



STATE OF RHODE ISLAND

RHODE ISLAND ETHICS COMMISSION

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NOTICE OF OPEN MEETING

AGENDA

7th Meeting

DATE: Tuesday, July 25, 2023

TIME: 9:00 a.m.

PLACE: Rhode Island Ethics Commission
Hearing Room - 8th Floor
40 Fountain Street
Providence, RI 02903

LIVESTREAM: The Open Session portions of this meeting will be livestreamed at:
<https://us02web.zoom.us/j/81003268015>

1. Call to Order.
2. Administration of Oath of Office to the Honorable Hugo L. Ricci, Jr.
3. Motion to approve minutes of Open Session held on June 27, 2023.
4. Director's Report: Status report and updates regarding:
 - a.) Complaints and investigations pending;
 - b.) Advisory opinions pending;
 - c.) Access to Public Records Act requests since last meeting;
 - d.) Financial Disclosure;
 - e.) Ethics Administration/Office Update.
5. Review of Exemption for Azure Cygler, pursuant to the R.I. Public/Private Partnership Act, R.I. Gen. Laws § 16-59-26. [Executive Director Gramitt]

6. Advisory Opinions.
 - a.) The Honorable Michael B. Forte, Jr., the Municipal Court Judge for the Town of Tiverton, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics from presiding over and adjudicating a complaint alleging violations of the Tiverton Home Rule Charter by members of the Tiverton Town Council, given that he was appointed to his current position by the Town Council. [Staff Attorney Radiches]
 - b.) Josh Hyman, an Engineering Technician at the Rhode Island Department of Transportation, requests an advisory opinion regarding the application of the revolving door provisions of the Code of Ethics to his impending employment with a private engineering firm. [Staff Attorney Radiches]
 - c.) Timothy E. Sweeney, a member of the Bristol Town Council, requests an advisory opinion regarding whether he qualifies for a hardship exception to the Code of Ethics' prohibition against representing himself before the Bristol Historic District Commission, over which the Bristol Town Council has appointing authority, in order to seek review and approval of proposed renovations to his primary residence. [Staff Attorney Popova Papa]
 - d.) J. Clement Cicilline, M.S., a member of the Newport Canvassing Authority, who in his private capacity is a member of the Democratic 13th Senatorial District Committee, a private organization, requests an advisory opinion regarding whether the Code of Ethics prohibits him from simultaneously serving in both positions. [Staff Attorney Popova Papa]
 - e.) Matthew McGeorge, AIA, LEED AP, a member of the East Greenwich Historic District Commission, who in his private capacity is an architect, requests an advisory opinion regarding whether he qualifies for a hardship exception to the Code of Ethics' prohibition on representing his client before the Petitioner's own board. [Staff Attorney Popova Papa]
7. Annual Education Report (FY 2023). [Staff Attorney Radiches]
8. Motion to go into Executive Session, to wit:
 - a.) Motion to approve minutes of Executive Session held on June 27, 2023, pursuant to R.I. Gen. Laws § 42-46-5(a)(1), (2) & (4).
 - b.) In re: Daniel McKee, Complaint No. 2023-8, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) & (4).
 - c.) Motion to return to Open Session.
9. Motion to seal minutes of Executive Session held on July 25, 2023.

10. Report on actions taken in Executive Session.
11. New Business proposed for future Commission agendas and general comments from the Commission.
12. Motion to adjourn.

ANYONE WISHING TO ATTEND THIS MEETING WHO MAY HAVE SPECIAL NEEDS FOR ACCESS OR SERVICES SUCH AS A SIGN LANGUAGE INTERPRETER, PLEASE CONTACT THE COMMISSION BY TELEPHONE AT 222-3790, 48 HOURS IN ADVANCE OF THE SCHEDULED MEETING. THE COMMISSION ALSO MAY BE CONTACTED THROUGH RHODE ISLAND RELAY, A TELECOMMUNICATIONS RELAY SERVICE, AT 1-800-RI5-5555.

Posted on July 20, 2023

RHODE ISLAND ETHICS COMMISSION

Draft Advisory Opinion

Hearing Date: July 25, 2023

Re: The Honorable Michael B. Forte, Jr.

QUESTION PRESENTED:

The Petitioner, the Municipal Court Judge for the Town of Tiverton, a municipal appointed position, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics from presiding over and adjudicating a complaint alleging violations of the Tiverton Home Rule Charter by members of the Tiverton Town Council, given that he was appointed to his current position by the Town Council.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, the Municipal Court Judge for the Town of Tiverton, a municipal appointed position, is not prohibited by the Code of Ethics from presiding over and adjudicating a complaint alleging violations of the Tiverton Home Rule Charter by members of the Tiverton Town Council, notwithstanding that he was appointed to his current position by the Town Council.

The Petitioner was appointed to the position of Municipal Court Judge for the Town of Tiverton (“Town” or “Tiverton”) by a majority vote of the Tiverton Town Council (“Town Council”) in October 2022. A Tiverton Municipal Court Judge generally serves a two-year term; however, because the Petitioner was appointed mid-term, his reappointment will be considered by the Town Council in November 2023.

The Petitioner states that a complaint was filed with the Town Clerk in April 2023 by a Tiverton resident alleging violations of Tiverton’s Home Rule Charter (“Charter”) by four of the seven members of the Town Council and a number of other Town officials.¹ The Petitioner explains that complaints alleging Charter violations are ordinarily reviewed by the Town Council, which sits as a Charter Monitoring and Complaint Review Board. He adds that, in the event that a complaint is made against a majority of Town Council members, upon determination by the Town Clerk that the complaint has been sufficiently set forth, the Town Clerk then files the complaint in the Municipal Court.

The Petitioner represents that the subject complaint was filed by the Town Clerk in the Municipal Court and that on May 18, 2023, the Petitioner issued an order staying the complaint until such

¹ The other Town officials named in the complaint include the Zoning Enforcement Officer, the Building/Zoning Official, the Director of Public Works, the Town Administrator, and the Solicitor.

time as the Ethics Commission issues an advisory opinion regarding whether the Petitioner may hear the matter without violating the Code of Ethics.² The Petitioner informs that, in the event of a conflict of interest under the Code of Ethics, or with some other relevant rules and regulations to which he is subject, the complaint will be heard by Tiverton's Probate Judge.³ Cognizant of the Code of Ethics, and desirous of acting in conformance therewith, the Petitioner seeks advice from the Ethics Commission regarding whether he may preside over and adjudicate the subject complaint which names among the defendants a majority of the members of his appointing authority.

Under the Code of Ethics, a public official may not participate in any matter in which he has an interest, financial or otherwise, that is in substantial conflict with the proper discharge of his duties or employment in the public interest. R.I. Gen. Laws § 36-14-5(a). A public official will have an interest that is in substantial conflict with the proper discharge of his official duties if it is reasonably foreseeable that a direct monetary gain or loss will accrue by virtue of the public official's activity to the public official, his family member, his business associate, or any business by which he is employed or which he represents. Section 36-14-7(a). Additionally, section 36-14-5(d) prohibits a public official from using his position or confidential information received through his position to obtain financial gain, other than that provided by law, for himself, any person within his family, his business associate, or any business by which he is employed or represents. Further, Commission Regulation 520-RICR-00-00-1.2.1(A)(2) Additional Circumstances Warranting Recusal (36-14-5002) states that a public official must recuse himself from participation in his official capacity when his business associate or employer appears or presents evidence or arguments before his municipal agency. A business associate is defined as "a person joined together with another person to achieve a common financial objective." Section 36-14-2(3). A person is defined as "an individual or a business entity." Section 36-14-2(7). A business is defined as "a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust or any other entity recognized in law through which business for profit or not for profit is conducted." Section 36-14-2(2).

In order to determine whether the above provisions of the Code of Ethics are implicated, the Ethics Commission must first ascertain whether the Petitioner, his family member, his business associate, or any business by which he is employed or represents will be financially impacted by the official action that is under consideration. If a financial impact upon someone in any of the aforementioned categories is not reasonably foreseeable, then the Petitioner is not required by these provisions of the Code of Ethics to recuse from presiding over and adjudicating the subject complaint.

In prior advisory opinions, the Ethics Commission has consistently concluded that the Code of Ethics does not consider the relationship between a public official and a public body, such as a state or municipal agency, to be that of business associates. See, e.g., A.O. 2011-29 (opining that the petitioner was not a business associate of either the Rhode Island Department of Transportation (RIDOT) or the Town of Portsmouth, notwithstanding his employment by RIDOT and his service on the Portsmouth Planning Board); A.O. 2015-27 (opining that the petitioner was not a business

² The Petitioner states that he made a similar request of the Judicial Advisory Committee relative to the application of the Code of Judicial Conduct to the circumstances described herein.

³ Pursuant to the Tiverton Town Charter, the Probate Judge is an elected municipal official.

associate of either the Town of Westerly or the Community College of Rhode Island, notwithstanding his simultaneous employment by both public entities).

Here, the Town is not a business by which the Petitioner is employed; nor is it the Petitioner's business associate. Therefore, the above-cited provisions of the Code of Ethics are inapplicable. Accordingly, it is the opinion of the Ethics Commission that the Petitioner is not prohibited from presiding over and adjudicating the subject complaint.

Public officials and employees are encouraged by the Rhode Island Constitution to hold themselves to ethical principles that go beyond the legal requirements of the Code of Ethics by "adher[ing] to the highest standards of ethical conduct, respect[ing] the public trust and . . . avoid[ing] the appearance of impropriety[.]" R.I. Const. art. III, sec. 7. The Code of Ethics does not prohibit the creation of an appearance of impropriety; however, like the Rhode Island Constitution, it advises public officials and employees to voluntarily avoid conduct that creates such an appearance. The Ethics Commission leaves to the Petitioner the decision of whether his presiding over and adjudicating a complaint alleging Town Charter violations by his appointing authority carries with it an appearance of impropriety such that he chooses to recuse from doing so.

This Draft Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. Under the Code of Ethics, advisory opinions are based on the representations made by, or on behalf of, a public official or employee and are not adversarial or investigative proceedings. Finally, this Commission offers no opinion on the effect that any other statute, regulation, ordinance, constitutional provision, charter provision, or canon of professional judicial ethics may have on this situation.

Code Citations:

§ 36-14-2(2)

§ 36-14-2(3)

§ 36-14-2(7)

§ 36-14-5(a)

§ 36-14-5(d)

§ 36-14-7(a)

520-RICR-00-00-1.2.1 Additional Circumstances Warranting Recusal (36-14-5002)

Constitutional Authority:

R.I. Const., art III, sec. 7

Related Advisory Opinions:

A.O. 2015-27

A.O. 2011-29

Keywords:

Conflict of Interest

Appearance of Impropriety

RHODE ISLAND ETHICS COMMISSION

Draft Advisory Opinion

Hearing Date: July 25, 2023

Re: Josh Hyman

QUESTION PRESENTED:

The Petitioner, an Engineering Technician at the Rhode Island Department of Transportation, a state employee position, requests an advisory opinion regarding the application of the revolving door provisions of the Code of Ethics to his impending employment with a private engineering firm.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, an Engineering Technician at the Rhode Island Department of Transportation, a state employee position, is prohibited by the Code of Ethics from representing himself or others, including his private employer, and/or from acting as an expert witness, before the Department of Transportation until the expiration of one year following the date of severance from his state employment. The Petitioner is further prohibited by the Code of Ethics from using or disclosing any confidential information that he obtained while working as an Engineering Technician to financially benefit himself or his new private employer.

The Petitioner has been employed by the Rhode Island (“State”) Department of Transportation (“RIDOT”) since 2009 and currently works as an Engineering Technician in RIDOT’s Construction Division. He identifies among his duties the daily documentation of activity on construction projects and the collection of field data from construction and installation sites for purposes of verifying compliance with the plans and specifications identified in performance contracts awarded by RIDOT. The Petitioner explains that the data he collects gets submitted to a Resident Engineer at RIDOT who, after verifying the veracity and formatting of the submitted data, approves it. He states that RIDOT retains the data, which is later referenced to verify the achievement of project milestones that trigger payment to the contractor responsible for their performance.

