

OHIO E.P.A.

JUN 14 2011

ENTERED DIRECTOR'S JOURNAL

Issuance Date: JUN 14 2011

Effective Date: JUN 14 2011

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In The Matter Of:

Peter J. Ltd.	:	Director's Authorization and
Lea Boyas Morabito, Agent	:	Exemption Order
10055 Sweet Valley Drive	:	
Valley View, Ohio 44125	:	

**PREAMBLE**

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

It is agreed by the parties hereto as follows:

By Joseph Lassiter Date: 6-14-11

**I. JURISDICTION**

This Director's Authorization and Exemption Order (hereinafter "Order") is hereby entered into with Peter J. Ltd., an Ohio limited liability corporation, pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3734.02, 3734.13, and 3745.01, as well as Ohio Administrative Code ("OAC") Rules 3745-27-03 and 3745-27-13.

**II. PARTIES**

This Order shall apply to and be binding upon Peter J. Ltd. and its successors in interest liable under Ohio law. No changes in ownership relating to Peter J. Ltd.'s property, or the Matousek Landfill and Garfield Heights Board of Education Landfill, as hereinafter defined, shall in any way alter Peter J. Ltd.'s obligations under this Order. Peter J. Ltd. shall provide a copy of this Order to all contractors, subcontractors, laboratories, and consultants retained to perform construction or any other activities or work pursuant to this Order. Peter J. Ltd. shall ensure that all contractors, subcontractors, laboratories, and consultants retained to perform construction or any other activities or work pursuant to this Order also comply with all applicable provisions of this Order. Peter J. Ltd.'s obligations under this Order may be altered only by the written approval of the Director of Ohio EPA in accordance with Section VII of this Order, "Modifications and Alterations".

### **III. DEFINITIONS**

Unless otherwise stated, all terms used in this Order shall have the same meaning as used in ORC Chapter 3734. and the rules promulgated thereunder. Unless otherwise stated, all OAC citations shall refer to rules in effect on the date of this Order. Whenever the terms listed below are used in this Order or in any appendices, attached hereto and incorporated herein, the following definitions shall apply:

- A. "Facilities" shall mean that portion of the Matousek Landfill and that portion of the Garfield Heights Board of Education landfill located north of Rockside Road, and south of the intersection of Antennucci Boulevard and Transportation Boulevard, in Garfield Heights, Cuyahoga County, Ohio, as designated on Property Ownership Map included in Appendix A of the Rule 13 Request. The Facilities consist of four parcels that have a total acreage of approximately 69.0392 acres. The legal description of each of the four parcels and a map

showing the boundary of the Facilities is attached as Appendix A and is incorporated herein as if fully rewritten. The approximately 49.4946 and 4.1925 acre parcels are currently owned by Peter J. Ltd. and include a portion of the Matousek Landfill and parcel number 543-11-001. The remaining approximately 15.3521 acres consist of two parcels which are owned by the Garfield Heights Board of Education and include a portion of the Garfield Heights Board of Education Landfill .

- B. "Rule 13 Request" shall mean the document entitled, "3745-27-13 Application Submittal, Matousek Landfill and Unlicensed Closed Garfield Heights School Board Landfill, Garfield Heights Cuyahoga County, Ohio," submitted to Ohio EPA on March 23, 2011, and amended on April 4, 2011, April 11, 2011, April 13, 2011, April 14, 2011, and June 13, 2011. Said Rule 13 Request, as amended, is attached hereto as Appendix B and is incorporated into this Order by reference as if it were fully rewritten herein.

#### **IV. FINDINGS OF FACT**

The Director of Ohio EPA ("Director") has determined the following findings:

1. Matousek Landfill is a formerly licensed and closed solid waste disposal facility, which is located approximately 2,500 feet southeast of the Interstate 480 and Transportation Boulevard/East 98<sup>th</sup> Street interchange, and includes Cuyahoga County parcel number 543-07-001 in the City of Garfield Heights, Cuyahoga County, Ohio.
2. Garfield Heights Board of Education Landfill is an unlicensed, closed solid waste disposal facility located approximately 2,100 feet southeast of the Interstate 480 and

Director's Authorization and Exemption Order

Peter J. Ltd. - Matousek Landfill

Page 4 of 32

Transportation Boulevard/East 98<sup>th</sup> Street interchange, and includes a portion of Cuyahoga County permanent parcel number 542-37-001 and all of Cuyahoga County parcel number 542-43-002 in the City of Garfield Heights, Cuyahoga County, Ohio.

3. The Facilities, as defined above, are adjacent and comprise approximately 69.0392 acres. The legal description of the parcels that comprise the Facilities and a map that indicates the boundary of the Facilities is attached as Appendix A.
4. ORC Section 3734.02(H) provides in part that "[n]o person shall engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility, or a solid waste facility, was operated without prior authorization from the director, who shall establish a procedure for granting such authorization by rules adopted in accordance with Chapter 119. of the Revised Code."
5. OAC Rule 3745-27-13 provides in part that "No person shall, without authorization from the director, engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste or solid waste facility was operated."
6. OAC Rule 3745-27-13(H)(6) states, in part, "No excavation of waste shall occur unless the excavated waste is replaced within previously existing horizontal and vertical limits of waste placement or is treated or disposed of at a licensed, permitted treatment or disposal facility, in accordance with Chapter 3734. of the Revised Code and the regulations promulgated thereunder."
7. ORC Section 3734.02(G) provides, in part, "The director, by order, may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes..., in such quantities or under such circumstances that, in the determination

of the director, are unlikely to adversely affect the public health or safety or the environment from any...requirements of this chapter.”

8. OAC Rule 3745-27-03(B) provides that the Director may, by order, issue an exemption from a requirement of Chapter 3734. of the Revised Code under certain conditions.
9. On January 23, 2009, Peter J. Ltd. submitted a document titled “Rule 13 Application Submittal, Matousek Landfill and Unlicensed Closed Garfield Heights School Board Landfill, Garfield Heights Cuyahoga County, Ohio.” On March 22, 2010, Peter J. Ltd. submitted a revised “Rule 13 Application” for the same property. Both documents had deficiencies and could not be approved as submitted.
10. On March 23, 2011, Peter J. Ltd. submitted a document pursuant to OAC Rule 3745-27-13 titled “3745-27-13 Application Submittal, Matousek Landfill and Unlicensed Closed Garfield Heights School Board Landfill, Garfield Heights Cuyahoga County, Ohio” to Ohio EPA. Amendments were submitted and incorporated into the Rule 13 Request on April 4, 2011; April 11, 2011; April 13, 2011; April 14, 2011, and June 13, 2011.
11. The Rule 13 Request describes, in part, the proposed activities to take place at the Facilities including: excavation, commingling, and relocation of solid waste; installation of subsurface borings, settlement plates, storm water management systems, leachate collection and disposal systems, an active gas extraction system, and a three-foot-thick constructed clay cap; placement of a minimum ten-foot-thick layer of structural fill; and on-site soil stockpiling, grading, and placement.

