this paragraph, paragraph 5.3 of this Conservation Restriction, and the requirements of paragraphs 60(j) and 60(k) of the Consent Decree shall be permitted in the AOC 1 Open Space Area. All other development in the AOC 1 Open Space Area shall be prohibited.

(a) Honeywell shall establish Open Space Design Standards that shall govern all development in the AOC 1 Open Space Property, regardless of when the construction or installation of permissible development occurs. The Open

Space Design Standards shall satisfy each of the requirements set forth in paragraph 60(j)(v) of the Consent Decree and paragraph 5.2(e) of this Conservation Restriction, and shall set forth the requirements for development that are necessary for the protection of the integrity of the Chromium Remedy, installed pursuant to the Consent Decree.

(b) The Initial Development in the AOC 1 Open Space Property shall be the development undertaken following the completion of the Chromium Remedy in the AOC 1 Open Space Property, pursuant to the Consent Decree. The Initial Development may occur in one or more phases. Honeywell and Bayfront Redevelopment LLC shall prepare a Development Plan before the initiation of each phase of the Initial Development. The Initial Development Period for each phase shall consist of the period covered by the Initial Development, plus a period of 10 years following the submission of the as-built documentation for the phase pursuant to paragraph 60(j)(viii) of the Consent Decree and paragraph 5.2(h) of this Conservation Restriction.

(c) The Special Master, appointed in the Consolidated Litigation pursuant to the Consent Decree, shall have jurisdiction to review the Open Space Design Standards and the Development Plan(s) solely for the purpose of ensuring that any development undertaken during the Initial Development Period is consistent with the Consent Decree and with protection of the integrity of the Chromium Remedy. The Special Master's jurisdiction with regard to development in the AOC 1 Open Space Area shall run through the Initial Development Period for each phase.

(d) Honeywell shall ensure that the requirements of this

paragraph, paragraph 5.3 of this Conservation Restriction, and of paragraphs 60(j) and 60(k) of the Consent Decree are satisfied with regard to any development undertaken within the Initial Development Period. Honeywell shall also ensure that any development undertaken within the Initial Development Period is designed and installed in a manner consistent with the requirements of the Consent Decree and with protection of the integrity of the Chromium Remedy installed pursuant to the Consent Decree.

(e) Any development undertaken in the AOC 1 Open Space Property, regardless of when undertaken, shall satisfy each of the following requirements:

(i) It shall not jeopardize the integrity of the Chromium Remedy installed pursuant to the Consent Decree;

(ii) It shall be limited to the types of development permitted under paragraph 60(k) of the Consent Decree and paragraph 5.3 of this Conservation Restriction;

(iii) It shall be consistent with this Conservation Restriction, the Consent Decree, and the Redevelopment Plan; however, in the event of any conflict or inconsistency between this Conservation Restriction, the Consent Decree, and the Redevelopment Plan, the Consent Decree shall govern;

(iv) In total, at least 75% of the AOC 1 Open Space Property, exclusive of the acreage used for roads and the pedestrian thoroughfare, shall be comprised of landscaping, as defined by paragraph 60(k)(xi) of the Consent Decree and paragraph 5.3(k) of this Conservation Restriction;

(v) The portion of the Open Space Design Standards

necessary for protection of the Chromium Remedy as related to all roads, the pedestrian thoroughfare and associated utility corridors as well as the general location of such items shall be included in the 100% Design of the Chromium Remedy, which is subject to review and approval pursuant to the terms of the Consent Decree;

(vi) If the lowest elevation for the bedding for any utility line, including irrigation or sprinkler lines, is two feet from the top of the warning layer of the cap, the utility line shall be placed in a utility corridor;

(vii) In any event, there shall be two feet of soil or more between the warning layer of the cap and the lowest elevation of the bedding for any irrigation or sprinkler lines; and

(viii) No permanent concession facilities shall be permitted.

(f) Honeywell shall submit the Open Space Design Standards and the Development Plan(s) for any development undertaken during the Initial Development Period pursuant to the requirements of paragraph 72(c) of the Consent Decree, except that such documents need not be submitted to NJDEP. Following Honeywell's submission of such documents, the procedures of paragraphs 72(d) and 72(e) of the Consent Decree shall apply, except that the Special Master need not provide notice to NJDEP.

(g) During the Initial Development Period, any development in the AOC 1 Open Space Area shall require the preparation and submission of a Development Plan pursuant to paragraph 60(j)(vi) of the Consent Decree and paragraph 5.2(f) of this Conservation Restriction, and such Development Plan shall be subject to review by the Special Master pursuant to paragraph 60(j)(iii) of the Consent

Decree and paragraph 5.2(c) of this Conservation Restriction.