The Petitioner represents that he was recently offered the position of Senior Inspector by AECOM, a private engineering and consulting firm, after a recruiter found the Petitioner’s information on the social media platform LinkedIn. The Petitioner further represents that he would perform for AECOM essentially the same field data and documentation work that he currently performs for RIDOT. The Petitioner states that AECOM has been hired as a subcontractor by AI Consulting, which is the engineering consultant to one of the contractors (“Contractor”) hired by the State to

perform reconstruction on Route 146 (“146 Project”). He adds that AECOM would like to hire him specifically to work on the 146 Project.

The Petitioner represents that, if hired by AECOM, he will submit for approval to AI Consulting digitally produced daily reports containing data and documentation relative to the 146 Project. This would include narratives and pictures of construction activities, counts of equipment, the assignment and presence of manpower, and information about material deliveries. He states that AI Consulting would then submit the daily reports to the Contractor, who will use it to verify the correct completion of contract milestones before submitting payment requests to RIDOT. The Petitioner states that his name would appear on the daily reports that he submits to AI Consulting and, presumably, would remain on those daily reports as they are transmitted, first to the Contractor and, eventually, to RIDOT. He further states that the daily reports ultimately become the property of RIDOT where they are archived as such.

The Petitioner represents that RIDOT will concurrently collect its own field data and produce its own daily reports relating to the 146 Project in the same format and using the same “Headlight-Fieldbook” system as that which would be used by the Petitioner as an AECOM employee. He further represents that, when preparing its own daily reports, RIDOT would not rely on the reports that will have been originated for AECOM by the Petitioner, but would instead compare its own daily reports to those prepared by AECOM in order to verify consistency between them prior to initiating payments to the Contractor upon the achievement of performance milestones.¹

The Petitioner explains that the design/build contractual architecture of the 146 Project includes assurances by both AECOM and RIDOT that approved plans and specifications are being followed as designed. He represents that the dual analysis by AECOM and RIDOT in the form of their individual daily reports helps ensure a balance between the quality assurance performed by RIDOT and the quality control performed by the Contractor. He adds that a design/build project helps protect the state from liability due to incorrect or incomplete plans or specifications. The Petitioner states that he does not believe that AECOM’s continued involvement in, and compensation for, its work on the 146 Project would be contingent upon the Petitioner’s work for AECOM; nor would RIDOT have any direct impact upon AECOM’s decision to retain and/or compensate the Petitioner as an AECOM employee.

The Petitioner emphasizes that he would not attend any construction meetings and that he would only be responsible for data gathering during construction operations as an hourly employee. He states that AECOM is requesting his presence on the 146 Project as soon as possible after adequate notice is given by the Petitioner to RIDOT. Based on the facts as represented, the Petitioner seeks guidance from the Ethics Commission regarding the application of the revolving door provisions of the Code of Ethics to his impending employment with AECOM.

¹ The Petitioner informs that, because both AECOM and RIDOT are collecting data from the same construction sites for the same purposes, any misalignment of the data collected would be the result of a miscalculation or misunderstood fact by one party. He states that any adjustment would be the result of an agreement between RIDOT and AECOM regarding an error involved. He adds that original reports likely will not be changed to reflect an adjustment, but that an addendum would be recorded and cross-referenced.

The Code of Ethics prohibits a public employee from representing himself or any other person before any state agency by which he is employed. R.I. Gen. Laws § 36-14-5(e)(1) & (2) (“section 5(e)”). A “person” is defined as an individual or business entity. Section 36-14-2(7). This prohibition extends for a period of one year after the public employee has officially severed his position with the state agency. Section 5(e)(4). The “revolving door” language of section 5(e) is designed to minimize any undue influence that a former employee may have over his former agency and colleagues by reason of his past employment there. This prohibition is absolute and applies to the entire agency, including all of its offices, sections, programs or divisions. Under the Code of Ethics, a person represents himself or another person before a state agency if “he participates in the presentation of evidence or arguments before that agency for the purpose of influencing the judgment of the agency in his [] own favor or in favor of [another] person.” Section 36-14-2(12) & (13); Commission Regulation 520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016). Additionally, section 36-14-5(c) prohibits the use and/or disclosure of confidential information received through one’s public employment for pecuniary gain.

The Ethics Commission has issued numerous advisory opinions interpreting section 5(e)(4)’s requirement with respect to former state employees interacting with their former agencies during the one-year period following the date of severance from their state employment. Two such advisory opinions were issued to former RIDOT employees. In Advisory Opinion 2020-27, the Ethics Commission opined that the former Administrator of Project Management for the RIDOT was prohibited from representing himself or others, including his private employer, or from acting as an expert witness, before the RIDOT until the expiration of one year following the date of severance from his state employment. The Ethics Commission further opined that the petitioner was prohibited from using any confidential information he obtained while working as the Administrator of Project Management to financially benefit himself or his employer. Similarly, in Advisory Opinion 2017-34, the Ethics Commission opined that a former Principal Civil Engineer in the Bridge Design section of the RIDOT, while not prohibited from working for a private engineering firm upon his retirement, was prohibited from representing himself or others, including his new private employer, or from acting as an expert witness, before the RIDOT for a period of one year following the date of severance from his state employment, and from using any confidential information he obtained while working for the RIDOT for financial gain. See also A.O. 2020-6 (opining that the Vice President of Business Development at the Rhode Island Commerce Corporation was prohibited from representing himself or his private employer before the Commerce Corporation until the expiration of one year after he had officially severed his position with that agency, and further opining that the petitioner was prohibited from using any confidential information he obtained while working as the Vice President of Business Development to financially benefit himself or his employer).

Here, the Petitioner’s proposed conduct would not constitute the representation of himself or AECOM before RIDOT. Nor would the Petitioner’s collection of field data and production of daily reports relative to the 146 Project as an AECOM employee constitute his participation in the presentation of evidence or arguments before RIDOT for the purpose of influencing RIDOT’s judgment in favor of either himself or AECOM. The Petitioner states that RIDOT will concurrently collect its own field data and produce its own daily reports relating to the 146 Project, and not rely on the reports that will have been originated for AECOM by the Petitioner. The comparison by RIDOT of its own daily reports to those prepared by AECOM will be undertaken

merely to verify the anticipated consistency between them. Also, the Petitioner represents that the performance of his duties as an AECOM employee receiving an hourly wage would have no impact on AECOM's continued involvement in, and compensation for, its work on the 146 Project; nor would RIDOT have any direct impact upon the Petitioner's status as an AECOM employee.

Accordingly, and for all of the foregoing reasons, it is the opinion of the Rhode Island Ethics Commission that the Petitioner is prohibited by the Code of Ethics from representing himself or others, including his private employer, and/or from acting as an expert witness, before the Department of Transportation, including all of its offices, sections, programs or divisions, until the expiration of one year following the date of severance from his state employment. Based on the facts as represented, there is nothing to suggest that the Petitioner, in his capacity as an AECOM employee, would be representing himself or his new employer before his former state agency or in a position to exercise any undue influence over his former colleagues and/or over RIDOT by reason of his past employment there. The Petitioner is further prohibited by the Code of Ethics from using or disclosing any confidential information that he obtained while working as an Engineering Technician to financially benefit himself or his new private employer.

This Draft Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. Under the Code of Ethics, advisory opinions are based on the representations made by, or on behalf of, a public official or employee and are not adversarial or investigative proceedings. Finally, this Commission offers no opinion on the effect that any other statute, regulation, ordinance, constitutional provision, charter provision, or canon of professional ethics may have on this situation.

Code Citations:

§ 36-14-2(7)

§ 36-14-2(12)

§ 36-14-2(13)

§ 36-14-5(c)

§ 36-14-5(e)

520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016)

Related Advisory Opinions:

A.O. 2020-27

A.O. 2020-6

A.O. 2017-34

Keywords:

Revolving Door

RHODE ISLAND ETHICS COMMISSION

Draft Advisory Opinion

Hearing Date: July 25, 2023

Re: Timothy E. Sweeney

QUESTION PRESENTED:

The Petitioner, a member of the Bristol Town Council, a municipal elected position, requests an advisory opinion regarding whether he qualifies for a hardship exception to the Code of Ethics' prohibition against representing himself before the Bristol Historic District Commission, over which the Bristol Town Council has appointing authority, in order to seek review and approval of proposed renovations to his primary residence.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a member of the Bristol Town Council, a municipal elected position, qualifies for a hardship exception to the Code of Ethics' prohibition against representing himself before the Bristol Historic District Commission, over which the Bristol Town Council has appointing authority, in order to seek review and approval of proposed renovations to his primary residence.

The Petitioner is a member of the Bristol Town Council ("Town Council") and has served in that position continuously since his initial election in 2012. He represents that he would like to complete maintenance and enhancements to the exterior of his home including, but not limited to, the construction of an outdoor kitchen with a pergola; maintenance and replacement of stairs at both entrances to his home, including the replacement of the bottom stair of each staircase with a solid bluestone step; installation of a privacy fence and privacy panels to screen the garbage cans and the existing air conditioning unit; and replacement and extension of the existing patio in his backyard. The Petitioner states that, because his home is located within the Bristol Historic District, some changes to the exterior¹ of his home will require approval by the Bristol Historic District Commission ("HDC"), over the members of which the Town Council has appointing authority. He explains that other changes are either exempt from HDC approval or are eligible for administrative approval by the HDC's staff assistant.² The Petitioner states that he purchased his home in 2010 and has resided there ever since. Given this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding whether he may appear before the HDC in order to seek a review and approval of his renovation plans.

¹ The Petitioner represents that the changes to the exterior of his home that will require approval by the HDC are the proposed construction of the pergola, the installation of screening panels for the garbage cans and the air conditioning unit, and the replacement of the bottom stair of each of the two staircases.

² The Petitioner represents that the HDC's staff assistant is hired by the Town Administrator, who is a municipal elected official.

The Code of Ethics prohibits a public official from representing himself or authorizing another person to appear on his behalf before a state or municipal agency of which he is a member, by which he is employed, or for which he is the appointing authority. R.I. Gen. Laws § 36-14-5(e)(1) (“section 5(e)”); Commission Regulation 520-RICR-00-00-1.1.4(A)(1) Representing Oneself or Others, Defined (36-14-5016) (“Regulation 1.1.4”). Pursuant to Regulation 1.1.4(A)(1)(a), a person will represent himself before a state or municipal agency if he “participates in the presentation of evidence or arguments before that agency for the purpose of influencing the judgment of the agency in his [] favor.” Absent an express finding by the Ethics Commission in the form of an advisory opinion that a hardship exists, these prohibitions continue while the public official remains in office and for a period of one year thereafter. Section 36-14-5(e)(1) & (4). Upon receiving a hardship exception, the public official must also “follow any other recommendations that the Ethics Commission may make to avoid any appearance of impropriety in the matter.” Section 36-14-5(e)(1)(iii).

The Petitioner’s proposed conduct squarely falls within the Code of Ethics’ prohibition on representing himself before an agency for which he is the appointing authority. Having determined that section 5(e)’s prohibitions apply to the Petitioner, the Ethics Commission will next consider whether the unique circumstances represented by him herein justify a finding of hardship to permit him to appear before the HDC.

The Ethics Commission reviews questions of hardship on a case-by-case basis and has, in the past, considered the following factors in cases involving real property: whether the subject property involved the official’s principal residence or principal place of business; whether the official’s interest in the property was pre-existing to his public office or was recently acquired; whether the relief sought involved a new commercial venture or an existing business; and whether the matter involved a significant economic impact. When deciding whether to apply the hardship exception, the Ethics Commission considers the totality of the circumstances and no single factor is determinative.

In 2020, the Ethics Commission granted a hardship exception to the instant Petitioner through the issuance of Advisory Opinion 2020-34. There, the Petitioner was permitted to appear before the HDC to seek approval for modifications to the exterior of his home associated with the addition of a second bathroom in the home. The Ethics Commission has also previously granted hardship exceptions to a number of other public officials who sought to appear before boards for which they were the appointing authority regarding their personal residences. See, e.g., A.O. 2019-64 (granting a hardship exception to the President of the North Smithfield Town Council and permitting him to appear before the North Smithfield Zoning Board of Review to seek a dimensional variance for his personal residence, provided that he recused from the Town Council’s appointment or reappointment of any person to the Zoning Board until after the election cycle for his Town Council seat following the complete resolution of his application before the Zoning Board, including appeals, and that, prior to the Zoning Board’s consideration of his variance application, he informed the Zoning Board members of his receipt of an advisory opinion and that, consistent therewith, he would recuse from their reappointments); A.O. 2017-33 (granting a hardship exception to a member of the Bristol Town Council and permitting him to appear before the Bristol Zoning Board of Review to seek a dimensional variance for his personal property, provided that he recused from the Town Council’s appointment or reappointment of any person to

the Zoning Board until after the election cycle for his Town Council seat and following the complete resolution of his application before the Zoning Board).