Director's Authorization and Exemption Order

Peter J. Ltd. - Matousek Landfill

Page 6 of 32

12. The Rule 13 Request seeks authorization to conduct construction activities and related work on the approximately 69.0392 acre Facilities area depicted in the map attached as Appendix A of this Order.
13. Appendix O to the Rule 13 Request includes an exemption request, pursuant to the provisions of OAC Rule 3745-27-03(B), from the requirements of OAC Rule 3745-27-13(H)(6). Specifically, Peter J. Ltd. has requested authority to relocate solid waste above the previously existing vertical limits of solid waste placement and to commingle solid waste from the Matousek Landfill and the unlicensed Garfield Heights Board of Education Landfill in order to achieve a consistent elevation of waste prior to the installation of a constructed clay cap and gas extraction system.
14. In accordance with OAC Rule 3745-27-13(K) and to ensure that the Facilities are properly closed during construction under the Rule 13 Request, including during the construction of the clay cap and gas extraction system and other engineered components, and that the improvements to the Facilities are properly operated and maintained for 30 years of post closure care following Ohio EPA's concurrence with the completion of the construction in accordance with the Rule 13 Request and this Order, Peter J. Ltd. has prepared financial assurance estimates for closure and post closure care at the Facilities as set forth in Appendix P of the Rule 13 Request.
15. Peter J. Ltd. has agreed to comply with the requirements of OAC Rules 3745-27-15 through 3745-27-17, which relate to the establishment and maintenance of financial assurance for sanitary landfill facilities, notwithstanding any argument that such rules are not legally applicable to the Facilities or to Peter J. Ltd.'s activities at the Facilities.
16. In accordance with OAC Rule 3745-27-13(K), the Parties to this Order have agreed

Director's Authorization and Exemption Order

Peter J. Ltd. - Matousek Landfill

Page 7 of 32

to execute and record an Environmental Covenant in accordance with ORC Sections 5301.80 through 5301.92 in order to impose activity and use limitations on the Facilities. The Environmental Covenant will be drafted in accordance with ORC Section 5301.82 and Appendix C attached hereto and incorporated herein by reference. The activity and use limitations will, among other things, prohibit the extraction and use of ground water for potable purposes on the Facilities, prohibit the use of the property for residential purposes, and prohibit the Facilities, or any portion thereof, from being used in a manner that would adversely affect the integrity of: the explosive gas monitoring, collection, and/or extraction system; the leachate collection system; and/or any engineered components at the Facilities that constitute the constructed clay cap. The activity and use limitations will not prevent the future, approved installation of pilings through the clay cap.

17. Peter J. Ltd. owns parcel number 543-11-001 and that portion of the Matousek Landfill which is part of the Facilities, and has acquired an option to purchase the portion of the Garfield Heights Board of Education Landfill consisting of Cuyahoga County parcel number 542-43-002 and a portion of Cuyahoga County parcel number 542-37-001 in the City of Garfield Heights, Cuyahoga County, Ohio as designated on the Property Ownership Map in Appendix A.. Said parcels are part of the Facilities as defined in this Order and are owned by the Garfield Heights Board of Education. When Peter J. Ltd. exercises its option, the proposed transfer may constitute a "change in ownership" as defined by ORC Section 3734.42(F). The Garfield Heights Board of Education Landfill is part of the larger redevelopment project being conducted on the Facilities. By written correspondence dated June 9, 2011, Peter J. Ltd. submitted an exemption request from the requirements of ORC Section 3734.42(F) and OAC Rule 109:6-1 to file a disclosure statement at least 180 days prior to the date of the proposed change in ownership of the Garfield

Director's Authorization and Exemption Order

Peter J. Ltd. - Matousek Landfill

Page 8 of 32

Heights Board of Education Landfill to Peter J. Ltd., to the extent that those requirements apply to the proposed change in ownership.

18. The Director finds that approval of this Order under ORC Section 3734.02(H) and OAC Rule 3745-27-13 to Peter J. Ltd., in order to perform the activities described in the Rule 13 Request, will not result in violation of applicable laws and regulations administered by the Director, will not create a nuisance, and will not adversely affect the public safety or health or environment; provided, that Peter J. Ltd. strictly complies with all terms and conditions of this Order, including Appendix B.
19. The Director finds that the issuance to Peter J. Ltd. of an exemption under ORC Section 3734.02(G) and OAC Rule 3745-27-03(B) from the requirements of OAC Rules 3745-27-02, 3745-27-06, 3745-27-13(H)(6), and OAC Chapter 3745-37 and ORC Sections 3734.02(C) and 3734.05(A)(1) and (2) to allow Peter J. Ltd. to place solid waste above the vertical limits of solid waste placement and to commingle solid waste at the Facilities while performing activities described under Appendix B of this Order is unlikely to adversely affect the public health or safety or the environment; provided, that Peter J. Ltd. strictly complies with all terms and conditions of this Order, including Appendix B.
20. The Director finds that the issuance to Peter J. Ltd. of an exemption under ORC Section 3734.02(G) and OAC Rule 3745-27-03(B) from the requirements of ORC Section 3734.42(F) and OAC Rule 109:6-1 to dispense with the requirement to file a disclosure statement at least 180 days prior to the change in ownership of the Garfield Heights Board of Education Landfill to Peter J. Ltd. is unlikely to adversely affect the public health or safety or the environment; provided that Peter J. Ltd. strictly complies with all terms and conditions of this Order, including Appendix B.

21. Peter J. Ltd. has indicated that it may apply for approval to develop commercial structures on the Facilities, proceed to build such structures, and then enter into lease agreements with third parties to operate commercial enterprises out of those structures. If Peter J. Ltd. were to do this, it is the position of the Ohio EPA that the tenants occupying the commercial structures would not need to comply with the requirements of ORC Section 3734.42(F) under such circumstances.