(h) Upon completion of each phase of the Initial Development, Honeywell shall provide as-built documentation for the Initial Development to the Special Master, Riverkeeper, and the Jersey City Entities. Upon completion of any further development during the Initial Development Period for the phase, Honeywell shall also provide as-built documentation to the Special Master, Riverkeeper, and the Jersey City Entities for the additional development. Such additional as-built documentation for a phase shall not affect the running of the Initial Development Period for the phase.

(i) During the Initial Development Period, replacement in-kind of development features or facilities included in the Initial Development or minor modifications to the development features or facilities included in the Initial Development shall not require the preparation of a Development Plan or be subject to review by the Special Master, provided that such replacement or modification satisfies the requirements of the Open Space Design Standards, the applicable Development Plan, paragraphs 60(j)(v) and 60(j)(x)(3)(notice requirement) of the Consent Decree and paragraphs 5.2(e) and 5.2(j)(iii) of this Conservation Restriction.

(j) After the Initial Development Period, all development is prohibited unless one of the following conditions is met:

(i) The AOC 1 Open Space Property has been remediated such that no hexavalent or total chromium contamination remains in the AOC 1 Open Space Property, whether in soils or in groundwater, in excess of the levels specified for Unrestricted Use in the NJDEP Chromium Directive or any more restrictive

standards for Unrestricted Use in place at the time, whichever is more restrictive, and Jersey City has demonstrated to the Special Master and/or the Court, as appropriate, that such remediation has been completed in accordance with all applicable requirements.

(ii) The development is a replacement in-kind and such replacement is made in conformance with the specifications of the Open Space Design Standards, the applicable Development Plan, paragraph 60(j)(v) of the Consent Decree and paragraph 5.2(e) of this Conservation Restriction; or

(iii) The development meets the requirements of paragraphs 60(j)(v) and 60(j)(xi) of the Consent Decree and paragraphs 5.2(e) and 5.2(k) of this Conservation Restriction, and Jersey City provides notice of its intention to alter or add to the development undertaken in the Initial Development Period. Such notice shall be provided in writing to Honeywell, Riverkeeper, and the holders of this Conservation Restriction at least 30 days prior to Jersey City's alteration or addition to development undertaken in the Initial Development Period. Honeywell, Riverkeeper, or any holder of this Conservation Restriction shall have the right to move the Court to prohibit such alteration or addition.

(k) If any of the development features or facilities that Jersey City seeks to add, pursuant to paragraph 60(j)(x) of the Consent Decree and paragraph 5.2(j) of this Conservation Restriction, require utilities that would require utility corridors other than the utility corridors installed during the Initial Development Period, Jersey City shall obtain approval from the Court before installing such new utility corridors.

(l) Jersey City shall provide Honeywell, Riverkeeper, and the

holders of this Conservation Restriction with an annual report that describes any alterations or additions, including those activities under paragraph 60(j)(x)(2) of the Consent Decree and 5.2(j)(ii) of this Conservation Restriction, to the development undertaken during the Initial Development Period.

(m) All development features or facilities, whether included in the Initial Development or added subsequent thereto, are subject to demolition and/or removal to the extent necessary to maintain, replace, or repair the Chromium Remedy required by the Consent Decree.

5.3 The Initial Development or any subsequent addition or alteration thereto may include any or all of the following types of development features or facilities, provided that such development features or facilities satisfy the conditions set forth in paragraph 60(j)(v) of the Consent Decree and paragraph 5.2(e) of this Conservation Restriction:

(a) Roads and the pedestrian thoroughfare -- both crossing and running along the AOC 1 Open Space Property, but no more extensive than provided for in the diagram on page 39 of the Redevelopment Plan;

(b) Curbing and fences;

(c) Sidewalks, paths, walkways, and nature trails;

(d) Utilities and utility corridors, lighting, and restrooms;

(e) Irrigation or sprinkler components or systems;

(f) Water features;

(g) Above-ground storm water cisterns;

(h) Signs, including the signs or display required by paragraph



60(l) of the Consent Decree;

(i) Benches, trash receptacles, and bicycle racks;

(j) Recreational facilities, such as playground equipment, bocce ball courts, tennis courts, basketball courts, and athletic fields; and

(k) Landscaping, including natural grasses, small trees, shrubbery, flowers, and potted plants, provided that such landscaping and the anticipated root structure of each landscaping component do not and will not jeopardize the integrity of the Chromium Remedy. Any portion of an athletic field that is covered in natural grass shall be considered landscaping for purposes of the percentage set forth in paragraph 60(j)(v)(4) of the Consent Decree and paragraph 5.2(e)(iv) of this Conservation Restriction.

