

Prepared by:

Daniel E. Rybeck, Esquire

**DECLARATION OF COVENANTS AND RESTRICTIONS
(LANDFILL)**

THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made on this _____ day of _____, 2014 by the TOWNSHIP OF FRANKLIN, a Municipal Corporation of the State of New Jersey, 1571 Delsea Drive, Franklinville, New Jersey 08322, referred to as the Grantor.

WITNESSETH:

WHEREAS, Grantor is the owner of Block 1201, Lot 59 as designated on the Township of Franklin Tax Map, located on Pennsylvania Avenue ("Franklin Township Landfill"); and

WHEREAS, the Franklin Township Landfill stopped accepting waste for disposal in 1982. The landfill was covered and subsequently redeveloped for recreational uses, but final closure was never completed; and

WHEREAS, to complete closure activities, Grantor is required to install an active landfill gas collection system to mitigate the landfill gas migration issues; and

WHEREAS, Grantor and the State of New Jersey, Department of Environmental Protection, have entered into a Closure and Post-Closure Plan Approval ("Approval"), dated July 31, 2014, for final closure of Franklin Township Landfill in accordance with N.J.S.A. 7:26-2A.9, the conditions of Approval, and the following documents, which are the approved Closure and Post-Closure Plan: (1) Solid Waste Permit Application Form signed by Mayor Ed Leopardi on June 23, 2014; (2) A Final Closure and Post-Closure Plan, dated June 2014, prepared by Adams, Rehmann & Heggan Associates, Inc., and signed and sealed by Theodore Wilkinson, PE, New Jersey License Number GE 39607, for the Township of Franklin, Gloucester County, NJ, including appendices; (3) Closure Plan drawings dated June 4, 2014, prepared by Theodore Wilkinson, PE, New Jersey License Number GE 39607; (4) Documents for an amended Closure Plan for Franklin Township prepared by Theodore Wilkinson, PE, New Jersey License Number GE 39607, for the Township of Franklin, Gloucester County, NJ dated June 22, 2014, including an Air Permit signed by Mayor Leopardi on July 21, 2014; Construction Plans, sheets 1 through 8, dated July 21, 2014, prepared by Theodore Wilkinson, PE, New Jersey License Number GE 39607; Bid Proposal, Specifications and General Conditions dated July 21, 2014; Construction Cost Estimate, dated July 21, 2014; Health and Safety Plan, dated July 21, 2014; Confirmation of CDBG Funding for the Project; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants, terms, conditions and restrictions contained herein, Grantor, for itself, its successors and assigns, hereby covenants and agrees with the State of New Jersey, Department of Environmental Protection, that the Franklin Township Landfill is hereby made and declares to be subject to the following covenants and restrictions:

1. The owner shall install, operate and maintain an active landfill gas collection system in accordance with the approved closure and post-closure plan. The system shall include, but not be limited to, a pump house containing a blower system, exhaust stack and associated equipment, 8 extraction wells, and manifold piping. An Air Pollution

Control Permit shall be obtained for the gas venting system pursuant to N.J.A.C. 7:27-8.2(a)16. [N.J.A.C. 7:26-2A.7(f)].