## **V. AUTHORIZATION AND ORDERS**

### **A. ORC Section 3734.02(G) and OAC Rule 3745-27-03(B) Exemption**

1. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), and based on the information included in Rule 13 Request, Peter J. Ltd. is exempted from the requirements under ORC Sections 3734.02(C) and 3734.05(A)(1) and (2) and OAC Chapter 3745-37 and OAC Rules 3745-27-02, 3745-27-06, and 3745-27-13(H)(6) as they apply to the placement of solid waste above the vertical limits of solid waste placement and the commingling of solid waste at the Facilities during the performance of activities described in Appendix B of this Order; provided, that Peter J. Ltd. strictly complies with all terms and conditions of this Order, including Appendix B. Relocation of waste shall not occur in areas beyond the existing horizontal limits of waste placement.
2. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), Peter J. Ltd. is hereby exempted from the requirements of ORC Section 3734.42(F) and OAC Rule 109:6-1 to file a disclosure statement at least 180 days prior to the change in ownership in connection with the proposed conveyance of a portion of the Garfield Heights Board of Education Landfill. This exemption applies solely to Peter J. Ltd. and is not

transferable to any future owners of the Garfield Heights Board of Education Landfill, or portion thereof, located on the Garfield Heights Board of Education Landfill. Upon transfer of ownership of the Garfield Heights Board of Education Landfill, Peter J. Ltd. shall provide Ohio EPA a copy of the final deed transferring the property to Peter J. Ltd.

**B. ORC Section 3734.02(H) and OAC Rule 3745-27-13 Authorization**

1. Pursuant to ORC Section 3734.02(H) and OAC Rule 3745-27-13, Peter J. Ltd. is hereby granted authority to conduct activities at the Facilities in accordance with the Rule 13 Request and this Order. Peter J. Ltd. shall comply with all terms and conditions of this Order, including Appendix B, except as provided under Section VII of this Order, "Modifications and Alterations."
2. Once construction or any other activities or work commence pursuant to this Order, Peter J. Ltd. shall perform all activities authorized in the Rule 13 Request no later than three (3) years after the effective date of this Order, except as provided under Section VII of this Order, "Modifications and Alterations" and except as for the placement of the final seven (7) feet of structural fill material which shall be completed for a particular area before any additional request for authorization under OAC rule 3745-27-13 is submitted and considered by Ohio EPA for that area within the Facilities.
3. Peter J. Ltd. shall perform all construction activities and shall operate and maintain all constructed engineered components or other installed structures (including subsurface structures) in a manner that prevents the accumulation of explosive gas in structures (including subsurface structures) at or above the action level of 25% of the lower explosive limit(1.25% CH<sub>4</sub> v/v), and prevents the accumulation of other landfill gases in structures (including subsurface structures) at levels that are harmful or inimical to human health.

Director's Authorization and Exemption Order

Peter J. Ltd. - Matousek Landfill

Page 11 of 32

4. Once waste relocation activities are commenced under this Order, and except as provided under Section VII of this Order, "Modifications and Alternations," Peter J. Ltd. shall perform all construction activities and shall operate and maintain all constructed engineered components or other installed structures in a manner that prevents the migration of leachate from the Facilities in a manner not expressly authorized under this Order. Stockpiling of soil will not be considered to be constructing engineered components or installation of structures.
5. Peter J. Ltd. shall perform all activities under this Order in a manner that does not create a nuisance or adversely affect the public safety or health or the environment.
6. Peter J. Ltd. shall conduct all activities at the Facilities in compliance with all applicable state and federal laws and regulations pertaining to environmental protection, including but not limited to, the control of air pollution, leachate, and surface water run-on and run-off, and the protection of ground water.
7. Peter J. Ltd. shall submit to Ohio EPA Northeast District Office ("NEDO") and the Cuyahoga County Board of Health a construction schedule at least seven (7) days prior to commencing construction or any other activities or work authorized under this Order.
8. Peter J. Ltd. shall maintain daily field records documenting dates, times, and specific locations of all construction and related activities, including but not limited to sampling, monitoring, and construction activities occurring at the Facilities pursuant to this Order.
9. Peter J. Ltd. shall cause all liquids, semi-solids, industrial wastes, and other wastes, regulated under ORC Chapter 6111., that are removed from the Facilities to be collected and securely stored until these materials are properly characterized and

Director's Authorization and Exemption Order

Peter J. Ltd. - Matousek Landfill

Page 12 of 32

disposed in accordance with ORC Chapter 6111., the rules promulgated thereunder, and local publicly owned treatment works ("POTW") discharge requirements, if applicable.

10. Prior to removal of any liquids, semi liquids, industrial wastes or other wastes regulated under ORC Chapter 6111. from the Facilities, Peter J. Ltd. shall submit copies of sample analysis results required by the receiving treatment or disposal facility, the treatment or disposal method selected, and a letter of acceptance from the treatment or disposal facility to Ohio EPA, NEDO. All liquid and semi-liquid wastes collected for treatment or disposal shall be held in containers and securely stored until they are properly characterized and treated or disposed in accordance with ORC Chapter 6111. and the rules promulgated thereunder and/or the requirements of the receiving treatment or disposal facility.
11. Peter J. Ltd. shall cause all solid waste, hazardous waste, or contaminated soil, regulated under ORC Chapter 3734., that are to be removed from the Facilities to be held in containers and securely stored until they are properly characterized and treated or disposed in accordance with ORC Chapter 3734. and the rules promulgated thereunder.
12. Prior to removal of any solid waste, hazardous waste, or contaminated soil regulated under ORC Chapter 3734. from the Facilities, Peter J. Ltd. shall submit copies of sample analysis results, the treatment or disposal method selected, and a letter of acceptance from the treatment or disposal facility to Ohio EPA, NEDO in accordance with OAC Rule 3745-27-13(H)(4).
13. Peter J. Ltd. shall submit weekly progress reports to Ohio EPA, NEDO and the Cuyahoga County Board of Health while conducting the activities authorized pursuant

Director's Authorization and Exemption Order

Peter J. Ltd. - Matousek Landfill

Page 13 of 32

to this Order. The weekly progress reports may be submitted by e-mail. The reports shall be submitted on Monday and shall report on work performed during the seven (7) day period ending with the prior Monday. The weekly progress reports shall provide a detailed description of activities undertaken during the previous week, including, but not limited to, the following information:

- a. The volume of waste excavated at the Facilities;
- b. The location(s) within the existing horizontal limits of waste placement from which the excavated waste was moved;
- c. The volume and type of waste placed within the existing horizontal limits of waste placement;
- d. The volume and type of any waste that is removed from the Facilities for off-site disposal and all associated analytical data;
- e. Plan drawings identifying the locations where relocated waste was placed, current active working areas, and areas where final waste grades have been achieved;
- f. The approximate volume of waste that was relocated during the reporting period and the approximate upper elevation of the waste relocated within the existing horizontal limits of waste placement as of the end of the reporting period, along with a description of the compaction equipment utilized and compaction methods utilized;
- g. Plan drawings and description showing the locations where final waste grades have been achieved and waste has been covered or capped, including the thickness of compacted waste, compaction equipment, and methods utilized;
- h. Description of any engineered components or other structures installed during the construction activities;
- i. The implementation, if any, of any contingency plans to address leachate, odors, dust, suspected hazardous waste, fires, or surface water management;

Director's Authorization and Exemption Order

Peter J. Ltd. - Matousek Landfill

Page 14 of 32

- j. Leachate reports, as required by the receiving facility, including the amount and location of leachate disposed;
- k. All explosive gas monitoring locations and results; and
- l. Complaints received about dust, odors, leachate, surface water run-on or run-off, blowing litter, or vectors, and the response action taken to address the complaints.

14. If excavation occurs outside the limits of waste placement at the Facilities, Peter J. Ltd. shall only use clean soil to backfill the excavated areas and may not use any type of waste material, including but not limited to construction and demolition debris, solid waste, or hazardous waste, to backfill the excavated areas outside the limits of waste placement at the Facilities.

15. Peter J. Ltd. shall ensure that excavated waste is relocated within previously existing horizontal limits of waste placement, in accordance with the exemption granted above, or is removed from the existing horizontal or vertical limits of waste placement and containerized (e.g. roll-off, drums) and securely stored until these materials are properly characterized and disposed in accordance with ORC Chapter 3734., ORC Chapter 6111., OAC Rule 3745-27-13(H)(6), and Appendix B of this Order.

16. Upon completion of construction of the three-foot-thick clay barrier layer, the permeability of the cap shall be determined through either field permeability testing (ASTM D-6391: Boutwell two-stage permeameter, ASTM D-5093, ASTM D-3385: SDRI) or through laboratory testing of cap samples brought to the lab for analysis (ASTM D-5084 or USACE EM-110: Shelby tubes, soil blocks). The permeability requirements for each type of permeability determination are as follows:

Director's Authorization and Exemption Order

Peter J. Ltd. - Matousek Landfill

Page 15 of 32

- a. For field permeability tests (ASTM D-6391, ASTM D-5093, ASTM D-3385), the maximum allowable permeability is  $1 \times 10^{-5}$  cm/sec; and
- b. For laboratory permeability tests (ASTM D-5084 or USACE EM-110: Shelby tubes, soil blocks), the maximum allowable permeability is  $1 \times 10^{-6}$  cm/sec. If Method EM-110 is used, samples shall be tested at a minimum of 95% saturation.

17. In no event shall solid waste be placed at any elevation lower than the bottom elevation of the existing waste elevations at any given location at the Facilities in accordance with OAC Rule 3745-27-13(H)(6).

18. After completing the construction or installation of an engineered component or other structure authorized to be constructed or installed pursuant to this Order, including but not limited to the clay cap, the leachate collection system, the explosive gas collection system, all structural fill, and the extension of Transportation Boulevard, Peter J. Ltd. shall submit, for concurrence, a certification report to Ohio EPA, NEDO, which shall be prepared under the supervision of, signed by, and sealed by a professional engineer registered in the state of Ohio. The certification report for each engineered component shall contain the following information:

- a. A narrative section that identifies the engineered component or other structure that was constructed or installed and includes the following:
  - i. A summary of the design and construction specifications provided for in the Rule 13 Request and a comparison with the engineered component or other structure that was constructed or installed;
  - ii. A summary of how construction or installation was impacted by weather and equipment limitations and a description of other difficulties encountered;
- b. All alterations or other changes that relate to the construction or installation of the engineered component or structure to be certified, presented as

Director's Authorization and Exemption Order

Peter J. Ltd. - Matousek Landfill

Page 16 of 32

follows:

- i. A list of all alterations that were previously concurred with by Ohio EPA;
  - ii. A list of any other changes made by Peter J. Ltd. that do not require Ohio EPA concurrence but which affected construction or installation, or the record drawings;
- c. Results of all testing required in the Rule 13 Request for the construction or installation of the engineered component or other structure. If the results of pre-construction testing of borrow soils were submitted in a format that is acceptable to Ohio EPA, e.g., as submitted in the Rule 13 Request, only summary tables of data need to be included in the construction certification report;
- d. Record drawings of the constructed or installed engineered component or other structure showing the following:
- i. Plan views with topographic representation showing the elevations of the following:
    - a. Top of waste grades;
    - b. Top of clay barrier layer;
    - c. Top of gas collection layer;
    - d. Top of structural fill layer;
  - ii. Cross sections of the facility as constructed at 200 foot intervals;
  - iii. Detail plan drawings of other engineered components and other structures as included in the Rule 13 Request, including:
    - a. The leachate collection system;
    - b. The gas collection system;
    - c. The utilities installed; and
    - d. Any roadway;
- e. Upon completion of construction activities under this Order, Peter J. Ltd. shall submit to Ohio EPA an as-built slope stability analysis utilizing the as-

built final elevations for the top of the waste, top of the clay cap, and proposed top of the structural fill in accordance with the final design parameters and factors of safety outlined in the Pre-construction Slope Stability analysis completed by NTH Consultants, Inc. and included in Appendix I of the Rule 13 Request and summarized on pages 10-11 of the report.

; and

- f. Qualifications of testing personnel. A description of the experience, training, responsibilities in decision making, and other qualifications of the personnel that provided construction oversight and conducted all the testing on the engineered components or other structures for which the certification report is submitted.

Peter J. Ltd. shall submit the certification reports required by this paragraph in accordance with the following schedule. The certification report for the clay cap, leachate collection system and explosive gas collection system may be submitted as one report and is due no later than sixty (60) days after the completion of work on all such engineered components. Peter J. Ltd. shall include in the certification report(s) for the clay cap and explosive gas collection system information indicating that at least three (3) feet of structural fill material is in place above all portions of constructed clay cap and above the explosive gas collection system in order to protect the cap against freeze-thaw conditions, and information indicating that the gas collection system is fully functional. The certification report for all other engineered components or other installed structures at the Facilities, with the exception of the final seven (7) feet of structural fill material, shall be submitted no later than sixty (60) days after the completion of all construction required under the Rule 13 Request. The certification report for the final seven (7) feet of structural fill material will be submitted for a particular area before any additional request for

authorization under OAC rule 3745-27-13 is submitted and considered by Ohio EPA for that area within the Facilities.