#### 5.4 Easement for Monitoring, Maintenance, Repair, and Replacement:

As between Grantor and Grantee, Honeywell shall remain solely responsible for monitoring, maintenance, repair, and replacement of the Chromium Remedy in accordance with the Consent Decree and shall reserve, or obtain a grant of, an easement for the purpose of such monitoring, maintenance, repair, and replacement. Neither Grantee nor Secondary Grantee, if such grantee is designated pursuant to paragraph 7.3, shall have any responsibility whatsoever with respect to the implementation, monitoring, maintenance, repair, and/or replacement of the Chromium Remedy in the AOC 1 Open Space Property. Honeywell shall be entitled to promptly record such reservation and/or easement and Grantee agrees that the terms, conditions, and restrictions and purposes of such reservation and/or easement, or reference thereto, will be inserted in any subsequent deed or other legal instrument by

which the City of Jersey City, Grantor, or Grantee divests either a real property or other recordable interest in the AOC 1 Open Space Property.

6. **Prohibited Activities.** Development at the AOC 1 Open Space Property is prohibited, except insofar as it meets the requirements of the Consent Decree and of paragraph 5 of this Conservation Restriction.

7. **Grantee's Rights.** To accomplish the purpose of this Conservation Restriction, the following rights are conveyed to Grantee:

7.1 **Right of Entry.** The right to enter the AOC 1 Open Space Property during the implementation of the Chromium Remedy pursuant to the Consent Decree at reasonable times and with prior notice for the purpose of: (a) inspecting the AOC 1 Open Space Property to determine if Grantor is complying with the covenants and purposes of this Conservation Restriction; (b) enforcing the terms of this Conservation Restriction; and (c) taking any and all actions with respect to the AOC 1 Open Space Property as may be legal, necessary and appropriate, to remedy or abate any material violations hereof. After the Chromium Remedy has been implemented, Grantee shall have the right to enter the AOC 1 Open Space Property at reasonable times for the purposes above without the need for prior notice.

7.2 **Enforcement.** The right to prevent any improvement, activity on, or use of, the AOC 1 Open Space Property that is inconsistent with the purpose of this Conservation Restriction and to require the restoration of such areas or features of the AOC 1 Open Space Property that may be damaged by any inconsistent improvement or use. For purposes of the enforcement of this Conservation Restriction, Grantee agrees

to pursue such enforcement solely before the Court in the Consolidated Litigation and to submit to the jurisdiction of that Court.

7.3 Designation of Secondary Grantee. Grantee has the right to designate a Qualified Holder as a Secondary Grantee with the written consent of Grantor, which consent will not be unreasonably withheld. Within 60 days of such designation, this Conservation Restriction shall be modified by the Parties and duly recorded.

7.4 Allocation of Responsibilities between Grantee and Secondary Grantee. In the event a Secondary Grantee is designated pursuant to paragraph 7.3, then the following shall apply: for so long as Grantee, or any successor in interest to Grantee, remains a holder of this Conservation Restriction, and unless and until Grantee and Secondary Grantee or their respective successors or assigns shall otherwise agree in a writing executed by them in recordable form and delivered to Grantor, Grantee shall be delegated the primary responsibility for monitoring and enforcing compliance with the terms of this Conservation Restriction. In connection therewith, Grantee, or its successors and assigns, shall have sole power and authority, as between Grantee and Secondary Grantee of this Conservation Restriction, to grant or withhold any and all other consents or approvals that may be required to be obtained by Grantor under the terms of this Conservation Restriction. Notwithstanding the foregoing, Secondary Grantee shall be entitled to receive a copy of all notices required to be given to Grantee, and shall be provided with a copy of all requests for approval submitted by Grantor and all written approvals, or denials thereof, given pursuant to this Conservation Restriction. Secondary Grantee's right to exercise rights and remedies

conferred by this Conservation Restriction upon Grantee, other than as provided in this paragraph, shall become effective upon Grantee's dissolution, in the event that Grantee has failed to name a successor.

