

MONROE TOWNSHIP, MIDDLESEX COUNTY

ORDINANCE NO.: 0-4-2022-010

**ORDINANCE OF THE TOWNSHIP OF MONROE IN THE COUNTY OF MIDDLESEX, NEW JERSEY, TO ACQUIRE, BY NEGOTIATED AGREEMENT OR EXERCISE OF THE POWER OF EMINENT DOMAIN PORTIONS OF REAL PROPERTY AND/OR PROPERTY INTERESTS FOR IMPROVEMENTS, RIGHTS OF WAY, DRAINAGE, AND TEMPORARY CONSTRUCTION EASEMENTS REQUIRED FOR THE “INSTALLATION OF THE LEACHATE PUMP STATION PROJECT” KNOWN AND DESIGNATED AS PORTIONS OF LOT 25, TAX BLOCK 148.60 ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF MONROE, MIDDLESEX COUNTY, NJ**

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**WHEREAS**, pursuant to the Local Land and Building Law, N.J.S.A. 40A:12-1, et seq. the Township has the power to acquire real property; and

**WHEREAS**, pursuant to N.J.S.A. 40A:12-5, the Township has the power to acquire any real property for a public purpose through a negotiated agreement process; and

**WHEREAS**, pursuant to N.J.S.A. 20:1-1, et seq., the Township has the power to acquire interests in real property through the exercise of the power of eminent domain through condemnation; and

**WHEREAS**, the Township is working on the project known as the “Leachate Pump Station Project” (the “Project”); and

**WHEREAS**, the Project requires the acquisition of interests in certain lands as shown herein and described in further detail in the attached Exhibit “A”:

1. Permanent Easement through a portion of Block 148.60, Lot 25:

Beginning at a point on the southerly Right of Way line of Lani Street (50 ft wide Right of way), said point also being the common front corner of Lots 25 and 24 in Block 148.60. Total area of the proposed Permanent Easement containing 10,275 square feet or .236 acres of land; and

2. Temporary Construction Easement 1 through a portion of Block 148.60, Lot 25:

Beginning at a point on the southerly Right of Way line of Lani Street (50 ft wide Right of Way), said point also being the common front corner of Lots 25 and 26 in Block 148.60. Total area of the proposed Temporary Construction Easement 1 containing 5,393 square feet or .124 acres of land;

3. Temporary Construction Easement 2 through a portion of Block 148.60, Lot 25:

Beginning at the common line between Block 148.60, Lots 24 & 25 with the southerly Right of Way line of Lani Steet (50 Ft Wide Right of Way), along said common line between Block 148.60, Lots 24 & 25, a distance of 48.35 ft. Total area of proposed Temporary Construction Easement 2 containing 6,298 square feet or .145 acres of land.

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Council of the Township of Monroe, Middlesex County, State of New Jersey:

The acquisition by negotiated agreement or exercise of the power of eminent domain through condemnation of the following interests in properties is hereby authorized for the purpose of the public improvement project known as “THE LEACHATE PUMP STATION PROJECT”;

1. Permanent Easement through a portion of Block 148.60, Lot 25:

Beginning at a point on the southerly Right of Way line of Lani Street (50 ft wide Right of way), said point also being the common front corner of Lots 25 and 24 in Block 148.60. Total area of the proposed Permanent Easement containing 10,275 square feet or .236 acres of land; and

2. Temporary Construction Easement 1 through a portion of Block 148.60, Lot 25:

Beginning at a point on the southerly Right of Way line of Lani Street (50 ft wide Right of Way), said point also being the common front corner of Lots 25 and 26 in Block 148.60. Total area of the proposed Temporary Construction Easement 1 containing 5,393 square feet or .124 acres of land;

3. Temporary Construction Easement 2 through a portion of Block 148.60, Lot 25:

Beginning at the common line between Block 148.60, Lots 24 & 25 with the southerly Right of Way line of Lani Steet (50 Ft Wide Right of Way), along said common line between Block 148.60, Lots 24 & 25, a distance of 48.35 ft. Total area of proposed Temporary Construction Easement 2 containing 6,298 square feet or .145 acres of land.

The Township Attorney and Business Administrator are hereby authorized to take all actions necessary to acquire the Property through negotiations or condemnation; and

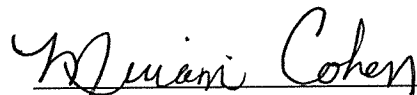
The Mayor, Township Clerk, and Township Attorney are hereby authorized to execute any and all documents necessary to effectuate the acquisition of the easement.