19. Upon certification of the explosive gas collection system in accordance with paragraph 18, above, Peter J. Ltd. shall operate the explosive gas collection system.
20. Peter J. Ltd shall provide in each certification report submitted under this Order a notarized statement that states, "To the best of the knowledge of the Peter J. Ltd. and its contractors and representatives, the certification report is true and accurate and contains all information required by this Order and by the Quality Assurance/Quality Control plan as included in the Rule 13 Request."
21. Peter J. Ltd. is not authorized to commence, and shall not commence, any roadway construction activity at the Facilities until the construction certification reports for installation of the leachate collection system, and the gas collection layer, and the three-foot-thick clay barrier layer with at least three feet of structural fill material on top of all constructed portions of the clay cap barrier layer and explosive gas collection system, as designed in the Rule 13 Request, have been submitted by Peter J. Ltd., written concurrence of the certification report has been issued by Ohio EPA for each report, an Environmental Covenant as set forth in Appendix C of this Order has been entered into between Ohio EPA and Peter J. Ltd., and the Environmental Covenant has been recorded by the Cuyahoga County Recorder.
22. Peter J. Ltd. shall implement the Odor Control Plan approved as part of Appendix B and shall not allow conditions at the Facilities to create a nuisance in violation of this Order and OAC Rule 3745-27-13(J).

Director's Authorization and Exemption Order

Peter J. Ltd. - Matousek Landfill

Page 19 of 32

23. Peter J. Ltd. shall perform daily monitoring for explosive gas migration along explosive gas migration pathways while the waste relocation activities are conducted and shall perform weekly monitoring while all other authorized activities approved pursuant to this Order are conducted. Thereafter, Peter J. Ltd. shall perform monthly monitoring for explosive gas along explosive gas migration pathways until Ohio EPA has approved an explosive gas monitoring plan in accordance with the Rule 13 Request and OAC Rule 3745-27-12. After the explosive gas monitoring plan has been approved by Ohio EPA, Peter J. Ltd. shall monitor for explosive gas in accordance with the approved explosive gas monitoring plan.
  
24. Peter J. Ltd. shall modify and/or update the explosive gas monitoring activities to increase explosive gas monitoring as necessary to comply with applicable law, to address changing conditions at the Facilities which result in a threat to human health or safety from explosive gas, and in response to requests by Ohio EPA, the Cuyahoga County Board of Health, or the Cleveland Department of Public Health, Division of Air Quality based on such situations.
  
25. For the purpose of erosion control during all phases of excavation and grading at the Facilities, Peter J. Ltd. shall, at a minimum, use Best Management Practices (BMP) standards in accordance with the National Resource Conservation Service manual titled *Rainwater and Land Development*.
  
26. Peter J. Ltd. shall apply a six-inch-thick layer of soil cover or other alternative daily cover material acceptable to Ohio EPA to any areas where excavation, grading, or filling activities are suspended for more than 24 hours and where final waste grades have been achieved in accordance with the Rule 13 Request.

27. Peter J. Ltd. shall apply intermediate soil cover in accordance with the Rule 13 Request. The intermediate cover shall be stabilized in accordance with BMP standards.
28. Peter J. Ltd. shall not use nontoxic bottom ash, foundry sand, or other exempted wastes at the Facilities without receiving appropriate written authorization from Ohio EPA.
29. Any soil boring, test pit, or well installation, development, or abandonment shall, at a minimum, conform to Ohio EPA's *Technical Guidance Manual for Hydrogeologic Investigations and Ground Water Monitoring* (Ohio EPA DDAGW, February, 1995).
30. Once waste relocation activities pursuant to this Order commence on the Facilities, Peter J. Ltd. shall expeditiously repair all areas of leachate outbreaks at the Facilities in accordance with the Leachate Management Contingency Plan in the Rule 13 Request. Peter J. Ltd. shall monitor and continue to repair all leachate outbreaks that occur after the cap construction activities are completed in accordance with the Leachate Management Contingency Plan.
31. This Order provides authorization for Peter J. Ltd. to conduct only those activities included in Appendix B and the subsequent revisions as authorized herein. Peter J. Ltd. shall conduct no other filling, grading, excavating, building, drilling, or mining at the Facilities without prior written approval from Ohio EPA in accordance with ORC Section 3734.02 and OAC Rule 3745-27-13.
32. The Parties agree that with respect to any conflict that may arise between the language of this Order and its attachment, Appendix B - the Rule 13 Request, that the language of the Order shall prevail unless otherwise expressly provided by Ohio EPA in writing.

Director's Authorization and Exemption Order

Peter J. Ltd. - Matousek Landfill

Page 21 of 32

33. This Order does not authorize Peter J. Ltd. to accept hazardous, solid, or liquid waste for disposal or for construction purposes at the Facilities.
34. The activities approved pursuant to this Order do not include construction of buildings of any type at the Facilities.
35. In accordance with OAC Rule 3745-27-13(M), authorization to commence the activities specified above shall terminate 3 years after the effective date of this Order if Peter J. Ltd. has not begun the activities authorized herein.
36. Nothing in this Order shall be construed to authorize any waiver from any requirements of applicable state solid waste laws or regulations in accordance with OAC Rule 3745-27-13(H)(5), except as provided herein. This approval shall not be interpreted to release Peter J. Ltd. or its contractors, subcontractors, laboratories, consultants, or others retained to perform the construction or any other activities or work pursuant to this Order from responsibility under ORC Chapters 3704., 3714., 3734., or 6111.; under the Federal Clean Water Act, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, or the Comprehensive Environmental Response, Compensation and Liability Act; or from other applicable requirements for remedying conditions resulting from any release of contaminants to the environment.
37. The Director may revoke this Order if Peter J. Ltd. violates, or is likely to violate, any applicable law, or if the continued implementation of the work provided for in the Rule 13 Request causes or may cause a threat to human health or safety or the environment, or if Peter J. Ltd. fails to comply with any term or condition of this Order.