8. **Grantee's Remedies.**

8.1 Proceedings upon Violation. In the event that Grantee becomes aware of a violation of the terms of this Conservation Restriction, Grantee shall promptly give notice to Grantor, Honeywell, the Jersey City Entities, and Riverkeeper of such violation via certified mail, return receipt requested, and request corrective action sufficient to abate such violation and restore the AOC 1 Open Space Property as closely as possible to the condition that would have existed had there been no violation. Failure by Grantor or Honeywell to cause discontinuance, abatement, or initiate such other corrective action as may be required by the Consent Decree within 90 days after receipt of such notice, or such longer period as may be necessary if the violation cannot reasonably be cured within 90 days, shall entitle Grantee to move the Court to enforce the terms of this Conservation Restriction; to require the restoration of the AOC 1 Open Space Property to its previous condition; and/or to enjoin compliance. If Grantee believes that circumstances are such that immediate action is required to prevent or mitigate significant additional harm or damage to the AOC 1 Open Space Property, Grantee may pursue its remedies without waiting for any period provided for cure to expire and without prior notice.

8.2 Proceedings upon Alteration or Addition to Development. Grantee shall have the right to participate in proceedings under paragraph 5.2(j)(iii) of this

Conservation Restriction and paragraph 60(j)(x)(3) of the Consent Decree to prohibit any alterations or additions to the development in the AOC 1 Open Space Property.

8.3 Forbearance. Any forbearance by Grantee to exercise its rights under this Conservation Restriction in the event of any breach of any term of this Conservation Restriction by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Conservation Restriction or of any of Grantee's rights under this Conservation Restriction. 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. Grantor shall not be entitled to assert any defense based upon laches, estoppel, or prescription with respect to any violation of this Conservation Restriction as to which Grantee was not specifically notified by Grantor in writing.

9. **Parties Subject to Conservation Restriction.** The covenants agreed to and the terms, conditions, and restrictions imposed by this grant shall be binding upon Grantor, its lessees, agents, personal representatives, successors, assigns, and all other successors in interest to Grantor. The covenants agreed to and the terms, conditions, and restrictions imposed by this grant shall be binding upon Grantee(s), their lessees, agents, personal representatives, successors, assigns, and all other successors in interest to Grantee(s).

10. **Termination.**

10.1 This Conservation Restriction is intended to be of unlimited duration, subject only to termination as provided in paragraph 10.2 of this Conservation

Restriction, and therefore may not be terminated solely by mutual agreement of Grantor and Grantee.

10.2 This Conservation Restriction may be terminated upon application to the Court of any Party to the Consent Decree when no hexavalent or total chromium contamination remains in AOC 1 Open Space Property, whether in soils or in groundwater, in excess of the levels specified for Unrestricted Use in the NJDEP Chromium Directive or any more restrictive standards for Unrestricted Use in place at the time, whichever is more restrictive. Upon Court approval of termination of this Conservation Restriction, Grantor shall conduct a public hearing in accordance with N.J.S.A 13:8B-5 and Grantee(s) shall release the Conservation Restriction and shall execute, at the request of Grantor, a release of this Conservation Restriction and any other instrument to that effect deemed necessary or desirable.

11. **Assignment.**

11.1 Right to Assign. Grantee, and any future assignee of this Conservation Restriction, may with the prior written consent of Grantor, which consent will not be unreasonably withheld, transfer and assign this Conservation Restriction and the rights and obligations created hereby, in whole or in part, to one or more Qualified Holders as defined in paragraph 3.15. The assignee shall simultaneously with such assignment assume the obligation to carry out the conservation purposes for which this Conservation Restriction is granted.

11.2 Executory Limitation. In the event that a Secondary Grantee has been designated pursuant to paragraph 7.3 and the Grantee dissolves without having assigned all of its rights and interest in the Property and delegated all of its

responsibilities under this Conservation Restriction to one or more Qualified Holders, such rights and responsibilities shall be vested in the Secondary Grantee pursuant to paragraph 7.4. In the event that a Secondary Grantee is not designated pursuant to paragraph 7.3 and the Grantee dissolves without having assigned all of its rights and interest in the Property and delegated all of its responsibilities under this Conservation Restriction to one or more Qualified Holders, such rights and responsibilities shall be vested in another Qualified Holder pursuant to a *cy pres* proceeding in the Court. Grantor and Honeywell shall have the right to appear in any such proceeding as interested parties. In the event that a Secondary Grantee is designated pursuant to paragraph 7.3, and such Secondary Grantee dissolves without having assigned all of its rights and interest in the Property and delegated all of its responsibilities under this Conservation Restriction to one or more Qualified Holders, Grantee may designate another Secondary Grantee pursuant to paragraph 7.3.