**BE IT FURTHER ORDAINED**, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and in effect; and

**BE IT FURTHER ORDAINED**, that any ordinance or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict; and

**BE IT FURTHER ORDAINED**, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.


**SO, ORDAINED** as aforesaid.

  
 MIRIAM COHEN, Council President

RECORDED VOTE – INTRODUCTION – April 4, 2022						
COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Councilman Dipierro			X			
Councilwoman Schneider	X		X			
Councilwoman Siegel		X	X			
Council V. President Van Dzura			X			
Council President Cohen			X			

**NOTICE**

Notice is hereby given that the foregoing Ordinance was introduced and passed on first reading at a meeting of the Monroe Township Council held on April 4, 2022. Said Ordinance will again be read and considered for final passage at the next scheduled meeting of the Monroe Township Council to be held on May 2, 2022, at 6:30 p.m. at the Monroe Township Municipal Building, 1 Municipal Plaza, Monroe Township, New Jersey 08831. At said time and place all persons having an interest in the foregoing Ordinance will be granted an opportunity to be heard concerning the same prior to consideration for final passage by the Council.

  
 CHRISTINE ROBBINS, Deputy Township Clerk

RECORDED VOTE – SECOND READING & FINAL ADOPTION – May 2, 2022						
COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Councilman Dipierro	X		X			
Councilwoman Schneider			X			
Councilwoman Siegel			X			
Council V. President Van Dzura		X	X			
Council President Cohen			X			


**MONROE TOWNSHIP, MIDDLESEX COUNTY**

**ORDINANCE NO.: 0-4-2022-010**

**ORDINANCE OF THE TOWNSHIP OF MONROE IN THE COUNTY OF MIDDLESEX, NEW JERSEY, TO ACQUIRE, BY NEGOTIATED AGREEMENT OR EXERCISE OF THE POWER OF EMINENT DOMAIN PORTIONS OF REAL PROPERTY AND/OR PROPERTY INTERESTS FOR IMPROVEMENTS, RIGHTS OF WAY, DRAINAGE, AND TEMPORARY CONSTRUCTION EASEMENTS REQUIRED FOR THE “INSTALLATION OF THE LEACHATE PUMP STATION PROJECT” KNOWN AND DESIGNATED AS PORTIONS OF LOT 25, TAX BLOCK 148.60 ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF MONROE, MIDDLESEX COUNTY, NJ**

**MAYORAL APPROVAL**

By virtue of the Optional Municipal Charter Law of 1950 and Chapter 3, Section 19 of the Code of the Township of Monroe, my approval of this Ordinance is effected by the affixing of my signature hereto.

  
 \_\_\_\_\_  
 STEPHEN DALINA, Mayor

Date signed: 5/3/2022



# Township of Monroe

County of Middlesex

**PATRICIA REID**  
Township Clerk

Municipal Complex  
1 Municipal Plaza  
Monroe Township, NJ  
08831-1900  
Phone (732) 656-4573  
Fax (732) 521-3190

## Affidavit of Publication

I, Christine Robbins, Deputy Township Clerk, of the Township of Monroe, County of Middlesex, State of New Jersey, do hereby certify that the attached legal notice is a true copy of such notice, which was published in the Home News Tribune, the official newspaper of Monroe Township and a newspaper of general circulation in the County of Middlesex on April 11, 2022.

Christine Robbins, Deputy Township Clerk

Ad Number: 0005207776

Run Dates: 04/11/2022

### MONROE TOWNSHIP NOTICE OF PENDING ORDINANCE

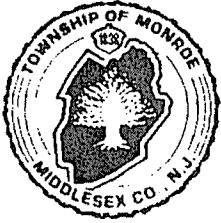
ORDINANCE NO.: O-4-2022-010  
NOTICE IS HEREBY GIVEN THAT AN ORDINANCE ENTITLED:  
"ORDINANCE TO ACQUIRE, BY NEGOTIATED AGREEMENT OR EXERCISE OF THE POWER OF EMINENT DOMAIN, PORTIONS OR REAL PROPERTY AND/OR PROPERTY INTERESTS FOR IMPROVEMENTS, RIGHTS OF WAY, DRAINAGE AND TEMPORARY CONSTRUCTION EASEMENTS REQUIRED FOR THE "INSTALLATION OF THE LEACHATE PUMP STATION PROJECT" KNOWN AND DESIGNATED AS PORTIONS OF LOT 25, TAX BLOCK 148.60 ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF MONROE, MIDDLESEX COUNTY. ", has been introduced and passed on first reading at the regular meeting of the Monroe Township Council held on April 4, 2022 and will be further considered for final passage after a Public Hearing during the council meeting to be held on May 2, 2022 at 6:30 p.m. in the Monroe Twp. Municipal Building, One Municipal Plaza, Monroe Twp., N.J. 08831. At said time and place, all persons will be granted the opportunity to be heard concerning this Ordinance prior to its consideration for adoption by Council.

The purpose of this Ordinance is to acquire portions of Block 148.60, Lot 25 on the official tax map of Monroe Township by negotiated agreement or eminent domain through condemnation for the purpose of the public improvement project known as "The Leachate Pump Station Project".

The proposed Ordinance in its entirety can be viewed on the Township website, [www.monroetwp.com](http://www.monroetwp.com) and is on file in the Municipal Clerk's Office. Copies may be obtained without charge between the hours of 8:30am and 4:30pm. Monday through Friday.