Here, the Petitioner would like to construct an outdoor kitchen and conduct maintenance and enhancement to the exterior of his home. The Petitioner has owned his home since 2010, which predates his election to the Town Council in 2012. Based on the Petitioner's representations, and consistent with our past advisory opinions addressing this issue, it is the opinion of the Ethics Commission that the totality of these particular circumstances justifies making an exception to section 5(e)'s prohibitions. Accordingly, the Petitioner may represent himself, either personally or through a representative, before the HDC to seek approval of the proposed exterior modifications that require the approval of the HDC. This hardship exception extends to include the Petitioner's representation before the HDC's staff assistant.³

In order to avoid an appearance of impropriety, the Petitioner must recuse from the Town Council's appointment or reappointment of any persons to the HDC until after the election cycle for his Town Council seat following the complete resolution of the HDC's review and approval of his renovation plans, including any appeals. Notice of recusal must be filed consistent with the provisions of section 36-14-6. Finally, the Petitioner shall, prior to his appearance before the HDC relative to his application, inform the HDC members of his receipt of the instant advisory opinion and that, consistent herewith, he will recuse from their reappointments as set forth above.

This Draft Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. Under the Code of Ethics, advisory opinions are based on the representations made by, or on behalf of, a public official or employee and are not adversarial or investigative proceedings. Finally, this Commission offers no opinion on the effect that any other statute, regulation, ordinance, constitutional provision, charter provision, or canon of professional ethics may have on this situation.

Code Citations:

§ 36-14-5(e)

§ 36-14-6

520-RICR-00-00-1.1.4 Representing Oneself or Others, defined (36-14-5016)

Related Advisory Opinions:

A.O. 2020-34

A.O. 2019-64

A.O. 2017-33

Keywords:

Hardship Exception

³ The Ethics Commission makes no determination at this time regarding whether a hardship exception is required for the Petitioner to seek approval by the HDC's staff assistant of changes to the exterior of his home. The Ethics Commission shall, instead, make such a determination if and when presented with that question and following a detailed analysis of any additional facts necessary for making that determination.

RHODE ISLAND ETHICS COMMISSION

Draft Advisory Opinion

Hearing Date: July 25, 2023

Re: J. Clement Cicilline, M.S.

QUESTION PRESENTED:

The Petitioner, a member of the Newport Canvassing Authority, a municipal appointed position, who in his private capacity is a member of the Democratic 13th Senatorial District Committee, a private organization, requests an advisory opinion regarding whether the Code of Ethics prohibits him from simultaneously serving in both positions.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a member of the Newport Canvassing Authority, a municipal appointed position, who in his private capacity is a member of the Democratic 13th Senatorial District Committee, a private organization, is not prohibited by the Code of Ethics from simultaneously serving in both positions.

The Petitioner is a member of the City of Newport (“City” or “Newport”) Canvassing Authority, having been appointed to that position by the Newport City Council (“City Council”) in May of this year. The Canvassing Authority is comprised of three members and two alternates. According to the City’s website, the Canvassing Authority, “[u]nder the direction of the State Board of Elections, and in cooperation with the Secretary of State, is involved in all phases of the electoral process, from voter registration to tallying the votes after the polls close on election day.”¹ The duties of the Canvassing Authority include, *inter alia*, the following: having and discharging all of the functions, powers, and duties of the City Council concerning nominations, elections, registration of voters and canvassing rights; preparing and correcting of voting lists; making or furnishing all returns or other things required by law to be made or furnished to or by city clerks, boards of canvassers, and district clerks relative to the canvassing authority; and appointing and employing all of the Canvassing Authority’s necessary clerical and technical assistants and fixing the compensation of each such person appointed, within the limits of funds available to it pursuant to law. See R.I. Gen. Laws § 17-8-5(a).

The Petitioner represents that he has been a long-time member of the Democratic 13th Senatorial District Committee (“Committee”). He further represents that the role of the Committee, a private organization, is to endorse a candidate to represent District 13 in the Rhode Island Senate. The

¹ See <https://www.cityofnewport.com/city-hall/boards-commissions/authorities/canvassing-authority> (last visited on July 6, 2023).

Petitioner states that he is not an officer² of the Committee, does not pay membership dues, and that his duties as a member are to vote to elect the Committee's officers and the Senate candidate to be endorsed. The Petitioner adds that the members of the Committee, in their capacities as members of the Committee, do not fundraise or solicit campaign contributions on behalf of the endorsed candidate. The Petitioner represents that the Committee does not have any financial objectives. He further represents that he does not envision any circumstances under which the Committee would have to appear before him in his capacity as a member of the Canvassing Authority. He adds that if that were to occur, he would recuse from participation in such matters. Given this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding whether the Code of Ethics prohibits him from continuing to serve as a member of the Committee while simultaneously serving as a member of the Canvassing Authority.

The Code of Ethics does not directly address or regulate political affiliations and alliances and does not bar members of a Board of Canvassers from belonging to political committees or to any other particular organization. See A.O. 2014-3 (opining that a member of the Tiverton Board of Canvassers could serve in that public position notwithstanding his simultaneous service as the Vice Chair of the Tiverton Democratic Town Committee and as a member of the Democratic State Representative District 70 Endorsement Committee); A.O. 2007-45 (opining that a member of the Town of Johnston Board of Canvassers was not prohibited from simultaneous membership on the Johnston Republican Town Committee and the Republican State Central Committee); A.O. 2000-20 (opining that a member of the East Providence Board of Canvassers was not prohibited from simultaneous membership on political committees or other organizations). The Code of Ethics does, however, impose certain restrictions on the official actions that a public official may take in particular matters that involve or financially impact themselves, their family members, businesses by which they are employed, or their business associates.

Under the Code of Ethics, a public official may not participate in any matter in which he has an interest, financial or otherwise, that is in substantial conflict with the proper discharge of his duties in the public interest. R.I. Gen. Laws § 36-14-5(a). A substantial conflict of interest exists if a public official has reason to believe or expect that he, any person within his family, his business associate, or any business by which he is employed or which he represents will derive a direct monetary gain or suffer a direct monetary loss by reason of his official activity. Section 36-14-7(a). The Code of Ethics also prohibits a public official from using his public office, or confidential information received through his public office, to obtain financial gain for himself, his family member, his business associate, or any business by which he is employed or which he represents. Section 36-14-5(d). Additionally, a public official must recuse from participation when his business associate appears or presents evidence or arguments before his state or municipal agency. Commission Regulation 520-RICR-00-00-1.2.1(A)(2) Additional Circumstances Warranting Recusal (36-14-5002). A business associate is defined as "a person joined together with another person to achieve a common financial objective." Section 36-14-2(3). Finally, section 36-14-5(c) prohibits the use and/or disclosure of confidential information received through one's public employment for the purpose of pecuniary gain.

² The Petitioner represents that the officers of the Committee are the chairperson, the vice chairperson, and the secretary.

The Ethics Commission has previously opined that although candidates that have been successfully elected to office are joined together with those from whom they received an endorsement for a shared *political* objective, they do not share a common *financial* objective. In and of themselves, shared political affiliations and objectives by a public official and a candidate who may appear before the public official do not create an inherent conflict of interest within the meaning of the Code of Ethics. See, e.g., A.O. 2001-72 (opining that Westerly Town Councilors who were members of and/or who received endorsements from the local Democratic Town Committee could participate in the Council's consideration of a matter involving an officer of the Democratic Town Committee, absent any other relationship with that individual that would implicate provisions of the Code of Ethics). Accordingly, the Petitioner would not be a business associate of the candidates endorsed by the Committee and, therefore, would not run afoul of the Code of Ethics, absent any other relationship with those candidates that would implicate provisions of the Code of Ethics, when carrying out his duties as a member of the Canvassing Authority that touch upon the election of those candidates.

Additionally, the Ethics Commission has consistently found that mere membership in an organization as opposed to serving in the position of director, officer, or other position of leadership that could direct and affect the financial objectives of that organization, does not create a business association requiring recusal. See, e.g., A.O. 2013-26 (opining that a Newport City Council member was not prohibited from participating in City Council matters involving the Newport Yacht Club, notwithstanding that her husband was an individual member of the Yacht Club and paid annual dues to the Yacht Club, but was not an officer or member of the Yacht Club's Board of Directors). Here, the Petitioner represents that, not only is he merely a member of the Committee, but that the Committee has no financial objectives. Therefore, the Petitioner is not a business associate of the Committee and would not be required to recuse from matters in his public capacity that involve or financially impact the Committee.

In summary, based on the facts as represented by the Petitioner, the applicable provisions of the Code of Ethics, and consistent with prior advisory opinions issued, it is the opinion of the Ethics Commission that the Petitioner is not prohibited by the Code of Ethics from simultaneously serving as a member of the Newport Canvassing Authority and as a member of the Democratic 13th Senatorial Committee. Additionally, the Petitioner is not a business associate of the Committee, nor would he be a business associate of any candidates endorsed by the Committee. Therefore, he would not run afoul of the Code of Ethics in carrying out any of his duties as a member of the Canvassing Authority that involve the Committee or the election of the candidates endorsed by the Committee, absent any other relationship with those candidates that would implicate provisions of the Code of Ethics. The Petitioner is advised, however, that should his involvement or position on the Committee change, he should seek further guidance from the Ethics Commission.

This Draft Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. Under the Code of Ethics, advisory opinions are based on the representations made by, or on behalf of, a public official or employee and are not adversarial or investigative proceedings. Finally, this Commission offers no opinion on the effect that any other statute, regulation, ordinance, constitutional provision, charter provision, or canon of professional ethics may have on this situation.

Code Citations:

§ 36-14-2(3)

§ 36-14-5(a)

§ 36-14-5(c)

§ 36-14-5(d)

§ 36-14-7(a)

520-RICR-00-00-1.2.1 Additional Circumstances Warranting Recusal (36-14-5002)

Other Related Authority:

R.I. Gen. Laws § 17-8-5(a)

Related Advisory Opinions:

A.O. 2014-3

A.O. 2013-26

A.O. 2007-45

A.O. 2001-72

A.O. 2000-20

Keywords:

Business Associate

Political Activity

DRAFT

RHODE ISLAND ETHICS COMMISSION

Draft Advisory Opinion

Hearing Date: July 25, 2023

Re: Matthew McGeorge, AIA, LEED AP

QUESTION PRESENTED:

The Petitioner, a member of the East Greenwich Historic District Commission, a municipal appointed position, who in his private capacity is an architect, requests an advisory opinion regarding whether he qualifies for a hardship exception to the Code of Ethics' prohibition on representing his client before the Petitioner's own board.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a member of the East Greenwich Historic District Commission, a municipal appointed position, who in his private capacity is an architect, does not qualify for a hardship exception pursuant to General Commission Advisory 2010-1 and is prohibited by the Code of Ethics from representing his client before the Petitioner's own board for the reasons set forth below.

The Petitioner is the chairperson of the East Greenwich Historic District Commission ("HDC"), having served continuously as a member of the HDC since his appointment in 2011 by the East Greenwich Town Council. He represents that this is an unpaid, volunteer position. The Petitioner further represents that his term is expiring in August of this year, but that he intends to remain on the HDC for an additional month in order to ensure that a quorum is met for the HDC's meeting in September. The Petitioner states that, in his private capacity, he has been a registered architect in Rhode Island since 2007. He represents that he earned a Bachelor of Environmental Design Degree from the University of Tasmania, Tasmania, Australia, and a Master of Architecture from the Illinois Institute of Technology. The Petitioner states that he specializes in historic preservation, adaptive reuse, and the design of new structures with historic character allusions. He represents that, in the past five years, he and his firm have completed more than 15 historic adaptive reuse projects including a 25-million-dollar adaptive reuse of the Elizabeth Mill in Warwick, as well as several historic renovation projects including the Edward Bannister House for Brown University, the Caleb Greene House in Warwick for AAA New England, the Saw Tooth Mill in Warwick, and several other projects on Federal Hill and West Providence with the Omni Group. He further represents that over thirty percent (30%) of his work involves historic structures.