11.3 Release of Grantee's Further Obligations. The holder or holders of this Conservation Restriction immediately before any assignment or judicial re-vesting pursuant to paragraph 11.2 shall thereafter have no further obligation to monitor compliance with, or enforce the provisions of, this Conservation Restriction, provided that the assignee meets the requirements set forth above and has assumed the obligation to monitor and enforce this Conservation Restriction.

12. **Miscellaneous Provisions.**

12.1 Severability. If any provision of this Conservation Restriction or the application thereof to any person or circumstances is found to be invalid, the remaining provisions of this Conservation Restriction, and the application of such provisions to

persons or circumstances other than those as to which it is found to be invalid, shall not be affected.

12.2 Successors and Assigns. The term "Grantor" shall include Grantor and Grantor's heirs, executors, administrators, successors, and assigns. The term "Grantor" shall also mean the masculine, feminine, corporate, singular, or plural of the word as needed in the context of its use.

12.3 No Third-Party Beneficiaries. The parties hereto intend that there be no third-party beneficiaries to this Conservation Restriction, except the Parties to the Consent Decree.

12.4 Captions. The captions herein have been inserted solely for convenience of reference and are not a part of this Conservation Restriction and shall have no effect upon construction or interpretation.

12.5 Notices. Any notices required in this Conservation Restriction shall be sent by registered or certified mail to the persons at the following addresses. Any party listed below may change the recipient or location for receipt of such notice by sending written notice of such change to the other Parties listed below:

(a) If to Grantor:

Tom Byrne, Esq.  
Honeywell International Inc.  
101 Columbia Road  
Morristown, NJ 07962  
(973) 455-2775

(b) With copy to:

John Morris  
Honeywell International Inc.  
101 Columbia Road  
Morristown, NJ 07962



(973) 455-4003

(c) If to Grantee Hackensack River Watershed Land Trust:

William Sheehan  
231 Main Street  
Hackensack, NJ 07601

(d) If to Jersey City:

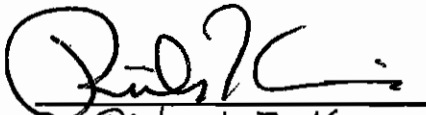
William Matsikoudis  
Corporation Counsel  
City of Jersey City  
280 Grove Street  
Jersey City, NJ 07305  
(201) 547-4667

12.6 Amendment. This Conservation Restriction may be amended only with the written consent of Grantee and Grantor and of the Parties to the Consent Decree. Any such amendment shall be consistent with the purpose of the Consent Decree and this Conservation Restriction and shall comply with any applicable requirements of N.J.S.A. 13:8B-1 et seq.

12.7 No Extinguishment through Merger. If Grantee comes to own all or any portion of the fee interest in the AOC 1 Open Space Property, (a) Grantee, as successor in title to Grantor, shall observe and be bound by the obligations of Grantor and the restrictions imposed upon the AOC 1 Open Space Property by this Conservation Restriction, (b) in view of the public interest in its enforcement, this Conservation Restriction shall survive such simultaneous ownership of fee and Conservation Restriction interests in the AOC 1 Open Space Property, and shall not be extinguished notwithstanding any otherwise applicable legal doctrine under which such property interests would or might be merged, and (c) Grantee shall, as promptly as practicable, either assign its interests in this Conservation Restriction to another

Qualified Holder in conformity with the requirements of this paragraph or divest itself of its fee interest in the AOC 1 Open Space Property. Any instrument of assignment of this Conservation Restriction or the rights conveyed herein shall refer to the provisions of this paragraph, and shall contain language necessary to continue it in force.

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

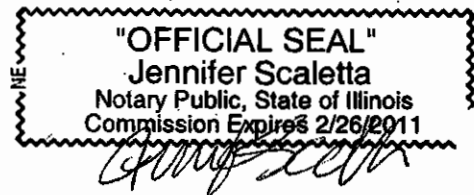


By: Richard J. Kriva  
Title: Vice President, Global Real Estate  
Bayfront Redevelopment LLC

This 12<sup>th</sup> day of December, 2008



By: Richard J. Kriva  
Title: Vice President, Global Real Estate  
Honeywell International Inc.