2. The owner shall close and maintain the landfill in accordance with N.J.A.C. 7:26-2A.9, the conditions of this Approval, and the approved Closure and Post-Closure Care Plan as referenced herein. [N.J.A.C. 7:26-2A.9(d)8].
3. A ground water monitoring system shall be maintained and the ground water shall be monitored in conformance with the New Jersey Pollutant Discharge Elimination System Permit No. NJ0055913 issued pursuant to N.J.A.C. 7:14A-1 et seq. Monitoring results shall be reported to the Division of Solid and Hazardous Waste as a condition of this Approval. [N.J.A.C. 7:26-2A.9(e)].
4. In case of conflict, the provisions of N.J.A.C. 7:26-1 et seq. shall have precedence over the conditions of this Approval, and the conditions of this Approval shall have precedence over plans and specifications listed above. [N.J.A.C. 7:26-2A.9(d)8].
5. The final cover shall completely isolate the landfilled solid waste from the surrounding environment. The original final cover consists of approximately twenty four (24) inches of soil. The final cover shall be graded in accordance with the approved Closure Plan. There shall not be any future use of the landfill that may result in the alteration of the final cover, subsequent to closure activities, without review and approval by the Department. [N.J.A.C. 7:26-2A.9(e)2ii].
6. The owner shall monitor and maintain the landfill in accordance with the Post-Closure Care Plan through implementation of the following maintenance programs: (a) A program for the maintenance of final cover and final cover vegetation; (b) A program for the maintenance of side slopes; (c) A program for the maintenance of run-on and run-off control programs; (d) A program for the maintenance of groundwater monitoring wells; (e) A program for the maintenance of methane gas venting or evacuation system; (f) A program for the maintenance of the facility access control system; and (g) A program for the maintenance of measures to conform the site to the surrounding areas. [N.J.A.C. 7:26-2A.9(e)].
7. Periodic inspections of the facility, as presented in the Closure and Post-Closure Care Plan, shall be conducted on a quarterly basis. Reports of the inspections shall be submitted to the Division of Solid and Hazardous Waste as a condition of this Approval. [N.J.A.C. 7:26-2A.9(e)].
8. The disruption of waste during closure operations shall be conducted in accordance with N.J.A.C. 2.A.8G). [N.J.A.C. 7:26-2A.8Q].
9. Reports required by this Approval shall be submitted to the Division of Solid and Hazardous Waste, Bureau of Solid Waste Permitting. Reports of monthly methane gas surveys shall be submitted prior to the 15th day of the month following the survey. Reports of quarterly methane gas surveys and quarterly inspection reports shall be submitted prior to the 15th day of the month following the calendar quarter of the survey/inspection. NJPDES groundwater monitoring reports shall be submitted in accordance with the schedule provided by the NJPDES permit. [N.J.A.C. 7:26-2A.9(e)].
10. A minimum of 6 inches of clean soil shall be placed over any exposed waste at the end of each workday or more frequently if odors or vectors are a problem. A minimum of 12 inches of clean soil shall be applied to all waste exposed for any period exceeding 24 hours and extending up to six months. Thereafter, final cover as required by this Approval shall be applied and maintained over the waste material. [N.J.A.C. 7:26-2A.8(b)7].
11. The Department may reduce the post-closure care period to less than thirty (30) years when it has been adequately demonstrated that the reduced period is sufficient to protect human health and the environment.

Prior to the time that the post-closure care period is due to expire, the Department may extend the post-closure care period upon a finding that such extended period is necessary to protect human health and/or the environment. Any aggrieved person may petition the Department for an extension or reduction to the post-closure care period, based on good cause. [N.J.A.C. 7:26-2A.9(c)].

12. The disruption activities shall not cause any air contaminant to be emitted in violation of N.J.A.C. 7:27-5.2(a). Malodorous emissions shall be controlled by the use of daily cover. In the event that this is not satisfactory, a suitable deodorant shall be used. Malodorous solid waste shall be covered immediately after excavation, unloading or re-deposition with a minimum of six inches of cover material or approved alternative material. [N.J.A.C. 7:26-2A.8(j)4].
13. A copy of the approved Closure and Post-Closure Care Plan shall be filed with the municipal clerk after closure is complete. [N.J.A.C. 7:26-2A.9(d)].
14. In the event that chemical or hazardous waste materials are encountered during the disruption, operations shall cease immediately and the area shall be secured. The contractor shall notify the Department by calling the Environmental Action Hot Line at 1-877-WARN DEP and take all necessary precautions for the safe removal and disposal of the waste to an approved facility under the direction of the department. [N.J.A.C. 7:26-2A.8(b)4].
15. The contractor shall follow the Occupational Safety and Health Administration (OSHA) standards and the Health and Safety Plan submitted as part of the application during all on-site activities for the safety of employees and for others entering the site. A copy of the operating procedures shall be posted on-site. On-site air monitoring shall be provided to ensure worker safety during all disruption activities. [N.J.A.C. 7:26-2A.9].
16. The Bureau of Solid Waste Compliance and Enforcement shall be notified at (609) 292-6305 at least 72 hours prior to initiation of any disruption activities. [N.J.A.C. 7:26-2A.9].
17. Soil erosion and sediment control shall be achieved in accordance with the Soil Erosion and Sediment Control Plan certified by the Gloucester County Soil Conservation District. The plan shall be certified by the District prior to the start of construction. [N.J.A.C. 7:26-2A.9(e)].
18. To complete closure, the owner must install the active landfill gas collection system described in the approved closure plan and re-establish final cover in the disturbed areas. The owner shall complete these closure activities within four (4) months of the effective date of this Approval. [N.J.A.C. 7:26-2A.9(e)4].
19. Within six (6) months of closure of the landfill, the owner and/or operator of the landfill shall obtain and submit to the Department an as-built certification by a New Jersey licensed professional engineer, certifying that the provisions of the Closure and Post-Closure Plan have been implemented as designed and approved, with exceptions noted. [N.J.A.C. 7:26-2A.9(d)10].
20. No work performed under this Approval shall be considered complete until such engineer's certification has been submitted to and accepted by the Division of Solid and Hazardous Waste. In the event that said certification is not received or is not accepted, the work shall be considered incomplete. [N.J.A.C. 7:26-2A.9(d)].
21. Upon closure of the sanitary landfill, a detailed description of the landfill shall be recorded, along with the deed, with the appropriate recording office. The description shall include the general types, locations, and depths of wastes on the site, the depth and types of cover material, the dates the landfill was in use and all such other information as may be of