The Petitioner states that he has been advising a client regarding the renovation of a commercial building that is located in the Historic District of the Town of East Greenwich. The Petitioner explains that the scope of the work for the project involves an entire roof replacement, a gut interior

renovation, window replacement, and miscellaneous repairs. He states that, because the home is located within the Historic District, it is subject to the jurisdiction of the HDC. The Petitioner clarifies that when he initially spoke with the client, the scope of work did not appear to involve HDC matters. However, after they came to terms and met on site, it became immediately clear that the project would in fact require HDC submissions. The Petitioner states that due to the nature of the project having been initiated under a demolition contract and the pace of other necessary approvals, he had no choice but to promptly begin providing his professional services. The Petitioner represents that he prepared a conceptual application, along with its supporting materials, for the project which was submitted to and reviewed by the HDC at its July 12, 2023 meeting. The Petitioner states that at the meeting, upon recusing himself as an HDC member from hearing the matter, he then proceeded to represent his client before the HDC on the conceptual application. The Petitioner further states that the HDC found the design favorable and that he and his client now need to prepare a final application that will be heard by the HDC at its August 9, 2023 meeting. Therefore, the Petitioner requests a hardship exception that will allow him to represent his client before the HDC at its next meeting, pursuant to General Commission Advisory 2010-1 (“GCA 2010-1”).

R.I. Gen. Laws § 36-14-5(e)(1)-(3) (“Section 5(e)”) of the Code of Ethics prohibits a public official from representing himself, representing another person, or acting as an expert witness before a state or municipal agency of which he is a member or by which he is employed. See also Commission Regulation 520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016) (“Regulation 1.1.4”). Section 5(e)’s prohibitions continue while a public official remains in office and for a period of one (1) year thereafter. Section 5(e)(4). In contrast to most other Code of Ethics provisions, recusing and/or declining to participate in related discussions and votes is insufficient to avoid section 5(e) conflicts, absent an express finding by the Ethics Commission in the form of an advisory opinion that a hardship exists. Upon receipt of a hardship exception, a public official must also advise the state or municipal agency in writing of the existence and the nature of his interest in the matter at issue; recuse himself from voting on or otherwise participating in the agency’s consideration and disposition of the matter; and follow any other recommendations the Ethics Commission may make in order to avoid any appearance of impropriety in the matter. Section 5(e)(1). See, e.g., A.O. 2014-26 (granting a hardship exception to a member of the Barrington Zoning Board of Review (“BZB”) and permitting him to appear before the BZB to request a dimensional variance for his personal residence, but requiring him to recuse himself from participating and voting in the BZB’s consideration of his request for relief).

The Petitioner’s proposed conduct falls squarely within section 5(e)’s prohibition on representing his client before a board of which the Petitioner is a member. However, the Ethics Commission has carved out a specific hardship exception outlined in GCA 2010-1 for “Historic Architects Who Are Members of Historic District Commissions.”¹ This exception is based upon the Ethics Commission’s finding that “municipal historic district commissions within the state of Rhode

¹ On November 30, 1989, the Ethics Commission issued GCA No. 8, “Architect Members of State and Local Historic Preservation Commissions Appearing Before Their Respective Agencies,” allowing architects who specialize in historic preservation and who serve on historic district commissions to represent clients before their respective commissions without violating the Code of Ethics. In 2010, after considering public comment, and in response to overwhelming support for continuing the use of the exception, the Ethics Commission replaced GCA No. 8 with GCA 2010-1 entitled “Historic Architects Who Are Members of Historic District Commissions.”

Island are best served if they are able to have a sitting member who specializes in historic architecture and preservation.” GCA 2010-1. The Ethics Commission has concluded that, given the limited number of historic architects in the state, recruiting qualified persons to serve on historic district commissions would be difficult and would reduce the ability of historic district commissions to effectively function if those architects were thereafter prohibited from representing private clients before the commissions on which they serve.

However, pursuant to GCA 2010-1, members of historic district commissions may not presume that the exception is applicable to their specific set of circumstances, and are required to seek an advisory opinion each time they consider accepting a client whose project would require them to appear before their own boards. Additionally, GCA 2010-1’s narrow exception only applies to historic architects and does not apply to other architectural specialties. See A.O. 99-120 (declining to grant a hardship exception to a member of the New Shoreham Historic District Commission, who was a landscape architect and the owner of a landscape architecture business on the island, because his qualifications did not fall within the guidelines of a historic architect).

For GCA 2010-1 to apply, the Petitioner must make representations to establish that he is a qualified historic architect. In the present matter, the Petitioner is an architect who specializes in historic preservation and represents that his work experience and education exceed the United States Secretary of the Interior’s minimum professional qualifications for a historic architect.² It is significant to note that the Ethics Commission has previously issued no less than five similar advisory opinions to this Petitioner in which hardship exceptions were granted based on Petitioner’s status as a historic architect.³ Three of the advisory opinions were issued in 2021, one in 2019, and one in 2017. See A.O. 2021-47; A.O. 2021-39; A.O. 2021-35; A.O. 2019-43; A.O. 2017-27.

Each of these advisory opinions previously issued to the Petitioner contains language specifying that members of historic district commissions may not presume that the exception is applicable to their specific set of circumstances, and are required to seek an advisory opinion each time they wish to accept a client whose project would require them to appear before their own boards. Here,

² In order to ascertain whether someone is a historic architect, GCA 2010-1 incorporated the minimum professional qualifications for historic architecture set forth by the U.S. Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation. The minimum professional qualifications are:

A professional degree in architecture or a State license to practice architecture, plus one of the following:

1. At least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or
2. At least one year of full-time professional experience on historic preservation projects. Such study or experience shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specifications for preservation projects. <https://www.nps.gov/articles/sec-standards-prof-quals.htm> (last visited on July 17, 2023).

³ In 2020, the Petitioner requested another advisory opinion regarding whether he qualified for a hardship exception to section 5(e)’s prohibition on representing himself before his own board (the HDC) in order to represent himself, rather than a client, to seek a Certificate of Appropriateness for the replacement of the windows at his personal residence. The Ethics Commission issued Advisory Opinion 2020-28, opining that the totality of the circumstances justified making an exception to section 5(e)’s prohibitions against representing oneself before one’s own board.

unlike the five advisory opinions previously issued to the Petitioner, he did not seek and obtain a hardship exception from the Ethics Commission prior to representing the client before the HDC. The Petitioner's representation of the client before the HDC was initiated by the submission of the client's conceptual application and supporting materials, prepared by the Petitioner, to the HDC in advance of the July 12th meeting. The Petitioner's representation of the client before the HDC then continued with the Petitioner's appearance before the HDC on July 12th to address his fellow HDC members on his client's behalf. Although he recused from participation as an HDC member, he had neither sought nor received an Ethics Commission waiver/hardship exception from section 5(e)'s prohibitions prior to this appearance. Further, the Petitioner requested the instant advisory opinion the day after he appeared on behalf of his client at the July 12th hearing of the HDC and now seeks permission from the Ethics Commission to allow him to continue representing his private client at the HDC's final hearing on the application.

GCA 2010-1 makes clear that the Code of Ethics prohibits public officials from representing clients before their own boards, and that obtaining a waiver or exception to that prohibition requires prior approval by the Ethics Commission through issuance of an advisory opinion. The Petitioner is familiar with this process, having availed himself of it on six previous occasions. Unfortunately, he failed to follow the required process in this instance. Therefore, it is the opinion of the Ethics Commission that the Petitioner does not qualify for a hardship exception to the Code of Ethics pursuant to GCA 2010-1 and is prohibited from further representing his client before the HDC.

This Draft Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. Under the Code of Ethics, advisory opinions are based on the representations made by, or on behalf of, a public official or employee and are not adversarial or investigative proceedings. Finally, this Commission offers no opinion on the effect that any other statute, regulation, ordinance, constitutional provision, charter provision, or canon of professional ethics may have on this situation.

Code Citations:

§ 36-14-5(e)

520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016)

Related Advisory Opinions:

G.C.A. 2010-1

A.O. 2021-47

A.O. 2021-39

A.O. 2021-35

A.O. 2020-28

A.O. 2019-43

A.O. 2017-27

A.O. 2014-26

A.O. 99-120

Keywords:

Hardship Exception

Historic Architect

Public/Private Partnership Act Exemption:

URI employee Azure Cygler



STATE OF RHODE ISLAND

RHODE ISLAND ETHICS COMMISSION

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ethics.email@ethics.ri.gov

<https://ethics.ri.gov>

TO: Rhode Island Ethics Commission

FROM: Jason Gramitt, Executive Director

DATE: July 18, 2023

RE: Public/Private Partnership Act Exemption:
URI employee Azure Cygler

Attached hereto is correspondence received from the Board of Trustees of the University of Rhode Island ("Trustees"), providing notice that the Trustees have approved an exemption under the Public Private Partnership Act ("the Act"), R.I. Gen. Laws § 16-59-26.

The Act, which was originally enacted in 2003 with the support of the Ethics Commission, authorizes the Trustees to permit individual exemptions to the Code of Ethics in order to permit the University of Rhode Island to enter into contracts and partnerships which allow and encourage the marketing of inventions developed by faculty and staff for the benefit of both the faculty member and the University. An exemption is required because the Code of Ethics generally prohibits state employees (including public university employees) from using their public positions to obtain a financial benefit for themselves, their employers or business associates. Such exemptions can only be authorized pursuant to formal policies and procedures that were implemented in 2005, and amended in 2022, in consultation with, and with the approval of, the Ethics Commission.

The Ethics Commission received the instant notice of an approved exemption on July 5, 2023, for Azure Cygler, a URI employee working as a Marine Research Associate in the Graduate School of Oceanography's Coastal Resources Center. Pursuant to the Act, the Ethics Commission has the right to review this authorized exemption and, if it finds any areas of concern, to require the Trustees to re-examine the exemption at an open meeting. That is the extent of the Ethics Commission's role in this exemption.

This matter has been added to the agenda for your consideration. I have reviewed the proposed exemption and will make a brief presentation. The Trustees have been notified of this agenda item and their representatives will be in attendance. Please note that the Ethics Commission need take no action *unless* it finds cause to require the Trustees to re-examine the exemption at an open meeting.

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Alumni Center, 73 Upper College Road, Kingston, RI 02881 USA

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TO: Marc B. Parlange, President

FROM: Margo L. Cook, Board Chair *Margo L. Cook*

DATE: June 30, 2023

SUBJECT: Approval of a Request for an Exemption, from Ethics Code Section 1.2(h), submitted by URI employee Azure Cygler, and of the related Conflict of Interest Management Plan, under the Public-Private Partnership Act and the URI Policy on Public Private Partnership in Research and Development. Enclosure 3.e.(ii)

Ex Officio Members

Marc B. Parlange, Ph.D., P.Eng.
President

Chair
R.I. Board of Education

David Caprio, *Chair*
R.I. Council on Postsecondary Education

Melissa Sutherland, Ph.D., FAAN
Faculty Representative

Reva Goyal '27
Student Representative

This correspondence will confirm the action taken by the University of Rhode Island Board of Trustees at its meeting on June 29, 2023, relative to the above-referenced item.

VOTED: THAT the URI Board of Trustees approve the (enclosed) Request for an Exemption, from Ethics Code Section 1.2(h), submitted by URI employee Azure Cygler, and of the related (enclosed) Conflict of Interest Management Plan, under the Public-Private Partnership Act and the URI Policy on Public Private Partnership in Research and Development, as recommended and presented in Enclosure 3.e.(ii).

c: Bethany Jenkins, Interim Vice President, Research and Economic Development
Alyssa Boss, General Counsel
Peter Harrington, Associate General Counsel

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Student Representative

June 30, 2023

Mr. Jason Gramitt, Executive Director
Rhode Island Ethics Commission
40 Fountain Street, 8th Floor
Providence, RI 02903

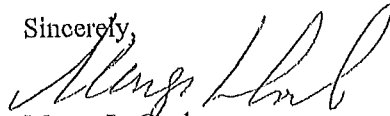
RE: Notice of Approval of a request for exemption from the University of Rhode Island for Azure Cygler, URI Staff Employee, in accordance with the terms of the Rhode Island Public/Private Partnership Act.