By: Willie Shub  
Title: RIVER KEEPER  
Hackensack Watershed Land Trust

Kelly G. Palazzi  
This 25<sup>th</sup> day of November, 2008

KELLY G. PALAZZI  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES ~~APRIL 24~~ MAY 6, 2009

STATE OF ILLINOIS        )  
  )  
  )        SS:  
COUNTY OF MC HENRY    )

I CERTIFY that on December 12<sup>th</sup>, 2008, Richard J. Kriva, personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Vice President, Global Real Estate of Honeywell International Inc., the corporation named in the attached document;
- (b) this document was signed and made by the corporation as its voluntary act and deed and was duly authorized by the corporation; and
- (c) this person delivered the attached document as the voluntary act and deed of the corporation.

Sworn to and Subscribed before me  
this 12<sup>th</sup> day of December, 2008.



Jennifer Scaletta  
A Notary Public

STATE OF ILLINOIS                    )  
  )  
COUNTY OF MC HENRY                )        SS:

I CERTIFY that on December <sup>12</sup>12, 2008, Richard J. Kriva, personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Vice President, Global Real Estate for Honeywell International Inc, which is the sole member of Bayfront Redevelopment LLC, the limited liability company named in the attached document;
- (b) this document was signed and made by the limited liability company as its voluntary act and deed and was duly authorized by the sole member of the limited liability company; and
- (c) this person delivered the attached document as the voluntary act and deed of the limited liability company.

Sworn to and Subscribed before me  
this 12<sup>th</sup> day of December, 2008.

Jennifer Scaletta  
A Notary Public



STATE OF NEW JERSEY )  
 )  
 ) SS:  
COUNTY OF )

I CERTIFY that on November 25, 2008, William Sheehan, personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Riverkeeper of the Hackensack Watershed Land Trust, the trust named in the attached document;
- (b) this document was signed and made by the trust as its voluntary act and deed and was duly authorized by the trust; and
- (c) this person delivered the attached document as the voluntary act and deed of the trust.

Sworn to and Subscribed before me  
this 12<sup>th</sup> day of December, 2008.

  
A Notary Public

KELLY G. PALAZZI  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES ~~APRIL 20,~~

May 6, 2009

**Schedule A**  
**MAXIMUM LEGAL DESCRIPTION**  
**PRE-REMEDICATION AOC 1 OPEN SPACE PROPERTY**  
**BLOCK 1290.1 Lots 2D, 2E, 14H, 14J, 15B, 15D and 16A.99**  
**CITY OF JERSEY CITY**  
**HUDSON COUNTY, NEW JERSEY**

The AOC 1 Open Space Property that is the subject of this Conservation Restriction is intended to consist of a parcel of land which will be bounded by underground Hydraulic Barrier Walls that have not been fully constructed as of the date of this instrument. Accordingly, the parties agree that until such time as construction of the Hydraulic Barrier Walls is completed and an Amended Conservation Restriction is approved by the Court as provided below, the legal description of the AOC 1 Open Space Property shall be as set forth in the survey and diagram attached hereto as Exhibit A. The parties further agree that such legal description is subject to revision as provided herein.

Upon completion of construction of the Hydraulic Barrier Walls, Grantor will cause the AOC 1 Open Space Property to be re-surveyed (the "As-Built Survey") with the perimeter of the AOC 1 Open Space Property to be the outer facing wall of the Hydraulic Barrier Walls, as constructed. Grantor shall further cause a metes and bounds description (the "As-Built Description") to be prepared based on the As-Built Survey. Following preparation of the As-Built Description, Grantor shall request that the Court amend the order which, pursuant to paragraph 60(b)(i) of the Consent Decree, embodies this Conservation Restriction ("the Conservation Restriction Order"), by substituting the As-Built Description for the metes and bounds description set forth in Exhibit A and thereby creating an Amended Conservation Restriction. Once the Conservation Restriction Order is so amended by the Court, Grantor shall record the Amended Conservation Restriction in the office of the Hudson County Register, without the need for execution or consent, written or otherwise, by Grantee.

Upon recording the Amended Conservation Restriction, the As-Built Description shall supersede, replace and make null and void the legal description set forth in Exhibit A to this Conservation Restriction.