Patricia Reid, Municipal Clerk  
(\$30.10)

0005207776-01



# Township of Monroe

County of Middlesex

**PATRICIA REID**  
Township Clerk

Municipal Complex  
1 Municipal Plaza  
Monroe Township, NJ  
08831-1900  
Phone (732) 656-4573  
Fax (732) 521-3190

## Affidavit of Publication

I, Christine Robbins, Deputy Township Clerk, of the Township of Monroe, County of Middlesex, State of New Jersey, do hereby certify that the attached legal notice is a true copy of such notice, which was published in the Home News Tribune, the official newspaper of Monroe Township and a newspaper of general circulation in the County of Middlesex on May 6, 2022.

Christine Robbins, Deputy Township Clerk

Ad Number: 0005245597

Run Dates: 05/06/2022

### MONROE TOWNSHIP, MIDDLESEX COUNTY NOTICE OF FINAL ADOPTION

Notice is hereby given that the following entitled Ordinance was introduced and passed on First Reading at the regular meeting of the Monroe Township Council held on April 4, 2022. Furthermore, this Ordinance was adopted after a Public Hearing was held at the May 2, 2022 meeting of the Monroe Township Council which was held in the Monroe Twp. Municipal Building, One Municipal Plaza, Monroe Twp., N.J. 08831 and was thereafter approved and signed by the Mayor on May 3, 2022.

### MONROE TOWNSHIP, MIDDLESEX COUNTY

ORDINANCE NO.: O-4-2022-010

"ORDINANCE TO ACQUIRE, BY NEGOTIATED AGREEMENT OR EXERCISE OF THE POWER OF EMINENT DOMAIN, PORTIONS OR REAL PROPERTY AND/OR PROPERTY INTERESTS FOR IMPROVEMENTS, RIGHTS OF WAY, DRAINAGE AND TEMPORARY CONSTRUCTION EASEMENTS REQUIRED FOR THE "INSTALLATION OF THE LEACHATE PUMP STATION PROJECT" KNOWN AND DESIGNATED AS PORTIONS OF LOT 25, TAX BLOCK 148.60 ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF MONROE, MIDDLESEX COUNTY".

CHRISTINE ROBBINS, R.M.C.  
Monroe Township Deputy Municipal Clerk  
(\$24.94)

0005245597-01

PREPARED BY AND RECORD AND RETURN TO:

Rainone Coughlin Minchello, LLC

555 U.S. One South, Suite 440

Iselin, New Jersey 08830

**DECLARATION OF EASEMENTS**

THIS DECLARATION OF EASEMENTS (this "**Declaration**") is made as of September 27, 2022 (the "**Effective Date**"), by and between **BFI WASTE SYSTEMS OF NEW JERSEY, INC.**, a New Jersey corporation, as successor by merger and name change to **BROWNING-FERRIS INDUSTRIES OF SOUTH JERSEY, INC.** ("**BFI**"), having an address at 18500 N. Allied Way, Phoenix, AZ 85054, Attn: Chief Legal Officer, and its successors and assignees and the **TOWNSHIP OF MONROE** (the "**Township**"), having an address at 1 Municipal Plaza, Monroe Township, NJ 08831.

**PRELIMINARY STATEMENT**

**WHEREAS**, on the date of this Declaration, BFI is the owner and holder of fee title to that certain parcel of real property (together with all appurtenances thereto and improvements now or hereinafter located thereon), situated in the Township of Monroe, County of Middlesex, State of New Jersey, commonly known as Lot 25, Block 148.60 on the official tax map of the Township of Monroe (the "**Property**"); and

**WHEREAS**, the Township and BFI are entering into this Declaration to establish certain, restrictions, rights and responsibilities upon and across the Property, all as more particularly set forth herein.

**NOW, THEREFORE**, in consideration of the sum of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, BFI and the Township, hereby agree as follows:

**1. Certain Defined Terms.**

When used in this Declaration, the following initially capitalized terms shall have the meanings attributed thereto in this Section 1.

(a) "**Affected Property**" means, during the initial construction of the Pump Station Facilities, that portion of the Property which comprises the Easement Areas, and upon the completion of the initial construction of the Pump Station Facilities, the portion of the Property which comprises the Permanent Easement Area.

(b) "**Applicable Laws**" means any and all permits of the Landfill and any and all requirements of all federal, state or local laws, orders, rules, statutes, regulations of

governmental and quasi-governmental authorities, including, but not limited to, any relating to pollution, protection of the environment (including human health and safety, natural resources, cultural or historic resources, wildlife, air, soil, surface water, groundwater, wetlands, land and subsurface strata), occupational health and safety, emissions, discharges, solid wastes, or releases or handling of chemical substances, pollutants or contaminants, which are applicable to the Property or to the Township's proposed use of the Easements.

(c) **"As-built Survey"** means an as-built survey performed by a surveyor licensed in the State of New Jersey, which survey shall show the boundaries of the Permanent Easement Area, the location of all Pump Station Facilities (whether above or below ground), and the location of any Monitoring Equipment within 20 feet of the Permanent Easement Area.