**VI. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to this Order shall be taken in accordance with the requirements of all applicable federal, state, and local laws and regulations. Nothing in this Order shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Peter J. Ltd.'s activities and/or the Facilities.

### **VII. MODIFICATIONS AND ALTERATIONS**

This Order may be modified or altered by agreement of the parties hereto. Modifications to this Order shall be by agreement of the parties in the form of Director's Authorization and Exemption Order, or Final Findings and Orders, and shall be effective on the date entered in the journal of the Director of Ohio EPA. A "modification" for purposes of this Section shall be defined to mean a change to the language of this Order, but shall not include changes to the language of Appendix B. For purposes of this Section, any change to the language of Appendix B shall be defined to be an "alteration." All alterations to Appendix B shall be made by agreement of the parties in the form of a letter signed by representatives from Ohio EPA authorizing the alteration or through other means authorized by Ohio EPA.

### **VIII. NOTICE**

All documents required to be submitted by Peter J. Ltd. pursuant to this Order shall be addressed to:

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Materials and Waste Management  
2110 East Aurora Road  
Twinsburg, Ohio 44087

Director's Authorization and Exemption Order  
Peter J. Ltd. - Matousek Landfill  
Page 23 of 32

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

All documents required to be issued by Ohio EPA, pursuant to this Order or the Activities authorized in Appendix A shall be addressed to:

Peter J. Ltd.

Attn: Lea Boyas

10055 Sweet Valley Drive

Valley View, Ohio 44125

Or

Donald G. Bohning & Associates, Inc.

Attn: Todd Sciano

7979 Hub Parkway

Valley View, Ohio 44125

#### **IX. FINANCIAL ASSURANCE**

1. At least 14 days prior to the commencement of construction or any other activities or work pursuant to this Order, including the Rule 13 Request, Peter J. Ltd. shall submit to Ohio EPA an executed and funded financial assurance instrument in the form of a trust agreement, a letter of credit, or surety bond meeting the requirements of OAC Rules 3745-27-15(F), 15(G), 15(H), or 15(I) and 3745-27-17 for the cost to re-establish closure of the Facility in the amount of \$1,729,940, as estimated in the Rule 13 Request. Ohio EPA may review, approve, and/or require revisions to the financial assurance instrument in the form of a trust agreement, a surety bond, or letter of credit in accordance with OAC Rule 3745-27-13(K).

Director's Authorization and Exemption Order

Peter J. Ltd. - Matousek Landfill

Page 24 of 32

2. The financial assurance instrument in the form of a trust agreement, a letter of credit, or surety bond required by Paragraph 1, above, of this Section, "Financial Assurance," shall be maintained in that amount until: all of the construction and installation activities and related work authorized in this Order, including the placement of all structural fill material, have been completed, and have been certified and concurred with by Ohio EPA in accordance with Paragraph 18, Section V of this Order, "Authorization and Exemption Order;" and the financial assurance instrument required by Paragraph 3, below, of this Section has been established. Peter J. Ltd. shall not reduce the amount of the financial assurance instrument required by Paragraph 1 of this Section unless otherwise provided by Ohio EPA in writing.
3. Not later than thirty (30) days after Ohio EPA's written concurrence with the certification of completion of all the construction and installation activities and related work authorized in this Order, Peter J. Ltd. shall submit to Ohio EPA an executed and funded financial assurance instrument in the form of a trust agreement, a letter of credit, or a surety bond meeting the requirements of OAC Rules 3745-27-16(F), 16(G), 16(H), or 16(I) and 3745-27-17 for post-closure care of the Facilities, including the maintenance and operation of all engineered components and other structures at the Facilities, in the amount of \$ 1,637,410, as estimated in the Rule 13 Request. Ohio EPA may review, approve, and/or require revisions to the financial assurance instrument in the form of a trust agreement, a surety bond, or letter of credit in accordance with OAC 3745-27-13(K).
4. The financial assurance instrument required by Paragraph 3, above, of this Section, "Financial Assurance," shall be maintained for thirty years from the date of the establishment of that financial assurance instrument in accordance with this Order, and shall be updated annually in accordance with OAC Rule 3745-27-16(D).

5. Except as provided in this Order, Peter J. Ltd. shall comply with the requirements of OAC Rules 3745-27-15 through 3745-27-17 notwithstanding any claimed argument that such rules are not legally applicable to the Facilities or to Peter J. Ltd.'s activities at the Facilities. The Parties agree that for purposes of this Order "closure" and "post closure care," as used in OAC Rules 3745-27-15 through 17, shall be interpreted such that Ohio EPA is authorized to use the financial assurance required by this Order for any activities associated with closure and post closure care of the Facilities and/or activities necessary to protect human health or safety or the environment. Ohio EPA may draw on the financial assurance required by this Order and use the funds drawn for any of the reasons described above when any of the grounds set forth in OAC Rules 3745-27-15 through 17 for drawing on financial assurance have been met, as a result of a violation of OAC Rule 3745-27-13 by Peter J. Ltd., and/or because Peter J. Ltd. has violated any of the provisions of this Order such that the violations result in a threat to human health or safety or the environment.
6. Ohio EPA will consider modifying this Order to remove Peter J. Ltd. as the party bound to perform the requirements of this Order; provided, a change of ownership of the Facilities has occurred, the new owner of the Facilities has agreed to be bound to this Order, including the financial assurance provisions of this Order, and the new owner has established financial assurance that is acceptable to Ohio EPA.

#### **X. LAND USE AND CONVEYANCE OF TITLE**

1. Before commencing construction of the road as authorized under this Order, Peter J. Ltd. shall record a notice on the deed for all property comprising the Facilities with the County Recorder's Office for Cuyahoga County, Ohio. The notice shall reference the presence of a solid waste landfill on the property and the existence of this Order. A copy of

Director's Authorization and Exemption Order

Peter J. Ltd. - Matousek Landfill

Page 26 of 32

the recorded notice shall be submitted to Ohio EPA not later than seven (7) days after recording the notice. If Peter J. Ltd. conveys any interest in property comprising the Facilities, each deed, title, or other instrument shall contain a notice stating that the property is subject to this Order and shall contain the following notice:

"Ohio EPA issued authorization under ORC Section 3734.02(H) and OAC Rule 3745-27-13 to Peter J. Ltd. in the Director's Authorization and Exemption Order issued in June of 2011, to conduct activities at the landfill located on the property subject to this notice. Ohio EPA's review of Peter J. Ltd.'s request for authorization under OAC Rule 3745-27-13 was limited to whether the activities authorized at the landfill were likely to result in the release of contaminants or the formation and migration of explosive gas that might be harmful to human health, safety or the environment. Ohio EPA's review was limited to these issues, and not to whether the property subject to this notice would be suitable for commercial and/or industrial development. Other regulatory authorities will be responsible for determining whether the property as developed is fit for occupancy as a commercial and/or industrial development."