Dear Mr. Gramitt:

On June 29, 2023, the University of Rhode Island Board of Trustees approved URI staff member Azure Cygler's (the "Applicant's") request for exemption from Section 1.2(h) of the Rhode Island Code of Ethics, in accordance with the terms of the Rhode Island Public Private Partnership Act (the "Act") (R.I.G.L. § 16-59-26), and the University of Rhode Island's approved "Policy on Public-Private Partnership in Research and Development." (the "URI PPPA Policy").

The Applicant's "Request for Exemption" and related "Conflict of interest Management Plan" have been approved by the University of Rhode Island Conflict of Interest Management Committee, the Interim Vice President for Research and Economic Development, and President Parlange. The attached materials evidencing Ms. Cygler's exemption request and related disclosures, and the University's and the Board's review and approval of the plan in accordance with the Act and the URI PPPA Policy, are provided herewith as enclosures for the Commission's review.

Please contact Peter Harrington, URI Associate General Counsel (peterh@uri.edu / 401-874-4489) for any needed additional information related to this request. Additionally, we kindly ask that Mr. Harrington be notified as to when this item will be reviewed by the Rhode Island Ethics Commission, as he will attend to answer any questions the Commission may have.

Sincerely,

Margo L. Cook
Chair, University of Rhode Island Board of Trustees

Enclosure(s)
c: Bethany Jenkins, Interim Vice President for Research and Economic Development
Peter Harrington, Associate General Counsel



June 13, 2023

Margo L. Cook, Chair
University of Rhode Island Board of Trustees
35 Campus Avenue
Kingston, RI 02881

Re: Request for Ethics Code Exemption Under the PPPA, Azure Cygler

Dear Chairperson Cook:

Azure Cygler, who is employed by URI as a full time "Marine Research Associate IV" in the Graduate School of Oceanography's Coastal Resources Center, is seeking an exemption from Section 1.2(h) of the Rhode Island Code of Ethics under the terms of the Rhode Island Public Private Partnership Act ("PPPA") and the related "URI PPPA Policy." The PPPA requires the URI Board of Trustees to review and approve such exemptions. Below I have provided some background on the PPPA and information related to this specific case.

Background on the Public Private Partnership Act (PPPA) and its Requirements

In 2003, the Rhode Island legislature, with the support of the Governor, the Rhode Island (RI) Ethics Commission, the Rhode Island Board of Governors for Higher Education (RIBGHE), and industry representatives, enacted into law the Public Private Partnership Act (PPPA) (R.I.G.L. §16-59-26), which recognizes research as an inextricable part of the mission of public institutions of higher education and that such research by employees of these institutions often lead to inventions of value to the public. The purpose of this Act was to allow the University of Rhode Island, Rhode Island College, and the Community College of Rhode Island to enter into public/private partnerships in education that involve faculty and staff members from those institutions and encourage the marketing of inventions developed by faculty and staff for the benefit of both the inventor and the public, while continuing to ensure that RI's public employees adhere to the highest standards of ethical conduct, as embodied in the RI Code of Ethics (R.I.G.L. §36-14-1, et. seq.), and Regulations adopted by the RI Ethics Commission.

The PPPA recognizes that in the normal conduct of research and development actual or potential conflicts of interest may occur. The URI "Policy on Public Private Partnership in Research and Development" (the "URI PPPA Policy"), approved by the URI Board of Trustees in November of 2021, is mandated by R.I.G.L. §16-59-26, and is designed to ensure that the purposes expressed in Article III, Section 7 of the R.I. Constitution, the RI Code of Ethics, and the PPPA are all adhered to by the employees of the University of Rhode Island.

The PPPA allows an employee at the institutions to have a relationship, financial or otherwise, with a business that has an interest in the research or development being performed by the employee, even though the relationship would otherwise be prohibited by the RI Code of Ethics. The PPPA authorizes the URI Board of Trustees ("URI BOT") to approve relationships between URI employees and private entities in which there is an actual or perceived conflict of interest between the employee's personal interests

and the interests of URI. The PPPA also obligates the URI BOT to impose such restrictions as are necessary to manage, reduce, or eliminate any actual or potential conflict. Such relationships are allowed only with prior disclosure, approval by the URI Conflict of Interest Management Committee (CIMC), approval of the Institution President, approval by the URI BOT, and notice to the RI Ethics Commission.

As a historical note, PPPA exemptions requested by URI researchers were formerly approved by URI's predecessors governing boards (The Rhode Island Board of Governors for Higher Education, and later the Council on Postsecondary Education). But Effective February 1, 2020, when the URI BOT was created by statute, the PPPA was also amended to denote the URI Board of Trustees, as having authority for the granting of PPPA approvals and exemptions for URI employees. As a further point of historical reference, URI has brought forth 10 requests for exemptions since 2012.

Request for Exemption

Enclosed please find a Request for Exemption of the Rhode Island Ethics Code under the terms of the PPPA. The Request was submitted to the URI CIMC by Azure Cygler, Marine Research Associate IV" (Staff Member), URI Graduate School of Oceanography, Coastal Resources Center, in accordance with the terms of the RI PPPA and the URI PPPA Policy.

The URI Employee seeking an exemption, Azure Cygler, owns and manages a private company based in Rhode Island, A-Team Coastal, LLC, d/b/a Rhody Wild Sea Garden ("RWSG"). That company is in the business, among other things, of obtaining (through forage and from local farms) a form of seaweed known as "sugar kelp" and developing it into animal food supplements. RWSG wishes to have a researcher at URI, Maria Hoffman, from the College of Environmental and Life Sciences (CELS) conduct testing and analysis of the sugar kelp and assisting in other ways in the development of the animal food supplement.

RWSG applied for, and received, an "Innovation Voucher Grant" from the Rhode Island Commerce Corporation ("RICC"), in the amount of fifty thousand dollars (\$50,000.00) to fund the "Research Program" to be performed at URI in Dr Hoffman's lab. That "Research Program" is described in Exhibit A of the attached "Collaborative Research Agreement".

Because the Collaborative Research Agreement ("CRA") is a contract between a state agency (URI) and a company in which a state employee owns a 10% or greater ownership interest (RWSG), the state employee has a conflict of interest under Section 1.2(h) the State Ethics Code (RIGLc 36-14-5(h)) and is required to seek an exemption to that Ethics Code Prohibition under the Public Private Partnership Act (PPPA) and related URI PPPA Policy. In accordance with the URI PPPA Policy, the URI Conflict of Interest Management Committee ("CIMC") reviewed the conflict and the request for Ethics Code exemption at its meeting on June 13, 2023, and approved it, subject to the terms of the attached Conflict of Interest Management Plan.

In accordance with the procedures set forth in the URI PPPA Policy, the Request was subsequently reviewed and approved by me in my role as URI Vice President for Research and Economic Development, and then by President Marc Parlange, Ph.D..

A copy of the signed documents will be provided for the Board of Trustees review, including:

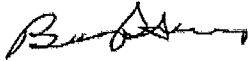
- Applicant/Employee Disclosure and "Request for an Exemption" ("Appendix A, Step 2")
- "Collaborative Research Agreement" between URI and Rhody Wild Sea Gardens (signed by Azure Cygler of Rhody Wild Sea Gardens on 5/12/23).

- Conflict of Interest Management Plan.

If approved by the URI Board of Trustees, the documents will be forwarded to the Rhode Island Ethics Commission for review.

If you have questions or would like additional information, please contact me at 401-874-4576, or bjenkins@uri.edu.

Sincerely,



Bethany Jenkins, Ph.D.

Interim Vice President of Research and Economic Development, URI

Professor, Department of Cell and Molecular Biology and Graduate School of Oceanography

Cc President Marc Parlange
 General Counsel Alyssa Boss
 Dean Paula Bontempi, GSO
 Dean John Kirby, CELS

Appendix A
STEP 2: REQUEST FOR AN EXEMPTION
University of Rhode Island Board of Trustees
Request for an Exemption
Under RIGL § 16-59-26

All employees of the University of Rhode Island involved in research and development activities that may also involve public private partnerships or other relationships giving rise to actual or perceived conflicts of interest must disclose the potential conflict of interest and provide the following information necessary to request an exemption as required by the Public Private Partnership Act.

Requisite to any approved exemption is the full disclosure of the outside activities and interests involved, which is made in the form for a Request for Exemption. If the exemption is allowed, a monitoring plan to mitigate potential conflicts is generally required.

In order to fully evaluate the nature and extent of the potential conflicts of interest that your outside activities or your actual or proposed relationships with a business or other entity may create, it is necessary to fully understand your proposed activities and financial interests, your activities and duties at the University, and the actual or proposed relationship between the University and the business or other entity, and any other outside activities you may have. The information provided through the following questions is designed to assist those who must evaluate this Request for Exemption/Disclosure. Additional information may be required if deemed necessary by the officials or committees charged with reviewing or approving the exemption claimed.

Because this form is designed to address all potential conflict of interest situations, there may be questions that are not applicable. If a question is not applicable, simply answer "Not Applicable" or "None".

Name of Employee	Azure Dee Cygler
College/Area:	Coastal Resources Center/GSO/URI
Department/Unit:	Oceanography
Campus Address:	220 South Ferry Road, Narragansett, RI 02882
Campus Phone:	401-874-6197
Campus E-Mail Address:	acygler@uri.edu
Academic Rank: (if applicable)	Staff
Tenure Status: (if applicable)	N/A
List all positions currently held at the University or College:	Staff, Marine Research Associate IV, full-time

Company Name: if applicable	A-Team Coastal, dba: Rhody Wild Sea Gardens
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RGP Case ID:	
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Exemption Sought:

Ethics Code Exemption Requested: *The applicant (Azure Cygler) requests an exemption under the Public Private Partnership Act (RIGLc 16-59-26) and the URI Public Private Partnership Act Policy ("Policy on Public Private Partnership in Research and Development") from the provisions of Section 1.2(h) of the Rhode Island Code of Ethics (codified at RIGLc 36-14-5(h)), which prohibits state entities including URI from entering into contracts with companies in which state employees own a ten percent or greater ownership interest, in order to allow the private company she owns and manages, A-Team Coastal, LLC, d/b/a Rhody Wild Sea Gardens ("RWSG"), to enter into the attached "Collaborative Research Agreement" with the University.*

Period for which an Exemption is Sought: (Please include beginning and end date where known)

June 2023 - June 2024

If granted, the Exemption will become effective on the expiration of thirty (30) calendar days from the date this Request for Exemption is approved by the University of Rhode Island Board of Trustees unless the Ethics Commission has, prior to that time, provided notice to the Board of its disagreement and reason for its concern. In such a case, the granting of the Exemption shall be re-examined by the Board at an open and public meeting as required by law. If at the conclusion of such public meeting the Exemption is again granted, it will become effective on the date of approval. The Exemption will cover only the activities and relationships, including related license and/or research agreements, disclosed in this Request for Exemption/Disclosure.

I.

Reason for Exemption

A. Your Activity and Financial Interest(s) In the Business or Entity

(check all that apply)

Consulting or employment agreement with a business or entity that has entered, or will be entering, into a research agreement and/or technology license agreement with the University or College and/or related Foundation.

Describe and List remuneration For harvest of kelp, writing grants, and outreach \$8,000

Ownership interest in a business entity (e.g. partner, proprietor, shareholder, ownership of stock options) or entity (e.g. founding or other member of non-profit organization), that has entered the University. Generally prohibited by Section 1.2(h) of Ethics Code (unless a PPPA Exemption is granted)

If so, ownership interest is held by which of the following? *(Check all that apply)*

Myself Spouse Child or Family Member Business Assoc

Leadership, managerial or other position(s) held at a business or entity that has entered into, or will be entering into, a research and/or technology license agreement with the University or College or related Foundation.