(d) **"BFI Parties"** means BFI, its employees, contractors, agents, parents, subsidiaries, affiliates, successors and assigns.

(e) **"BFI Sewerline"** means BFI's existing subsurface leachate sewerline and related facilities which run through and from the Landfill, including through portions of the Easement Areas, and which connect the Landfill's leachate system to the Township sewer line lying within Lani Street.

(f) **"Easement Areas"** means, collectively, the Permanent Easement Area and the Temporary Construction Easement Areas.

(g) **"Easements"** means, collectively, the **"Permanent Easement"**, **"Temporary Construction Easement 1"**, and **"Temporary Construction Easement 2"**, as each is described in the legal descriptions and shown on the survey attached hereto as **Exhibit "A"** and incorporated herein by reference.

(h) **"Fence"** means the 7' tall chain link fence by which BFI secures the perimeter of the Landfill.

(i) **"Landfill"** means the Monroe Township Landfill, located on Spotswood Gravel Hill Road in Monroe Township, New Jersey, on land owned by Monroe Township which is maintained by BFI.

(j) **"Owner"** means BFI, together with its successors in title to all or any portion of Lot 25, Block 148.60 which is affected by the Easements.

(k) **"Maintain"** means to perform Maintenance.

(l) **"Maintenance"** means all necessary inspection, maintenance, repairs, replacements and renewals of any facilities or improvements made pursuant to the rights granted by any of the Easements herein, whether ordinary or extraordinary, and whether foreseen or unforeseen.

(m) **"Material Breach"** means a breach that could result in the imposition of any penalties, fines or other criminal or civil liabilities or obligations or the suspension or

revocation of any permit, license, or approval, or could necessitate the taking of immediate remedial or corrective actions.

(n) **“Monitoring Equipment”** means equipment for monitoring of the Landfill and its surrounding environment deemed necessary by BFI or required by any approval, order, regulation, statute or ordinance promulgated by any governmental or quasi-governmental agency possessing jurisdiction, which equipment may include, but is not limited to, gas probes and monitoring wells.

(o) **“Party”** means any entity or individual bound by this Declaration, collectively “Parties”.

(p) **“Permanent Easement Area”** means that portion of Lot 25, Block 148.60 which is affected by the Permanent Easement, as described in the legal description and as shown on the survey attached hereto as **Exhibit “A”**.

(q) **“Plans and Specs”** means the certain plans and specifications prepared by CME Associates on behalf of the Township and approved by BFI, which, among other things, documents the location of the Pump Station Facilities from the Wall and the BFI Sewerline, as established by the Ground Penetrating Radar Survey performed by a contractor on behalf of BFI, and detail proposed landscaping.

(r) **“Pump Station Facilities”** means the leachate pump station, including electrical cabinets, chain link fence, concrete pad and curbing, valve chamber, double wall HDPE pipes, light fixture, wet well, odor control units, geogrid, retaining walls, gravity sanitary sewer, forcemain, manhole, stationary davit crane, hydrant, water service line to hydrant, gas line, DGA base, bollards, natural gas generator, scrub line, driveway, walkway and landscaping, as shown and described in the Plans and Specs.

(s) **“Repairs”** means any improvements, repairs, maintenance, restoration or such similar work required or necessary to (i) comply with any approval, order, regulation, statute or ordinance promulgated by any governmental or quasi-governmental agency possessing jurisdiction; or (ii) repair or restore the Easement Area to a condition consistent with that which existed prior to work having commenced, including, but not limited to repair or replacement of curbs, sidewalks, drive aisles and surface improvements, landscaping or such similar improvements.

(t) **“Sewerline Survey”** shall mean the ground penetrating radar survey of the BFI Sewerline performed on behalf of BFI showing the location of the BFI Sewerline. The BFI Sewerline will feed leachate into the Township pump station. As part of construction, it will be necessary to “cut” into the line to connect. The rest of the line will then be abandoned in place as this is the line that currently feeds into the Township’s Gravity sewer line on Lani Street which will no longer be used for that purpose

(u) **“Temporary Construction Easements”** means, collectively, Temporary Construction Easement 1 and Temporary Construction Easement 2.

(v) **“Temporary Construction Easement Areas”** means, collectively, those certain portions of Lot 25, Block 148.60 which are affected by Temporary Construction Easement 1 and Temporary Construction Easement 2, as described in the legal description and as shown on the survey attached hereto as **Exhibit “A”**.

(w) **“Tie-In”** means the pipeline location where the existing BFI Sewerline will join to the Pump Station Facilities.

(x) **“Township Parties”** means the Township, its licensees, its consultants, engineers, contractors, employees, agents or other parties working on behalf of the Township.

(y) **“Wall”** means the existing clay cutoff wall which serves to contain leachate generated at the Landfill, including the leachate collection lines which are located adjacent to the structure of the clay cutoff well.

(z) **“Wall Survey”** means the survey evidencing the location of the Wall and provided to the Township by BFI for incorporation into the Plans and Specs.