July 2, 2008  
Revised July 3, 2008  
Revised July 29, 2008  
Revised August 13, 2008  
Revised October 3, 2008



Project No. 030117508

LEGAL DESCRIPTION  
PROPOSED OPEN SPACE AREA  
BLOCK 1290.1 LOTS 2D, 2E, 14H, 14J and 16A.99  
CITY OF JERSEY CITY  
HUDSON COUNTY, NEW JERSEY

A Parcel of land described herein located in Block 1290.1, Lots 2D, 2E, 14H, 14J and 16A.99, City of Jersey City, Hudson County, New Jersey, and being more particularly described as follows:

Beginning at the intersection of the westerly sideline of New Jersey State Highway Route 440 and the division line between Block 1290.1, Lots 14D and 16A.99, and running; thence,

1. Along said division line, North 49 degrees 06 minutes 05 seconds West, 257.00 feet to the division line between Lots 14D and 14H; thence,
2. Along said division line, South 24 degrees 46 minutes 55 seconds West 6 feet more or less to the southerly face of an existing Hydraulic Barrier Wall; thence,

Running through Lots 14H and 14J in Block 1290.1, along said southerly wall face, the following two (2) courses:

3. North 49 degrees 06 minutes 05 seconds West, 232.64 feet; thence,
4. North 59 degrees 39 minutes 05 seconds West, 1584.08 feet to the westerly line of said Lot 14J; thence,
5. Along said westerly line, and along the westerly line of Lot 2D in Block 1290.1, North 45 degrees 52 minutes 45 seconds East, 70.6 feet more or less to the intersection of the same with the southerly building line as extended, of an outfall structure building; thence,
6. Running through Lot 2D along said line, South 45 degrees 40 minutes 26 seconds East, 60.73 feet; thence,
7. Along the same, North 44 degrees 19 minutes 34 seconds East, 22.58 feet; thence,
8. Along the same, North 45 degrees 40 minutes 26 seconds West, 7.05 feet; thence,
9. Along the same, North 44 degrees 19 minutes 34 seconds East, 5.38 feet; thence,
10. Along the same, North 45 degrees 40 minutes 26 seconds West, 1.44 feet; thence,

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11. Along the same, North 44 degrees 19 minutes 34 seconds East, 5.24 feet to the intersection of the same with the outer wall of an existing JCMUA 72" underground sanitary sewer force main pipe (being the side facing the herein described open space lands); thence,
12. Along said outer pipe wall, North 68 degrees 14 minutes 24 seconds East, 110.05 feet; thence,
13. Along the same, North 26 degrees 00 minutes 52 seconds East, 5.35 feet to the southerly building line of another outfall structure building; thence,
14. Along said building line, South 63 degrees 59 minutes 08 seconds East, 3.40 feet; thence,
15. Along the same, North 26 degrees 00 minutes 52 seconds East, 5.26 feet to the aforementioned outer wall of an existing JCMUA 72" underground sanitary sewer force main pipe; thence,
16. Along said outer pipe wall, South 64 degrees 15 minutes 52 seconds East, 298.76 feet; thence,
17. Along the same, South 63 degrees 39 minutes 08 seconds East, 195.65 feet; thence
18. Along the same, South 65 degrees 19 minutes 16 seconds East, 113.04 feet; thence,
19. Along the same, South 67 degrees 09 minutes 18 seconds East, 103.49 feet; thence,
20. Along the same, North 23 degrees 08 minutes 40 seconds East, 53.16 feet to a point of non-tangent curvature in the northerly curb line of a proposed road to be known as Stegman Boulevard, as shown on Exhibit 7 of the "Bayfront I Development Plan" prepared for the City of Jersey City by A. Nelessen Associates, Inc, dated February 13, 2008; thence,

Running through Lots 2D, 2E, and 16A.99, along said proposed northerly curb line the following five (5) courses:

20. Along a non-tangent curve to the right having a radius of 1036.00 feet, a central angle of 06 degrees 49 minutes 53 seconds and an arc length of 123.52 feet and a chord bearing of South 66 degrees 53 minutes 53 seconds East, a chord distance of 123.45 feet to a point of compound curvature; thence,
21. Along a curve to the right having a radius of 1458.00 feet, a central angle of 09 degrees 39 minutes 52 seconds and an arc length of 245.93 feet to a point of tangency; thence,
22. South 53 degrees 49 minutes 05 seconds East, 74.81 feet to a point of curvature; thence,
23. Along a curve to the right having a radius of 6213.00 feet, a central angle of 04 degrees 27 minutes 15.8 seconds and an arc length of 483.02 feet to a point of tangency; thence,
24. South 49 degrees 21 minutes 50 seconds East, 272.98 feet to the aforementioned Route 440 westerly sideline; thence,
25. Along said westerly sideline, South 24 degrees 46 minutes 55 seconds West, 274.45 feet to the point and place of beginning.