2. Peter J. Ltd. shall execute and record an Environmental Covenant in accordance with ORC Sections 5301.80 through 5301.92 as an equitable servitude on the land to impose activity and use limitations on the Facilities owned by Peter J. Ltd. and its successor(s) in interest. The Environmental Covenant shall be in accordance with ORC Section 5301.82 and Appendix C attached hereto. Peter J. Ltd. agrees that the proposed Environmental Covenant shall be executed and submitted by Peter J. Ltd. to Ohio EPA, shall be executed by the Director of Ohio EPA, and shall be recorded with the Cuyahoga County Recorder by

Director's Authorization and Exemption Order

Peter J. Ltd. - Matousek Landfill

Page 27 of 32

Peter J. Ltd. before Peter J. Ltd. commences construction of the road authorized in this Order. Not later than seven (7) days after filing the executed Environmental Covenant with the County Recorder, Peter J. Ltd. shall certify to Ohio EPA that the Environmental Covenant has been filed with the Cuyahoga County Recorder for recording in accordance with this Order, and shall include with the certification a file and date-stamped copy of the recorded Environmental Covenant.

3. After the Environmental Covenant has been recorded and prior to each conveyance of an interest in any portion of the Facilities by Peter J. Ltd., including but not limited to easements, deeds, leases and mortgages, Peter J. Ltd. shall notify the Transferee of the existence of the activity and use limitations on the use of property comprising the Facilities, including but not limited to the prohibition on interference with any engineered components, and shall provide a copy of this Order (without the attachments) and the Environmental Covenant to the Transferee. Peter J. Ltd. shall notify Ohio EPA of each conveyance of an interest in any portion of the Facilities by Peter J. Ltd. no later than thirty (30) days after each conveyance. Peter J. Ltd.'s notice shall include the name and address of the Transferee.

#### **XI. RESERVATION OF RIGHTS**

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of this Order or from taking other administrative, legal, or equitable action as deemed appropriate and necessary, including seeking penalties against Peter J. Ltd. for noncompliance with this Order.

Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Peter J. Ltd. to perform additional activities pursuant to ORC Chapter 3734. or any other applicable law in the future. Nothing herein shall restrict the right of Peter J. Ltd. to raise any administrative, legal, or equitable claim or defense with respect to

such further actions which Ohio EPA may seek to require of Peter J. Ltd.. Nothing in this Order shall be construed to limit the authority of Ohio EPA to seek relief for violations that may occur at the Facilities.

## **XII. INDEMNIFICATION**

Peter J. Ltd. agrees to indemnify, save, and hold harmless Ohio EPA from any and all claims or causes of action arising from, or related to, any acts or omissions of Peter J. Ltd. and/or Ohio EPA, its officers, employees, agents, representatives, or assigns, arising from or related to the Facilities and/or the activities authorized under this Order, except for claims against Ohio EPA involving workers compensation issues. Ohio EPA agrees to provide notice to Peter J. Ltd. within thirty (30) days after receipt of any claim which may be the subject of indemnity as provided in this Section. Ohio EPA also agrees to cooperate with Peter J. Ltd. in the defense of any such claim or action against Ohio EPA to the extent that Ohio EPA is not being represented by the Office of the Attorney General of Ohio in any such claim or action. If Ohio EPA is represented by the Office of the Attorney General, Ohio EPA will request that the Attorney General not object to intervention by Peter J. Ltd. in any such action. Ohio EPA shall not be considered a party to and shall not be held liable under any contract entered into by Peter J. Ltd. in carrying out the activities pursuant to this Order.

## **XIII. WAIVER**

Peter J. Ltd. consents to the issuance of this Order and agrees to comply with this Order. Peter J. Ltd. hereby waives the right to appeal the issuance, terms and conditions, and service of this Order, and Peter J. Ltd. hereby waives any and all rights Peter J. Ltd. may have to seek administrative or judicial review of this Order either in law or equity. Notwithstanding the preceding, Ohio EPA and Peter J. Ltd. agree that if this Order is

appealed by any other party to the Environmental Review Appeals Commission, or any court, Peter J. Ltd. retains the right to intervene and participate in such appeal. In such an event, Peter J. Ltd. shall continue to comply with this Order notwithstanding such appeal and intervention unless this Order is stayed, vacated, or modified.

#### **XIV. TERMINATION**

Peter J. Ltd.'s obligations under this Order shall terminate when Peter J. Ltd. has certified in writing and demonstrate to the satisfaction of Ohio EPA that Peter J. Ltd. has performed all obligations under this Order and the Chief of Ohio EPA's Division of Materials and Waste Management, or its successor, acknowledges in writing the termination of Peter J. Ltd.'s obligations under this Order. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Peter J. Ltd. of the obligations that have not been performed, in which case Peter J. Ltd. shall have an opportunity to address any such deficiencies and seek termination as described above. The certification shall contain the following attestation: "We certify that the information contained in or accompanying this certification is true, accurate and complete." The certification shall be signed by a responsible official of Peter J. Ltd. For purposes of this Order, a responsible official is a principal agent or officer of at least the level of vice-president.

#### **XV. ACCESS**

Ohio EPA or its authorized representatives shall have access at all reasonable times, including during business hours, to the Facilities and any other property to which access is required for the implementation of this Order, to the extent access to the property is controlled by Peter J. Ltd. Access under this Order shall be for the purposes of conducting any activity related to this Order including but not limited to the following:

- A. Monitoring the Work;

Director's Authorization and Exemption Order

Peter J. Ltd.

Page 30 of 32

- B. Conducting sampling;
- C. Inspecting and copying records, operating logs, contracts, and/or other documents related to the implementation of these Orders;
- D. Monitoring compliance with use restrictions;
- E. Conducting investigations and tests related to the implementation of these Orders;
- F. Verifying any data and/or other information submitted to Ohio EPA; and
- G. Performing the work required under this Order through use of the financial assurance provided herein. To the extent Ohio EPA and its contractors perform work at the Facilities, Peter J. Ltd. agrees to provide Ohio EPA with access to any soils stockpiled on-site or for use in such work.