2. **Permanent Easement.** BFI hereby grants to the Township a perpetual, non-exclusive easement (the **“Permanent Easement”**) upon, under and through the Permanent Easement Area, for locating, installing, constructing, using, relocating, reconstructing, removing, maintaining, replacing, and preserving the Pump Station Facilities located within, upon or beneath the Permanent Easement Area.

### 3. **Construction.**

(a) BFI acknowledges that the Township has provided the Plans and Specs and that BFI has provided its written approval of those Plans and Specs. Prior to commencing the initial construction of the Pump Station Facilities, the Township shall establish a construction schedule, which will be routinely updated by the Township and subsequently provided to BFI’s representative(s).

(b) The Township acknowledges that the Landfill is secured by the Fence and must remain so secured at all times. If, at any time during the construction or maintenance of the Pump Station Facilities, the Township’s construction activities require the removal of any portion of the Fence, the Township shall, at its sole cost and expense, cause the following: (i) install temporary fencing comparable to the Fence that secures the Landfill from public access at all times when the Township’s personnel are not present to monitor and prevent such access or (ii) provide security personnel to monitor the portions of the Landfill which are not secured by the Fence or by the temporary fencing.

(c) Prior to the start of construction, BFI shall clearly and accurately mark out and identify all underground assets located in the Temporary Construction Easement Area and the Permanent Easement Area. These assets include, but are not limited to, the following:

- The Wall,
- Leachate force main,

- o Leachate collection lines,
- o Leachate drain lines,
- Landfill Monitoring Equipment.

(d) The initial construction of the Pump Station Facilities shall be performed in accordance with: (i) the Plans and Specs and all Applicable Laws; and (ii) a requirement to notice BFI, in writing at the above referenced address and via email to the BFI representatives set forth in Section 4 (as may be amended), no fewer than 48 hours prior to the initial commencement of work in the Permanent Easement Area. BFI reserves the right to have its representative present during the initial construction to ensure that such construction conforms to the Plans and Specs as it relates to the sewer line, Wall, and tie in only and to the Township's obligations pursuant to this Declaration.

(e) Within 60 days of the completion of installation of the Pump Station Facilities, the Township shall provide BFI the As-Built Survey.

4. **Maintenance.**

(a) All Maintenance of the Pump Station Facilities subsequent to initial construction shall be the responsibility of the Township. All such Maintenance shall be performed within the Permanent Easement Area and in accordance with the Plans and Specs. Prior to the commencement of any Maintenance within the Permanent Easement Area, the Township shall provide BFI at least 48 hours' prior written notice if, and only if, said Maintenance will necessitate shutting down the pumping station operations; the foregoing notwithstanding, in the event of a condition or situation which exists with the Pump Station Facilities or on the Permanent Easement Area that presents an imminent or current physical threat or danger to life or health or presents an imminent or current physical threat to property or the environment, including, but not limited to, any condition that has or is likely to result in a Material Breach of a permit or a material breach of Applicable laws, the Township may commence correcting such condition and notify BFI thereof as soon as practical after the commencement thereof.

(b) If a condition or situation which exists with the Pump Station Facilities or on the Permanent Easement Area that presents an imminent or current physical threat or danger to life or health or presents an imminent or current physical threat to property or the environment, the Township may commence correcting such condition, provided that, if such condition or situation will result in either (i) reducing the capacity of the Pump Station Facilities to pump leachate or (ii) ceasing the operation of the Pump Station Facilities, then the Township must immediately notify BFI of the condition or situation by emailing each of the BFI contacts listed below:

Sheena McCarthy- [smccarthy2@republicservices.com](mailto:smccarthy2@republicservices.com)

Jacob Schmidt – [jschmidt4@republicservices.com](mailto:jschmidt4@republicservices.com)

Drew Isenhour – [disenhour@republicservices.com](mailto:disenhour@republicservices.com)

BFI shall have the right to update the foregoing list of personnel and contact information by providing written notice thereof to the Township pursuant to Section 11 hereof.

The Township shall post a list of BFI's current personnel and contact information within the Pump Station Facilities and maintain a copy of such list in the office of the Township's Department of Public Works.

BFI reserves the right to have its representative present during all such emergency maintenance to ensure such maintenance conforms to the Plans and Specs and to the Township's obligations pursuant to this Declaration.

The Township acknowledges that the foregoing emergency notice requirement is a material condition of this Agreement which is necessary to enable BFI to assist in ensuring that the reduction in pumping capacity or the cessation of operations of the Pump Station Facility does not result in an endangerment to the environment or the public health and safety.