If so, list all such positions. (Check all that apply)

<input type="checkbox"/> <input checked="" type="checkbox"/> President	<input type="checkbox"/> CEO	<input type="checkbox"/> CFO	<input type="checkbox"/> Member of the Board of Directors
<input type="checkbox"/> CIO	<input type="checkbox"/> Director of Research	<input type="checkbox"/> Officer: _____	
<input type="checkbox"/> Scientific Advisory Board Member	<input type="checkbox"/> Other: _____		

Other activity or financial interest not described above, please explain in the box provided below

B. Agreement(s) or Proposed Agreement(s) with the Business or Entity that Triggered the Need for this Disclosure and Exemption.

License Agreement(s)** and/or Research Agreement(s)**

**Please describe under Section V.1

C. Other Agreements

Between the University or College and/or related Foundation and the Business or Entity under consideration.

**Please describe under Section V.1

All agreements noted in this Section I. and described within Section V.1 must be submitted with this Form.

II. Business or Entity Data

Name of Business/Entity:	A-Team Coastal LLC, dba: Rhody Wild Sea Gardens		
Street Address:	91 Point Judith Road, Suite 26, Unit 347		
City:	Narragansett	State: RI	Zip: 02882
Phone Number:	508-837-8636		
Fax Number:	_____		
Executing Official:	self		
E-Mail Address:	ATeamCoastal@gmail.com		
Parent Company (if any):	N/A		
Parent Company Address:	_____		
Parent Company Official:	_____		

1. **Type of Entity:**

General Partnership

Sole Proprietorship

LLC

Business Corporation

S Corp

Non-Profit
Corp./Assoc.

Other

2. Briefly Describe the Overall Activities/Business or other Entity.

Describe: Seasonal aquaculture operation, growing sugar kelp in Narragansett Bay

3. Layman's Description of the technology / intellectual property involved in this disclosure

Describe: The purpose of the research collaboration (between my company and Dr. Maria Hoffman in the College and Environmental Life Sciences is to work together on a RI Commerce Innovation Award funded project designed to understand the benefit (for the climate/environment as well as to animals) of giving sugar kelp as a grain replacement. It is extremely unlikely that any patentable or other commercializable intellectual property will result from the research, although the data produced by the research could help prove the value and utility of kelp/seaweed derived animal food ingredients being produced and sold by my company.

4. To your knowledge, is there any pending or threatened litigation against the Business or Other Entity?

Yes No

If yes, please briefly explain in the box provided below:

Explain:

III. Your Responsibilities to the University

Describe all of your responsibilities at the University or College: *(Check and describe all that apply)*

Teaching / Instruction:
Describe: None

Research (including area of research):
Describe: None

Service / Administrative:
Describe: None

Clinical:
Describe: None

Other:
Describe: Provide outreach and extension to coastal communities and state agencies

Supervisory Duties – List all persons at the University/College that you supervise:

Employees, including faculty, administrative staff and lab personnel. List Names and Title: none
Students, including undergraduate and graduate students and fellows. List Names and Title. none

IV. Your Responsibilities to the Business or Entity

1. Describe your responsibilities to the Business or Entity and the total time commitment involved by hours per week. (Provide position title(s) and a description of responsibilities)

Owner/founder and manager. In the growing season (October-April) my hours are about 5hrs/week, setting and tending growlines of kelp. Identifying markets and customers for sugar kelp.

2. Distinguish how your Business or Entity company responsibilities differ from your University or College responsibilities and identify any areas of potential conflict.

URI responsibilities include facilitating meetings, attending community and seafood sector meetings, creating reports, outreach materials, and hosting webinars/events as requested. These URI duties do not conflict with or overlap at all with my outside/part-time work for my company.

V. Business or Entity Relationships to University

Please answer to the best of your knowledge

1. List and describe all agreements between the University or College, or University or College direct support organizations, including related Foundations, and the Business or Entity for the period for which this exemption is sought, including the research and/or technology license agreement triggering the need for an exemption.

Describe, and for each give, the contracting parties, nature of the agreement, all employees/students involved with the agreement and whether the agreement is one of the "triggers" for this request for exemption:

URI is the "knowledge provider" (required) on the awarded RI Commerce Innovation Voucher. 1-year project. Cygler/business entity is the industry partner providing the product (sugar kelp) to researchers. The agreement (entitled "Collaborative Research Agreement") is a standard "collaborative research agreement" prepared by the URI Office of General Counsel and funding to URI will come from RI Commerce. Under the agreement, all the URI research work will be performed by Dr Maria Hoffman in URI/CELS, and one of her graduate students. The research assistant is not required to work on the project and would only do so voluntarily at his/her sole discretion. Although no publication is expected to result from the research, Dr Hoffman and her student would not be precluded from publishing after provision of appropriate notice to the company and subject to standard conditions on redaction of any company confidential information. *A copy of the Collaborative Research Agreement is attached.*

The agreement – because it is one between URI and a company (RWSG) in which one of URI's employees (AC) has an ownership interest of 10% or more – requires an exemption from Section 1.2(h) of the Ethics Code which would otherwise (in the absence of an exemption) prohibit the agreement. So yes, this agreement does "trigger" this request for exemption.

2. Are there other University or College employees and/or students (including spouses, children, and any persons living in the same household of University or College employees and students), involved with the Business or Entity?

Yes No

If yes, describe below:

Name(s):	Relationship to Company:
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All agreements must be submitted with this Form.

VI. Applicable Inventions

1. Are you an inventor or co-inventor of any intellectual property which is the basis of the transactions described in Section I?

Yes No

I. If yes, please list below:

Describe:

2. If you are not an inventor or co-inventor, explain your role, if any, in the development of any invention which is the basis of any of the transactions mentioned.

Not Applicable or Provided Below:

Describe:

VII. Other Activities of Employee

1. List all your approved outside activities and attach a copy of the corresponding Disclosure of Outside Activities and Financial Interests form(s). (Include this activity in the list)

List: none

2. If you presently are or will be the principal investigator, co-principal investigator or key personnel on any research project for the period for which this exemption is sought, please list all such research grants and contracts.

Yes No

If yes, please attach a list.

3. Do you have a "Significant Financial Interest" as defined by applicable federal regulations and further set forth in the University or College research conflict of interest policies?

Yes No

4. If Yes to #3 above, do you currently have any proposals or active sponsored projects whereby the results of the study would have the possibility of impacting the interests of the Business or Entity, either negatively or positively?

Yes No

If yes, please so note by project on the list you attached for item VII.2 above.

VIII. Mitigation of Conflicts/Benefits to the University or College

1. If this Request for Exemption is granted, actual and/or potential conflicts of interest may result. Please complete the Monitoring/Management Plan, as it will describe a plan to mitigate and/or resolve such conflicts.

While no conflicts are expected, a Management Plan has been developed which will ensure that (i) Azure Cygler will have no involvement, as a URI employee, in any of the work of Dr Hoffman's lab at URI on the research project, (ii) Azure Cygler will not use her URI staff position in any way to influence the research project, or to provide any financial or other support or benefit of any kind to her company, or to Dr Hoffman; (iii) that the graduate student who will be assisting Dr Hoffman will work voluntarily and will not be prohibited from publishing the results of her work. These conditions are described in the Monitoring/Management Plan.

2. Describe the benefits to the University or College of granting this Request for Exemption.

Describe Benefits:

Contribute to innovative research underway in the Fisheries, Animal, and Veterinary Sciences College and agriculture departments of URI. A direct need identified by URI knowledge provider as well as to the state's animal agriculture sector. Could result in a new product of kelp-based animal feed for RI animal agriculture sector.

IX. Employee Understandings and Agreements

I (the employee) understand and agree that all my activities with the Business or Entity are carried out in my individual capacity and not as a representative of the URI Board of Trustees or URI.

By signing below, I (employee) understand and agree to abide by all pertinent provisions of the State Code of Ethics and Regulations, the Public Private Partnership Act, and any other conditions, including any monitoring plans, imposed for the allowance of these outside activities.

I (employee) further agree and understand that violation of this agreement is grounds for disciplinary action, withdrawing the allowance of my outside activities, withdrawing the Exemption and terminating any agreement between the University and the Business or Entity that has been allowed under the Exemption.

I (employee) understand and agree that all Requests for Exemptions under the Public Private Partnership Act must be approved by the URI Board of Trustees and that I may not engage in any business or activity requiring an exemption unless and until such approval has been granted.

Signature: *Azure Cvglar*

Printed Name: Azure Cvglar

Date Signed: 5/25/2023

X. Review and Approval/Disapproval

Level 1:

Reviewer:	Reviewer's Signature	Approve	Disapprove	Date
URI Conflict of Interest Committee	Mary C Riedford	X		June 12, 2023
URI Vice President for Research (or designee)	[Signature]	X		June 13, 2023

Level 2:

Approve: X Disapprove: _____

Signature: Marc B. Parlange
Digitally signed by Marc B. Parlange
Date: 2023.06.14 08:48:57 -0400

II. President, URI

Date Signed: 6/14/2023

Level 3:

Approve: ✓ Disapprove: _____

Signature: [Signature]

III. Chairperson, University of Rhode Island Board of Trustees (on behalf of the Board, following a vote of the Board)

**Date Signed: 6/12/23

CONFLICT OF INTEREST MANAGEMENT PLAN

URI Employee Name: Azure Cygler

URI Employee Position/Title at URI: "Marine Research Associate IV" (Staff Member), Graduate School of Oceanography, Coastal Resources Center

Contract Title: "Collaborative Research Agreement" (for the Research Program entitled "Testing, Developing and Refining a Sugar Kelp Livestock Feed Supplement")

Sponsor/Funding Agency: Rhode Island Commerce Corporation (RICC).

Private Entity: A-Team Coastal LLC, d/b/a Rhody Wild Sea Gardens ("RWSG")

URI Employee Position/Title with Private Entity: Owner and Manager

PREAMBLE

The URI Employee, Azure Cygler, owns and manages a private company based in Rhode Island, A-Team Coastal, LLC, d/b/a Rhody Wild Sea Garden ("RWSG"). That company is in the business, among other things, of obtaining (through forage and from local farms) a form of seaweed known as "sugar kelp" and developing it into animal food supplements. RWSG wishes to have a researcher at URI, Maria Hoffman, from the College of Environmental and Life Sciences (CELS) conduct testing and analysis of the sugar kelp and assisting in other ways in the development of the animal food supplement.

RWSG applied for, and received, an "Innovation Voucher Grant" from the Rhode Island Commerce Corporation ("RICC"), in the amount of fifty thousand dollars (\$50,000.00) to fund the "Research Program" to be performed at URI in Dr Hoffman's lab. That "Research Program" is described in Exhibit A of the above-referenced "Collaborative Research Agreement".

Because the Collaborative Research Agreement ("CRA") is a contract between a state agency (URI) and a company in which a state employee owns a 10% or greater ownership interest (RWSG), the state employee has a conflict of interest under Section 1.2(h) the State Ethics Code (RIGLC 36-14-5(h)) and is required to seek an exemption to that Ethics Code Prohibition under the Public Private Partnership Act (PPPA) and related University of Rhode Island Policy on Public-Private Partnership in Research and Development ("PPPA Policy"). In accordance with the PPPA Policy, the URI Conflict of Interest Management Committee reviewed the conflict and the request for Ethics Code exemption, and has approved it, subject to the terms of this Conflict of Interest Management Plan.

Describe how collaboration with the private entity is necessary to the project.

RWSG obtained the funding for the URI work on the study from RICC. Under the terms of that RICC Program Award (an "Innovation Voucher Award"), URI acts as the "Knowledge Partner" to RWSG, and the URI research is intended to support the innovative scientific and business activities of RWSG, in furtherance of scientific and economic advancement in Rhode Island. Also, RWSG will be performing work at its own cost in furtherance of the project, so it is a true collaboration between RWSG and URI. The project could not be done without the involvement and collaboration of both RWSG and URI.

MANAGEMENT PLAN:

1. Research Support

The primary source of funds for the URI work in the Research Project will be the \$50,000.00 in direct and indirect cost reimbursement provided by the RICC Innovation Voucher Grant. While Dr Hoffman's lab may provide up to \$10,000 of additional support to the Project (from her Federal/USDA Discretionary Hatch Funding), no other URI funds or resources will be used in the Project.