030117508  
July 2, 2008  
Revised July 3, 2008  
Revised July 29, 2008  
Revised August 13, 2008  
Revised October 3, 2008  
Page 3

Containing 11.8 acres of land more or less as described herein.

Subject to a field survey of the proposed hydraulic barrier walls upon completion of their installation.

Subject to all existing easements, rights-of-way and reservations of record.

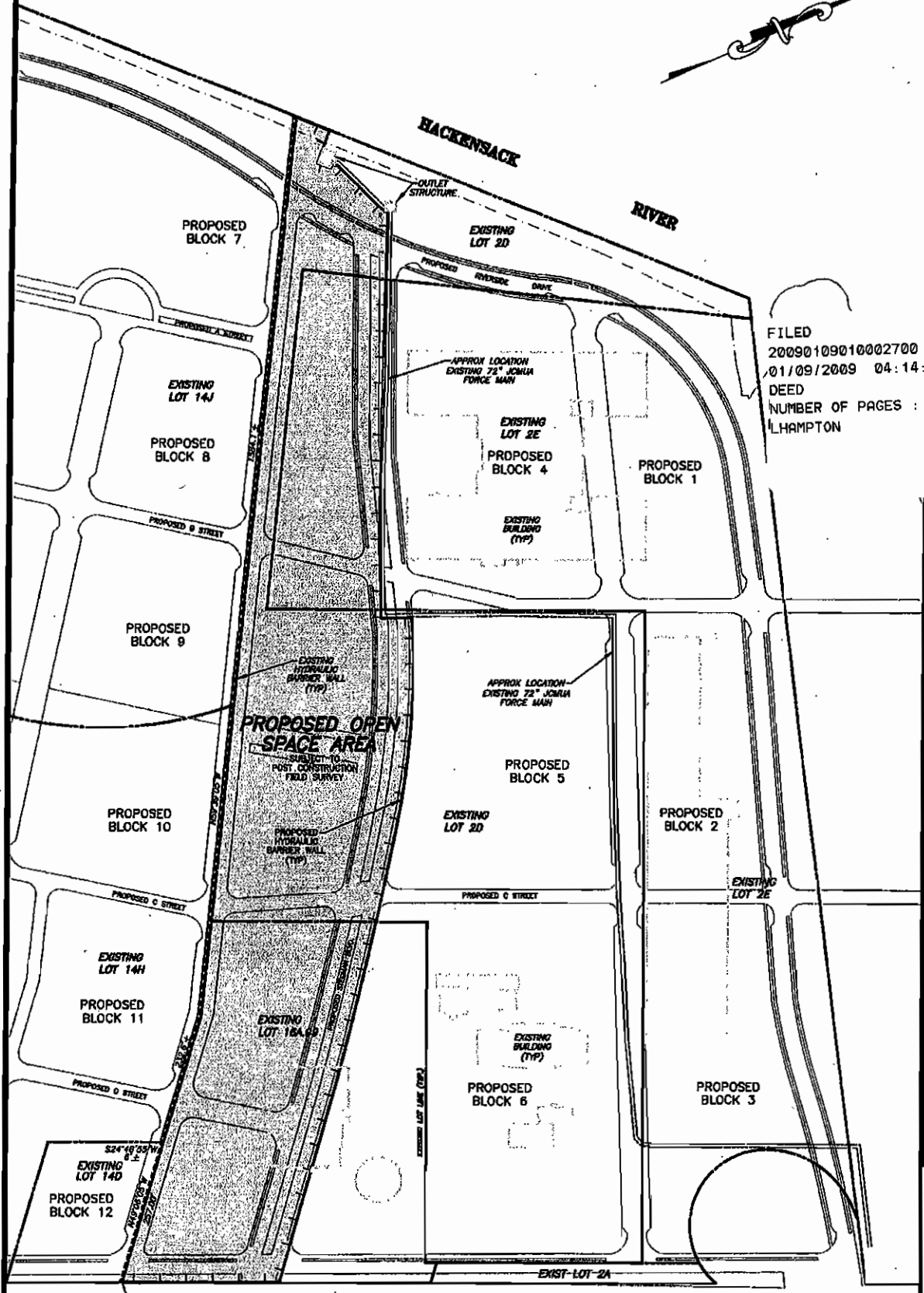
The above described premises being also depicted on the diagram included as part of this Exhibit A.



Glen J. Lloyd, P.L.S.  
N.J. Professional Land Surveyor  
New Jersey License No. GS37598

# EXHIBIT A

SCALE 1"=200'



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