5. **Use of Easement Areas.** The following restrictions on the Easement Areas shall apply:

(a) Under no circumstances shall the Township's use of the Easement Areas disturb, affect the stability of, damage or impair the functioning of the Wall, the BFI Sewerline or any Monitoring Equipment. In addition, the Township acknowledges that one piece of Monitoring Equipment, labeled as Gas Probe 13, has been identified by BFI as being located within the Temporary Construction Easement 1 as of the Effective Date and is reflected on the Township's site plan. Prior to construction, this probe and all other BFI underground assets must be clearly marked out by BFI. The Township agrees that it will not disturb the ground, including, without limitation installing any improvements, within 10 feet of any Monitoring Equipment, that has been marked out, without the prior written consent of BFI, which consent shall not be unreasonably withheld. In the event BFI provides such consent to the Township for any disturbance, BFI reserves the right to have its representative present during such disturbance and to halt such disturbance if BFI's representative reasonably believes that such disturbance may have a negative effect on the Monitoring Equipment or BFI's ability to obtain accurate readings therefrom.

(b) Subject to the exception set forth in subsection (e) below, BFI shall not place any new obstruction or encumbrance, physical or otherwise, in or about the Easement Areas which will obstruct the Township's use of the Easements for the initial construction and Maintenance of the Pump Station Facilities; provided, however, the Township acknowledges that (i) BFI shall have the right to install a grass lawn, pavement, curbing, sidewalks, and the replacement of any other improvement existing as of the Effective Date hereof and (ii) BFI shall have the right to perform any activity within the Easements required by any approval, order, regulation, statute or ordinance promulgated by any governmental or quasi-governmental agency possessing jurisdiction over the Landfill including the New Jersey Department of Environmental Protection and the United States Environmental Protection Agency.

(c) Following the initial construction of the Pump Station Facilities and subject to the exceptions set forth in subsections (b) and (e) hereof, BFI shall not place any fill, material, machinery, appliances, or similar objects on the Permanent Easement Area which will impose an additional loading in excess of one hundred pounds per square foot (100 lbs./sq. ft.) without the prior written approval of the Township, excepting such equipment as is typically utilized in connection with the construction, maintenance or replacement of the existing improvements in the Permanent Easement Area as of the Effective Date.

(d) Subject to the exception set forth in subsection (b) above, Owner may erect fencing within the Permanent Easement Area provided that the Owner obtains prior written consent from the Township confirming that such fencing does not materially interfere with the operation, maintenance and repair of the Pump Station Facilities, which consent shall not be unreasonably withheld, delayed or conditioned. If the Township has approved the installation of a fence within the Permanent Easement Area and thereafter disturbs the approved fence, the Township shall, upon the completion of its work within the Permanent Easement Area, restore such fence to substantially the same condition in which it was prior to commencement of such disturbance.

(e) Notwithstanding anything to the contrary set forth herein, the Township agrees that Owner shall retain a perpetual right and reservation to access those portions of the Permanent Easement Area which are not located within a permanent Township structure and, for so long as they are in effect, the Temporary Construction Easement Areas, as and when needed in order to comply with its legal and monitoring requirements with respect to the Landfill, to monitor, maintain and replace any existing Monitoring Equipment located in any Easement Areas, to install new or additional equipment (including, but not limited to, new gas probes and monitoring wells) in locations that may change from time to time, if deemed necessary by Owner or required by any governmental or quasi-governmental authority, to close any monitoring wells or gas probes or remove other equipment when no longer deemed necessary by Owner, and to perform any activities required by applicable permits or legal requirements.

(f) The Township agrees that it shall not use any groundwater from the Easement Areas for any purpose whatsoever.

(g) Upon the commencement of operations of the Pump Station Facilities, in the event any clean-up, removal, remediation, abatement, or other similar action of any material or other constituent on, in or under the Easement Area is required by any governmental or quasi-governmental agency as a result of the act or omissions of any Township Parties in the maintenance or operation of the Pump Station Facilities, the Township, on behalf of the Township Parties, agrees to cause such remediation to be performed, at its sole cost and expense, in accordance with all Applicable Laws.

6. **Governmental Approvals.** Any Township Party performing any construction, Maintenance or other work hereunder shall have the sole responsibility for obtaining all required permits and approvals prior to commencing the work, for complying with all such permits and approvals and for providing any financial security or assurances which may be required from any governmental or quasi-governmental authorities in connection therewith.

7. **Standard of Care.** Each Township Party performing work shall perform all work, including, without limitation, construction, installation and Maintenance, in a good and workmanlike manner consistent with applicable industry standards, with a minimum of inconvenience to BFI, and in accordance with all Applicable Laws, including any permits governing the Landfill. Any damage to property and/or persons caused by a Township Party (or anyone claiming by, through or under it) in the course of such work shall be promptly repaired and such lands restored to their condition immediately prior to such damage, at the sole cost and

expense of the Township. All such work shall be undertaken and completed in a prompt manner and with all due diligence and in accordance with all Applicable Laws. The Township shall ensure that each Township Party shall perform all work hereunder in a manner that does not unreasonably interfere with or interrupt the use of the Property and Landfill by BFI.