2. Personnel

The Research Program at URI will be performed by Professor Maria Hoffman, Ph.D. in CELS, with the assistance a graduate student working in her lab at URI. Azure Cygler, who is a staff member in a different school at URI (GSO) will, in her work at URI, have no role whatsoever in the performance of the Research Program at URI.

Azure Cygler shall not, in her role as a URI employee, have any role whatsoever in the conduct of the Research Program at URI.

3. Students, Post Docs and Other Trainees

There will be one graduate student, who works as a Research Assistant in Dr Hoffman's lab, assisting on the Research Program. This student will have full freedom to decide whether to work on the project, and will not have to work on it if she does not want to. In addition, the project will not be used for any graduate student's thesis/dissertation, and there will be no restriction on the student's ability to publish the results of her work on the project.

4. Intellectual Property

Inventorship and ownership of any new intellectual property arising from the performance of this project will be determined in accordance with the standard URI IP policy, and (if any such IP is created) a license opportunity on such IP will be offered to the company in accordance with the terms of the Collaborative Research Agreement. Financial arrangements related to new inventions or discoveries will be negotiated at fair market value.

5. Publications

Scholarly publications, if any, resulting from this project will be published in accordance with URI policy (e.g. with a required disclosure of project funding sources and disclosure of any conflicts of interest).

6. Reporting and Monitoring of Conflict of Interest Management

Ms. Cygler will prepare an annual report updating all information relevant to the management plan, which will be reviewed and approved by CIMC. The report will contain at minimum the financial report for all grants and contracts conducted under the terms of the Agreement for the given year, including salary/stipend support paid to graduate students and post-doctoral fellows working on the project.

7. Human Subjects Protections

This is not a human subject study.

8. Maintaining Objectivity and Data Integrity

Since Maria Hoffman has no ownership, financial or other relationship with RWSG, and no family, business, employment or other relationship with Azure Cygler, she is rightly considered an independent researcher without any conflict of interest of her own related

to the Research Program. Accordingly, there is no need to engage a separate statistician to independently review research plan and data (including but not limited to data analysis/interpretation, review of raw data, and manuscript). She will deliver her research (testing and analysis) results to RWSG but is also free to publish the results if she so wishes, after a short period of review by RWSG for potential intellectual property and confidential information protection.

Review and Approval/Disapproval

Level 1:

Reviewer:	Reviewer's Signature	Approve	Disapprove	Date
URI Conflict of Interest Committee	<i>Mary C Riedford</i>	X		June 12, 2023
URI Vice President for Research (or designee)	<i>[Signature]</i>	X		June 13, 2023

Level 2:

Approve: X Disapprove: _____

Signature: Marc B. Parlange
Digitally signed by Marc B. Parlange
 Date: 2023.06.14 08:50:34 -0400

II. President, URI
 Date Signed: 6/14/2023

Level 3:

Approve: ✓ Disapprove: _____

Signature: *[Signature]*

III. Chairperson, University of Rhode Island Board of Trustees (on behalf of the Board, following a vote of the Board)
 **Date Signed: 6/29/23

PLEASE SIGN & DATE

COLLABORATIVE RESEARCH AGREEMENT

THIS AGREEMENT is made and entered into as of the date it is last signed by the parties below (the "Effective Date"), by and between the University of Rhode Island, a public institution of higher education established by the laws of the State of Rhode Island ("University"), and A-Team Coastal, LLC, dba Rhody Wild Sea Gardens a Rhode Island corporation having its principal place of business located at 91 Point Judith Road, Ste 26, Narragansett, RI 02882 ("Collaborator" or "RWSG").

WHEREAS, the Collaborator has been awarded an Innovation Voucher Award ("Award") from the Rhode Island Commerce Corporation ("RICC") and entered into an Innovation Voucher Award Agreement with RICC on or about February 3, 2023 (the "RICC Award Agreement") to fund the below identified "Research Program" to be performed by the University, in coordination with, and with assistance from, the Collaborator; and

WHEREAS, under the terms of the RICC Award Agreement (i) The Research Program is to be performed at the University, and by University personnel, as described in the RICC Award Agreement (including RWSG's application for the Award); (ii) payments will be made directly to the University from the Rhode Island Commerce Corporation ("RICC") to the University, in accordance with the terms and conditions of the RICC Award Agreement; and (iii) the University and the Collaborator are required to enter into an appropriate "research agreement," such as this Agreement, which contains certain required terms, which have all been included in this Agreement; and

WHEREAS, the RICC Award Agreement refers to RWSG as "Recipient" and to the University as the "Knowledge Provider," and the RWSG and the University may also be referred to by those name designations in this Agreement as well; and

WHEREAS, the performance of the Research Program is consistent with the instructional, scholarship and research objectives of University;

WHEREAS, the parties wish to describe in this agreement the specific scope, nature and details of the Research Program to be undertaken by them, and to establish the legal and business terms and conditions that will govern the research, including intellectual property and use rights in the parties respective property, data and materials, and in the results of the research;

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, University and Collaborator agree as follows:

1. DEFINITIONS

As used in this Agreement, capitalized terms have the meanings given them below or

elsewhere in this Agreement:

1.1. Research Materials means those experimental materials and data one party may provide the other in connection with and as stated in the Research Program.

1.15 Research Program means the research program set forth in Exhibit A (including the University Work described in Section "A", the Collaborator Work/Assistance described in Section "B", and the University Budget and Payment Schedule described in Section "C")

1.2. Research Program Invention will mean any invention, discovery, work of authorship, software, information or data, patentable or unpatentable, that is conceived, discovered and reduced to practice in performance of the Research Program.

1.3. Confidential Information means Collaborator owned confidential scientific, business or financial data or information which will be clearly marked as such in writing provided that such information:

- 1.3.1. is not publicly known or available from other sources who are not under a confidentiality obligation to the source of the information;
- 1.3.2. has not been made available by its owners to others without a confidentiality obligation;
- 1.3.3. is not already known by or available to the receiving party without a confidentiality obligation;
- 1.3.4. is not independently developed by the receiving party;
- 1.3.5. does not relate to potential hazards or cautionary warnings associated with the performance of the Research Program of the Agreement or is not required to be disclosed under operation of law.

2. REQUIRED RECITALS, REPRESENTATIONS

2.1. As required by the terms of the RICC Award, the Collaborator hereby warrants and represents: (i) that it is registered to do business in the State of Rhode Island, has a business facility in the State of Rhode Island and has fewer than 500 employees; (ii) That it is not in default with respect to any order of any court, arbitrator or governmental body nor subject or a party to any order of any court or governmental body arising out of any action, suit or proceeding under any statute or other law which has or could reasonably be expected to have a material adverse effect upon its financial condition, business or operations; (iii) That during the Project Period, it will maintain a business facility in Rhode Island and will remain in good standing under the laws of the State of Rhode Island or remain qualified to do business in Rhode Island and in good standing under the laws of Rhode Island; and (iv) That during the RICC Award period, it shall comply with all applicable federal, state or local laws, regulations or ordinances in effect on the date of this Award or thereafter adopted.

2.2 Payment Requests by University. As required by the RICC Award Agreement, the parties understand and agree that the University (a/k/a/ the Knowledge Provider) will be required to submit payment requests to RICC, along with supporting documentation, a justification of cost(s) and a statement indicating the project milestone(s) to which the payment relates.

3. RESEARCH PROGRAM

3.1. Research Efforts. Provided Collaborator performs all its obligations under this Agreement, University will use its reasonable efforts to conduct those activities for which it is responsible under the Research Program. However, the parties acknowledge, understand and agree that their performance of their respective obligations under this Agreement is subject to the approval of this Agreement, and the granting of an exemption to the restriction in Section 1.2(h) of the Rhode Island Ethics Code (RIGLc 36-14-5(h)), by the appropriate University committee and officials, and by the University's Board of Trustees, under the University's Public Private Partnership Act Policy.

3.2. Research Budget, Compensation, and Payments. The University will be paid (by RICC) such amounts, and on such schedule, as s described in the RICC Award Agreement, which is summarized in the "Budget and Payment" Section of the Research Program description set forth in Exhibit A.

3.3. University Principal Investigator. The conduct of University's activities under the Research Program will be under the direction of Maria Peterson (Hoffman), Ph.D. ("University's Principal Investigator").

3.4. Collaborator's Principal Investigator. The conduct of Collaborator's activities under the Research Program will be under the direction of Azure Cygler, M.A. ("Collaborator's Principal Investigator").

3.5. Use of Research Materials. Any Research Materials of one party transferred to the other in connection with the Research Program may only be used as stated in the Research Program. Unless the parties agree otherwise, Research Materials are to be considered the "Confidential Information" of the party providing them.

3.6. Reporting. The parties will generally keep one another informed of the results of the work performed in connection with the Research Program, principally through their respective Principal Investigators. In addition, the parties' respective Principal Investigators will meet and provide reports as stated in the Research Program, and in the RICC Award Agreement.

3.7. Changes to the Research Program. During the course of the Research Program, either or both of the Principal Investigators may find it advantageous to modify the Research Program. Any modifications will be documented and formalized in a written amendment to this Agreement and any such amendment will become effective only if signed by an authorized representative of both parties to this Agreement.

3.8. University Purposes; Use of Facilities; No Guarantee of Results. Collaborator

acknowledges that the primary mission of University is education and the advancement of knowledge; and, consequently, the Research Program will be performed in a manner best suited to carry out that mission. Specifically, University's Principal Investigator will determine the manner of performance of University's part in the Research Program and University does not represent or warrant that the Research Program will be successful in any way or that any specific results will be obtained.

3.9. Similar Research. Nothing in this Agreement will be construed to limit the freedom of University or its researchers who are participants under this Agreement, from engaging in similar research made under other grants, contracts, or research agreements with parties other than Collaborator.

4. CONFIDENTIAL INFORMATION

4.1. Either party's acceptance and use of any confidential information supplied by the other party in the course of the Research Program will be subject to the following:

4.1.1. To be considered Confidential Information, all written information (including Research Materials) must be marked or designated in writing as **CONFIDENTIAL** by the party providing the information, and oral communications must be reduced to writing within thirty (30) days of the initial communication of the information and such writing must be marked or designated in writing as **CONFIDENTIAL** and provided to the other party's Principal Investigator.

4.1.2. The Principal Investigator(s) will use reasonable efforts to limit the exchange of Confidential Information.

4.1.3. Where the Principal Investigator(s) does accept such information as confidential, s/he agrees to use the same degree of care to prevent the unauthorized use, dissemination, or publication of the Confidential Information, without the express written permission of the providing party.

4.1.4. The Principal Investigator's (s') obligation to hold Confidential Information in confidence expires three (3) years after the termination or expiration of this Agreement.

5. PUBLICITY

Neither party will identify the other in any products, publicity, promotion, promotional advertising, or other promotional materials to be disseminated to the public, or use any trademark, service mark, trade name, logo, or symbol that is representative of a party or its entities, whether registered or not, or use the name, title, likeness, or statement of the other party's faculty member, employee, or student, without University's prior written consent. Any

use of a party's name shall be limited to statements of fact and shall not imply endorsement of products or services.

6. PUBLICATION

6.1. The basic objective of research activities at University is the generation of new knowledge and its expeditious dissemination for the public's benefit. Collaborator will provide all reasonable cooperation with University in meeting this objective.

6.2. As a matter of basic academic policy, University retains the right at its discretion to publish freely any results of the Research Program. Principal Investigator agrees to provide Collaborator a copy of any manuscript at the time it is submitted for publication. Collaborator may review the manuscript:

- 6.2.1. To ascertain whether Collaborator's Confidential Information would be disclosed by the publication;
- 6.2.2. To identify any potentially patentable Research Program Invention so that appropriate steps may be taken to protect such Research Program Invention; and
- 6.2.3. To confirm that the privacy rights of individuals are adequately protected.

Collaborator will provide comments, if any, within thirty (30) days of receipt of manuscript.

6.3. University will give Collaborator the option of receiving an acknowledgment in such publication.

7. INTELLECTUAL PROPERTY RIGHTS

7.1. Ownership of Research Program Inventions. Research Program Inventions conceived, discovered and reduced to practice by University, or its employees, agents or students in the performance of the Research Program will be owned by University. Research Program Inventions conceived, discovered and reduced to practice by Collaborator, or its employees, or agents, in the performance of the Research Program will be owned by Collaborator (Collectively, "Sole Inventions"). Research Program Inventions conceived, discovered and reduced to practice by at least one employee, agent, or student of each of University and Collaborator in the performance of the Research Program will be owned by University and Collaborator, without any obligation to account to one another ("Joint Inventions"). Inventorship will be determined according to the principles of United States patent law. Neither party shall make any claim to the other party's Sole Inventions.