interest to potential landowners, and shall remain in the record in perpetuity. A copy of the recorded deed description shall be submitted to this Division of Solid and Hazardous Waste. The deed shall also provide notice that any future disruption of the closed landfill shall require prior approval from the Department in accordance with N.J.A.C. 7:26-2A.8(j). [N.J.A.C. 7:26- 2A.9(c)].

22. For two (2) years from the effective date of this Approval, the owner shall conduct monthly methane gas surveys of the landfill. After two (2) years, the owner shall conduct quarterly methane gas surveys of the landfill unless otherwise directed by the Division of Solid and Hazardous Waste. The surveys shall be performed with a hand-held portable explosimeter or equivalent. Sampling shall be performed at points approximately 100 feet apart around the perimeter of the landfill at a minimum sampling depth of three feet below the ground surface or above the water table, whichever is higher. In addition, survey sampling shall be performed at all partitioned wells identified in the closure plan. Sampling shall also be performed around the perimeter of all on-site structures. The maximum interval between sampling points for structures shall be 50 feet; however, there shall be at least one sampling point along each side of the structure. Anytime methane gas is detected at a sampling point, delineation of gas shall be performed by sampling additional points at 25 foot intervals along and away from the landfill until no methane is detected. Survey results shall be submitted to the Division of Solid and Hazardous Waste as a condition of this Approval. [N.J.A.C. 7:26- 2A.8(h)9ii].
23. The final cover shall be maintained to minimize infiltration and ponded water. All cracks, erosion, swales and rills shall be repaired by the replacement of cover material and reseeding. Settled areas shall be filled to promote run-off. The final cover vegetation shall be fertilized, limed and mowed to promote growth of the planted species and discourage weed infestation. [N.J.A.C. 7:26-2A.9(e)].
24. The issuance of this Approval does not exempt the applicant from obtaining all other permits or approvals required by law or regulations. [N.J.A.C. 7:26-2.8(h)].
25. Department inspectors shall have the right to enter and inspect the facility at any time. The right to inspect includes, but is not limited to: (a) Sampling materials on site; (b) Photographing any portion of the facility; (c) Investigating an actual or suspected source of pollution of the environment; (d) Ascertaining compliance or non-compliance with the statues, rules or regulations of the Department, including conditions or any permit or approval issued by the Department; (e) Reviewing and copying all applicable records, which shall be furnished upon request and made available at all reasonable times for inspection. [N.J.A.C. 7:26- 2.11(d)].

IN WITNESS WHEREOF, this Declaration of Covenants and Restrictions is made on the day and year first above written.

TOWNSHIP OF FRANKLIN

LOUIS GONZALEZ, DEP. MAYOR

STATE OF NEW JERSEY :
 : SS
COUNTY OF GLOUCESTER :

I certify that on _____, 2014, LOUIS GONZALEZ, DEPUTY MAYOR OF TOWNSHIP OF FRANKLIN, personally came before me and acknowledged under oath, to my satisfaction, that he is the Mayor of the Township of Franklin, the Municipal Corporation named in the within Instrument; that the execution, as well as the making of this Instrument, has been duly authorized by a proper Resolution of the Township Council of the said Municipal Corporation; that the deponent well knows the corporate seal of said Municipal Corporation; and that the seal affixed to said Instrument is the proper corporate seal and was thereto affixed and said Instrument signed and delivered by said Mayor as and for the voluntary act and deed of said Municipal Corporation, in the presence of deponent, who thereupon subscribed his/her name thereto as attesting witness.

Notary Public
State of New Jersey
My Commission Expires: _____