8. **Use and Termination of Temporary Construction Easements.** During the time that the Township performs the initial construction of the Pump Station Facilities, the Township shall be entitled to use the Temporary Construction Easements as is reasonably necessary for the purpose of performing the initial construction of the Pump Station Facilities in the Permanent Easement Area, including for staging and storage related to such work, but use of the Temporary Construction Easements shall not include any excavation into the subsurface or the construction of any structures, whether above- or below-ground, and shall occur only to the extent necessary to support initial construction of the Pump Station Facilities in the Permanent Easement Area, and only (i) at reasonable times; and (ii) for the period reasonably necessary to perform such work; (iii) in accordance with and subject to good construction practice; and (iv) in such manner so as to minimize, to the fullest extent practicable, interference with the lawful use of the Property. Prior to the completion of the initial construction of the Pump Station Facilities, the Township shall restore the Temporary Construction Easement Areas to substantially the same condition in which they existed prior to the commencement of this Declaration. Upon the earlier to occur of (a) completion of the initial construction of the Pump Station Facilities or (b) nine (9) months from the Effective Date hereof, which may be extended with the written consent of the parties which consent shall not be unreasonably withheld, the Temporary Construction Easements shall terminate and be of no further force and effect, and the Township shall have no right to access or use the Temporary Construction Easement Areas for any purpose unless approved in writing in advance by BFI.

9. **Cooperation.** BFI and the Township shall act in a commercially reasonable manner, in good faith and shall cooperate with the other with respect to the matters which are the subject of this Declaration.

10. **Rights Reserved.** Owner shall have the right to occupy and enjoy the surface of, air space above, and subsurface under, the Easements for any purpose which does not unreasonably interfere with the easement rights granted to the Township hereunder.

11. **Notices.** Except as otherwise provided for by this Agreement, any notices required or permitted to be given under this Declaration shall be in writing and shall be deemed given if delivered by hand, sent by recognized overnight courier (such as Federal Express), or delivered by certificate or registered mail return receipt requested, in a postage pre-paid envelope, and, where indicated below, by electronic mail, addressed as follows:

If to the Township at: Mayor of the Township of Monroe  
And Alan Weinberg, Business Administrator  
Township of Monroe  
One Municipal Plaza  
Monroe Township  
New Jersey 08831  
[AWeinberg@monroetwp.com](mailto:AWeinberg@monroetwp.com)

With copy to: Joseph Stroin  
Director of MTUD  
Monroe Township Utility Department  
143 Union Valley Rd  
Monroe, New Jersey 08831  
[jstroin@monroctud.com](mailto:jstroin@monroctud.com)

With further copy to: Louis N. Rainone, Esq.  
Rainone Coughlin Minchello, LLC  
Township Attorney  
555 U.S. Route One South  
Suite 440  
Iselin, New Jersey 08830  
[LRainone@njrcmlaw.com](mailto:LRainone@njrcmlaw.com)

If to BFI at: BFI Waste Systems of New Jersey, Inc.  
1235 Westlakes Drive, Suite 310  
Berwyn, PA 19312  
Attn: Area Environmental Officer

With a copy to: BFI Waste Systems of New Jersey, Inc.  
18500 North Allied Way  
Phoenix, AZ 85054  
Attn: Chief Legal Officer

And to: Spotts Fain  
411 East Franklin Street, 6<sup>th</sup> Floor  
Richmond, VA 23219  
Attn: David A. Reed, Esq.

Notices personally delivered or sent by overnight courier shall be deemed given on the date of receipt, and notices sent via certified or registered mail in accordance with the foregoing shall be deemed given 3 days after deposited in the U.S. Mail. The foregoing addresses may be changed or supplemented by written notice given as above provided.

12. **Amendments.** This Declaration may be modified only by a recorded document executed by the Parties hereto.

13. **Rights Run with the Land.** The rights and responsibilities hereunder shall run with fee title to the Property and shall be binding upon any successor owner, their heirs and assigns, it being agreed that BFI shall be responsible for performance of its obligations under this Declaration during its period of ownership of any portion of the Affected Property. Upon transfer of all or any portion of the Affected Property, the transferring Owner shall be released from complying thereafter with the provisions of this Declaration with respect to such Affected Property or portion thereof transferred by such Owner and shall have no further obligation by reason thereof, except that a transferor shall not be released from any actual obligations that may exist at the time of such conveyance by it.

14. **Binding Effect.** The terms, covenants and conditions herein contained shall run in perpetuity for the benefit of each Party in the manner set forth herein, and shall be binding upon and inure to the benefit of the successors and assigns of the Parties.

15. **Controlling Law.** The Parties agree that this Declaration shall be governed by and interpreted according to the laws of the State of New Jersey. The Parties further agree that any claims relating to or arising out of this Declaration and the transactions contemplated thereby shall be tried, brought and prosecuted in a court of competent jurisdiction located in the State of New Jersey, and each Party waives any right to a trial by jury.

16. **Indemnification.** The Township hereby indemnifies and agrees to protect, indemnify, defend, and hold harmless the BFI Parties from and against all liabilities, damages, and claims related to the use of the Easement Area by the Township Parties. Notwithstanding the foregoing, the Township shall not be responsible if such damages and losses solely arise from or are caused by BFI's negligence or willful misconduct.