7.2. Pre-Existing Rights. Except to the limited extent required to perform a party's obligations under this Agreement, neither party receives any right, title, or interest in or to any Research Materials provided to it by the other party or any technology, works or inventions of

the other party that are not Research Program Inventions, or any patent, copyright, trade secret or other proprietary rights in any of the foregoing.

7.3. Patents will mean those United States and foreign patents and patent applications including any continuation, reissue, or renewal thereof, or substitute therefor, and the patents that may be issued thereon, relating to any patentable Research Program Invention.

7.4. Patent Prosecution and Expenses. Unless the parties agree in writing otherwise, the filing, prosecution, defense and maintenance of all Patents for Joint Inventions will be conducted jointly in the name of both parties and controlled by them jointly, acting reasonably and in good faith.

7.5. Licensing. Each party reserves the right to license its interest in its Sole Inventions or Joint Inventions, and neither party shall have any right to compensation in connection with any such license granted by the other. However, the University will inform the Collaborator of any Sole Inventions made by the University in the performance of the Research Program, and provide Collaborator with a reasonable (but non-exclusive) opportunity to negotiate and enter into a non-exclusive or exclusive license to use the Sole Invention, for research or commercial purposes, on reasonable and commercially appropriate terms, provided that the University will have no obligation to grant such a license to the Collaborator if it determines that such a license is not in its best interest.

7.6. Rights Subject to Federal Patent Policy. To the extent that any Research Program Invention has been partially funded by the Federal government, the assignment of title or the granting of any license above is subject to the rights of the Federal government and federal law set forth in 35 U.S.C. §§ 200 et. seq., as amended, and the regulations promulgated thereunder, as amended, or any successor statutes or regulations (the "Federal Patent Policy"). Any right granted in this Agreement greater than that permitted under the Federal Patent Policy will be modified as may be required to conform to the provisions of the Federal Patent Policy.

8. INDEMNIFICATION

8.1 Collaborator shall defend, indemnify, and hold harmless the University and its Board of Trustees and its members, as well as their officers, employees, agents, representatives and contractors (collectively "Indemnitees") from and against any and all claims, demands, causes of action, losses, obligations, damages, judgments, liabilities, or other costs and expenses (including reasonable attorneys' fees) incurred by the Indemnitees that arise out of or result from: (i) Collaborator's breach of any provision of this Agreement; or (ii) the negligence or willful misconduct of the Collaborator or its employees, agents, representatives or contractors.

8.2 University shall defend, indemnify, and hold harmless the Collaborator and its members, directors, managers, officers, employees, agents, representatives and contractors (collectively "Indemnitees") from and against any and all claims, demands, causes of action, losses, obligations, damages, judgments, liabilities, or other costs and expenses (including reasonable attorneys' fees) incurred by the Indemnitees that arise out of or result from: (i) University's breach of

any provision of this Agreement; or (ii) the negligence or willful misconduct of the University or its employees, agents, representatives or contractors.

9. REPRESENTATIONS, WARRANTIES, LIABILITY LIMITS

9.1. NO WARRANTIES. COLLABORATOR ACKNOWLEDGES AND AGREES THAT UNIVERSITY IS AN ACADEMIC RESEARCH INSTITUTION AND THAT THE RESEARCH PROGRAM IS OF AN EXPERIMENTAL NATURE. AS A RESULT, ANY RESULTS OF THE RESEARCH PROGRAM AND ANY RESEARCH MATERIALS ARE PROVIDED AS IS AND WITH ALL FAULTS. UNIVERSITY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE RESULTS OF THE RESEARCH PROGRAM, WHETHER ANY RESULTS WILL OBTAIN, ANY RESEARCH MATERIALS OR ANY INVENTION, PROCESS OR PRODUCT, WHETHER TANGIBLE OR INTANGIBLE, CONCEIVED, DISCOVERED, DEVELOPED OR REDUCED TO PRACTICE UNDER THIS AGREEMENT; OR THE OWNERSHIP, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE RESEARCH, ANY RESEARCH MATERIALS OR ANY SUCH INVENTION OR PRODUCT.

9.2. NO DAMAGES. UNIVERSITY SHALL NOT BE LIABLE FOR ANY DIRECT, CONSEQUENTIAL, OR OTHER DAMAGES SUFFERED BY COLLABORATOR, ANY LICENSEE, OR ANY OTHERS INCLUDING, BUT NOT LIMITED TO, DAMAGES ARISING FROM LOSS OF DATA OR DELAY OR TERMINATION OF THE RESEARCH PROGRAM, OR FROM THE USE OF THE RESULTS OF THE RESEARCH PROGRAM, THE USE OF ANY RESEARCH MATERIALS OR ANY SUCH INVENTION OR PRODUCT. COLLABORATOR ACKNOWLEDGES AND AGREES THAT THIS EXCLUSION AND LIMITATION IS REASONABLE CONSIDERING THE EXPERIMENTAL NATURE OF THE RESEARCH PROGRAM AND THE NATURE AND TERMS OF THE PARTIES' RELATIONSHIP.

10. TERM AND TERMINATION

10.1. Term. This Agreement will remain in effect for two years from the Effective Date noted above (or until three months following the completion of the Research Program, if later) unless terminated sooner or extended in writing signed by the parties in accordance with this Agreement.

10.2. Termination. Either party may terminate this Agreement upon sixty (60) days written notice. This Agreement will terminate automatically in the event the RICC Award Agreement referenced above is terminated.

10.3. Survival. The provisions of Articles 3, 4, 5, 6, 7, 8, 9 and 10 will survive any expiration or termination of this Agreement.

11. GENERAL

11.1. Binding Effect; Assignment. Neither party may assign or delegate its rights or obligations under this Agreement without the express written consent of the other party.

11.2. Entire Agreement. This Agreement constitutes the entire agreement between the parties relating to the Research Program, and any and all prior or contemporaneous negotiations, representations, agreements and understandings are superseded hereby. No amendment or change to this Agreement may be made except by means of a written document signed by duly authorized representatives of the parties.

11.3. Notices. Any notice or communication required or permitted to be given hereunder will be in writing and, except as otherwise expressly provided in this agreement, will be deemed given and effective (i) when delivered personally or by fax or (ii) when received if sent by email, overnight courier, or mail:

To University:

Bethany Jenkins, Ph.D.
Interim Vice President for Research & Economic Development
University of Rhode Island
Carlotti Administration Building, 2nd Floor
75 Lower College Road
Kingston RI 02881
bjenkins@uri.edu

To Collaborator:

Azure Cygler
Rhody Wild Sea Garden
91 Point Judith Road, Ste 26
Narragansett, RI 02882
ATeamCoastal@gmail.com

11.4. Applicable Law. This Agreement will be construed and enforced in accordance with the laws of the State of Rhode Island, United States of America, without regard to any choice or conflict of laws, rule or principle that would result in the application of the laws of any other jurisdiction.

11.5. Headings. Headings included herein are for convenience only, and will not be used to construe this Agreement.

11.6. Relationship of Parties. For the purposes of this Agreement and all services to be provided hereunder, each party will be, and will be deemed to be, an independent contractor and not an agent or employee of the other party. Neither party will have authority to make any statements, representations or commitments of any kind, or to take any action that is binding on the other parties, except as explicitly provided for herein or authorized in writing.

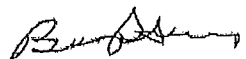
11.7. Severability. If any provision of this Agreement will be found by a court of competent jurisdiction to be void, invalid or unenforceable, the same will either be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.

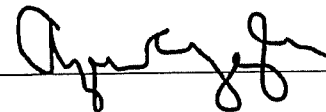
11.8. Force Majeure. Neither party will be liable for any failure to perform as required by this Agreement, if the failure to perform is caused by circumstances reasonably beyond such party's control, such as labor disturbances or labor disputes of any kind, accidents, failure of any governmental approval required for full performance, civil disorders or commotions, acts of aggression, acts of God, energy or other conservation measures, explosions, failure of utilities, mechanical breakdowns, material shortages, disease, thefts, or other such occurrences.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date described above.

UNIVERSITY OF RHODE ISLAND

A-Team Coastal, LLC

By: 

By: 

Typed Name: Bethany Jenkins

Typed Name: Azure Cygler


Title: Interim Vice President for Research

Title: Owner

Date: 6/14/2023


Date: 5/12/23

I, Maria Peterson (Hoffman), named as University Principal Investigator, acknowledge that I have read this Agreement in its entirety and will use reasonable efforts to uphold my obligations and responsibilities set forth herein:

Signature: 

Date: 6/14/2023

I, Azure Cygler, named as Collaborator Principal Investigator, acknowledge that I have read this Agreement in its entirety and will use reasonable efforts to uphold my obligations and responsibilities set forth herein:

Signature: 

Date: 5/12/23

Exhibit A

1. Description of Research Program

“Research Program” Title: “Testing, Developing and Refining a Sugar Kelp Livestock Feed Supplement”

A. University Work

Milestone 1b: Send in bulk kelp samples from 1a. to lab in the late spring for nutrient profiles. Create a profile of nutrient metrics.

Milestone 1c: Compare results of nutrient analysis with literature of traditional non-kelp grains and kelp grains.

Milestone 2a: April 2023 commercial kelp harvest will include sub-samples to be processed in 3 ways on Peckham farm, URI.

Milestone 2b: Feed different product forms to animal subjects at Peckham, Ocean Hour Farm, and with 3-5 other identified farms in RI and CT.

Milestone 2c: Create a list of metrics and observation categories and record with all animal specimens.

Milestone 4a: Contact and schedule personal delivery with 3-5 farms in RI of the product.

Milestone 4b: Collect survey feedback from farms about the product and willingness to pay at various volumes, price points, and seasonal availability.

Milestone 2d: Conduct additional tests (i.e., yolk analysis, in vivo, health metrics) of the 4 animal categories after being fed kelp.

Milestone 3a: Conduct a cost and comparable analysis of traditional grain supplements, regionally produced kelp-based supplements, and other comparable products.

Sample product per year 1 schedule (bi-weekly starting in Feb). Repeat above nutrient

analysis.

Milestone 6b: Develop a 5-year adjusted business plan to fully operationalize kelp in animal feed product.

Milestone 6c: Produce report for Commerce and URI for distribution.

Ready and submit publication of results to peer-reviewed journal(s).

Prepare final report and summary of all project activities and results.

B. Collaborator Work/Assistance

Milestone 1a: Collect samples of kelp from the farm every 2 weeks (starting Feb.12, 2023) and freeze unblanched, freeze blanched, and dry.

Milestone 3b: Determine total cost (per product form like dried vs frozen) and volume for marketability and optimal price point.

Milestone 3c: Research and identify packaging options per volume and product form (kelp grain size).

Milestone 5a: Create marketing materials that will showcase the nutrient metrics collected, benefit to the environment, and benefit analysis for the various animals where kelp is fed.

Milestone 5b: Determine long-term package production company and marketing rep.
Growing season for kelp

Adjust marketing materials based on Y2 customer feedback and production details.

Secure long-term processing and production space based on feasibility an scale determined through this project.

Milestone 6a: Prepare a PowerPoint and hand-on learning forum to showcase kelp product

on 2-3 farms in RI.

C. Summary of Research Budget, Payments to University, and Payment Schedule

Project Expenses	
Professional Personnel (Name) 1. Maria Hoffman	
Fringe:	
Professional Personnel (Name) 1. Meghan Clifford, B.S. (Graduate Student)	
Fringe: \$17,416.06	
Materials and Supplies: 1. \$7,000	
Equipment: 1. none	
Other: 1. Kelp Nutrient Analyses: \$13,083.94	
Indirect costs (not to exceed 25%) - only for applicants working with Knowledge Provider	\$12,500
Total amount requested:	\$50,000
Additional funds from other sources that will support the project (Include In-kind):	\$10,000
USDA Hatch funding	
Total other amount:	\$10,000

Payment schedule determined by RI Commerce