17. **No Other Agreements.** This Declaration contains the entire understanding of the Parties hereto with respect to the subject matter hereof. This Declaration shall not be modified except by a written instrument signed by the Party against whom enforcement is sought and which is recorded in the land records of Middlesex County, New Jersey.

18. **Miscellaneous.** If any provision of this Declaration is found to be invalid or unenforceable, the remainder of this Declaration shall be unaffected thereby. The section headings are for convenience and reference only and shall not limit or otherwise affect the meaning hereof. This Declaration may be simultaneously executed in several counterparts, each of which, when so executed and delivered, shall constitute an original, fully enforceable counterpart for all purposes.

19. **Compliance with Applicable Laws.** The Township shall at all times comply with any and all Applicable Laws.

20. **As-Is; Senior Rights.** Notwithstanding anything to the contrary set forth in this Declaration, the Township accepts the Easements on an "AS-IS, WHERE IS" basis without any representations or warranties of any kind whatsoever. The Township acknowledges that the granting of the Easements pursuant to this Declaration is subject to the senior rights of existing recorded easements and other matters of record affecting the Property. The Township agrees to coordinate any work it performs within the Easement Areas with the holders of such existing

easements to ensure that the Township's work does not infringe upon the rights of such easement holders or damage any facilities located within such existing easements.

21. **Liens.** Nothing in this Declaration shall authorize the Township to do any act that will in any way encumber the title of BFI in and to any Easement Area or the Property, nor shall the interest or estate of BFI in any Easement Area or the Property be in any way subject to any claim by way of lien or encumbrance, whether by operation of law or by virtue of any express or implied contract by the Township, and any claim to or lien upon any Easement Area or the Property arising from any act or omission of the Township or its contractors, consultants agents and representatives shall in all respects be subject and subordinate to the paramount title and rights of BFI in and to the Easement Areas and the Property. The Township shall not permit any Easement Areas or the Property to become the subject of any lien arising from the work or actions of the Township or any Township Parties acting by or at the direction or sufferance of the Township; provided, however, that the Township shall have the right to contest in good faith and with reasonable diligence the validity of any such lien or claimed lien. If any lien is claimed, filed, or recorded with respect to any Easement Area or the Property in violation of the provisions of this Section, the Township shall have 10 business days to remove any such lien, or bond over the lien to BFI's reasonable satisfaction, or the Township shall be in breach of this Declaration. Upon request, the Township shall provide BFI with copies of lien waivers evidencing payment for all labor and materials furnished with respect to the Pump Station Facilities.

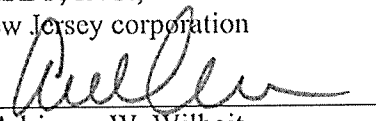
[Signatures appear on pages following]

IN WITNESS WHEREOF, BFI and the TOWNSHIP have each executed and delivered this Declaration effective as of the Effective Date.

**BFI:**

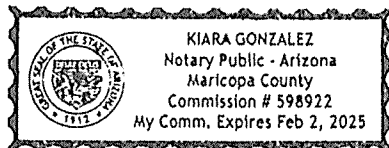
**BFI WASTE SYSTEMS OF NEW JERSEY, INC.,**

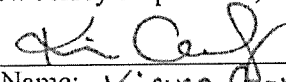
a New Jersey corporation

By:   
Adrienne W. Wilhoit,  
Vice President

STATE OF Arizona )  
COUNTY OF Maricopa )ss.

The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of September, 2022, by Adrienne W. Wilhoit, who is personally known to me, as the Vice President of BFI Waste Systems of New Jersey, Inc., a New Jersey corporation, on behalf of the corporation.



  
Name: Kiara Gonzalez  
Notary Commission No. 598922  
My Commission Expires: 2/2/25

**TOWNSHIP:**

**TOWNSHIP OF MONROE**

By: 

Name: Stephen Dalina

Title: Mayor

STATE OF NEW JERSEY

SS.:

COUNTY OF MIDDLESEX

I CERTIFY that on September 27, 2022, Patricia Reid personally came before me and this person acknowledged under oath, to my satisfaction that:

- (a) This person is the Clerk of the Township of Monroe, the municipal corporation named in this Agreement;
- (b) This person is the attesting witness to the signing of this Agreement by the proper municipal officer who is Stephen Dalina, the Mayor of the Township of Monroe;
- (c) This Agreement was signed and delivered by the Township of Monroe as its voluntary act duly authorized by a proper resolution of its governing body;
- (d) This person knows the proper seal of the Township of Monroe which was affixed to this Agreement; and
- (e) This person signed this proof to attest to the trust of these facts.

Signed and Sworn to before me on

September 27, 2022.

Manuela Pannucci  
Notary Public

Patricia Reid  
Patricia Reid, Clerk

**MANUELA PANNUCCI**  
**NOTARY PUBLIC OF NEW JERSEY**  
**ID # 50018563**  
**My Commission Expires 7/10/2025**