To the extent that the Facilities or any other property to which access is required for the implementation of this Order is owned or controlled by persons other than Peter J. Ltd, Peter J. Ltd, shall use their best efforts to secure from such persons access for Peter J. Ltd, and Ohio EPA as necessary to effectuate this Order. Copies of all access agreements obtained by Peter J. Ltd, shall be provided to Ohio EPA upon request. If any access required to implement this Order is not obtained within thirty (30) days of the effective date of this Order, or within thirty (30) days of the date Ohio EPA notifies Peter J. Ltd, in writing that additional access beyond that previously secured is necessary, Peter J. Ltd, shall promptly notify Ohio EPA in writing of the steps Peter J. Ltd, have taken to attempt to obtain access. Ohio EPA may, as it deems appropriate, assist Peter J. Ltd, in obtaining access.

Notwithstanding any provision of these Orders, the State of Ohio retains all of its access rights and authorities, including enforcement authorities related thereto, under any applicable statute or regulations, including but not limited to ORC Sections 3734.20 and 6111.05.

XVI. EFFECTIVE DATE

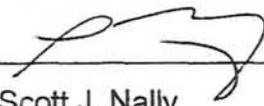
The effective date of this Order is the date this Order is entered into the Ohio EPA Director's Journal.

XVII. SIGNATORY AUTHORITY

Each undersigned representative of a party to this Order certifies that he or she is fully authorized to enter into this Order and to legally bind such party to this Order.

IT IS SO ORDERED AND AGREED:

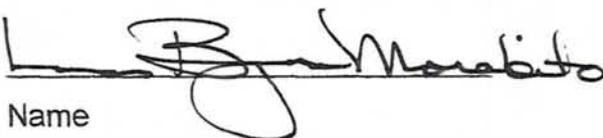
Ohio Environmental Protection Agency

  
\_\_\_\_\_  
Scott J. Nally  
Director

6/14/11  
Date

IT IS SO AGREED:

Peter J. Ltd., LLC

By:   
\_\_\_\_\_  
Name

6/13/2011  
Date

Title Manager

## Appendix A



Heritage/Boyas Subd. 2  
Part of Block "C"  
Peter J. Ltd.  
49.4946 Acres  
DGB 2003-21

May, 2011

### LEGAL DESCRIPTION

Situated in the City of Garfield Heights, County of Cuyahoga, and State of Ohio, and known as being part of Block "C" in the Heritage/Boyas Subdivision No. 2 of part of Original Independence Township Tract 2 East of the River, as shown by the recorded plat in Volume 328, Page 59 of Cuyahoga County Map Records, and bounded and described as follows:

Beginning at an iron pin set in the northeasterly line of Transportation Blvd. (Extension), 90 feet wide, at its intersection with the southerly line of a parcel of land conveyed to the Garfield Heights Board of Education by deeds recorded in Volume 7460, Page 363 and Volume 10393, Page 275 of Cuyahoga County Records;

Thence North 88 degrees 46 minutes 32 seconds East along the southerly line of said land conveyed to the Garfield Heights Board of Education, 1536.79 feet to an iron pin found at its intersection with the westerly line of Honey Lane Subdivision No. 2 as shown by the recorded plat in Volume 178, Page 29 of Cuyahoga County Map Records;

Thence South 3 degrees 42 minutes 45 seconds East along the westerly line of said Honey Lane Subdivision No. 2, 1464.36 feet to an iron pin set at its intersection with the northerly line of the remainder of land conveyed to Forest City Rental Properties Corporation by deed recorded in Volume 13836, Page 655 of Cuyahoga County Records;

Thence South 89 degrees 08 minutes 17 seconds West along the northerly line of said land conveyed to Forest City Rental Properties Corporation, 559.63 feet to an iron pin set at its intersection with the westerly line of said land so conveyed;

Thence South 11 degrees 14 minutes 54 seconds East along the westerly line of said land conveyed to Forest City Rental Properties Corporation, 585.27 feet to its intersection with the southerly line of said land so conveyed, and from which point an iron pin found bears South 89 degrees 31 minutes 30 seconds West, 1.02 feet; North 0 degrees 28 minutes 30 seconds West, 0.50 feet;

Thence South 89 degrees 31 minutes 30 seconds West, 140.33 feet to an angle point in the northeasterly line of a parcel of land conveyed to Boyas Excavating, Inc. by deed recorded as AFN 200412100047 of Cuyahoga County Records, and from which point an iron pin found bears South 89 degrees 31 minutes 30 seconds West, 0.29 feet;

Thence North 51 degrees 11 minutes 54 seconds West along the northeasterly line of said land conveyed to Boyas Excavating, Inc., 223.67 feet to an angle point, therein;

## Appendix A

Heritage/Boyas Subd. 2  
Part of Block "C"  
Peter J. Ltd.  
49.4946 Acres  
DGB 2003-21

Thence North 49 degrees 37 minutes 25 seconds West along the northeasterly line of said land conveyed to Boyas Excavating, Inc., 1105.17 feet to an iron pin set at its intersection with the southeasterly line of Parcel 7C as shown by the recorded plat of the Heritage/Boyas Subdivision No. 4 in Volume 348, Page 47 of Cuyahoga County Map Records;

Thence North 42 degrees 58 minutes 32 seconds East along the southeasterly line of said Parcel 7C, 735.79 feet to an iron pin set at its intersection with the northeasterly line of said parcel;

Thence North 47 degrees 01 minute 28 seconds West along the northeasterly line of said Parcel 7C, 155.00 feet to an iron pin set at its intersection with the southeasterly line of Transportation Blvd. (Extension);

Thence North 42 degrees 58 minutes 32 seconds East along the southeasterly line of Transportation Blvd. (Extension), 90.00 feet to an iron pin set at its intersection with the northeasterly line of said right-of-way;

Thence North 47 degrees 01 minute 28 seconds West along the northeasterly line of Transportation Blvd. (Extension), 654.44 feet to the place of beginning, and containing 49.4946 acres of land as described by Donald G. Bohning & Associates, Inc. in May, 2011.

The courses used in this description are referenced to an assumed meridian and are used to indicate angles only.

# Appendix A

P.P.N. 543-11-001  
Peter J. Ltd.  
Approx. 4.2 Acres

## LEGAL DESCRIPTION

Situated in the City of Garfield Heights, County of Cuyahoga, State of Ohio, and known as being part of Original Independence Township Tract 2, East of the Cuyahoga River, and bounded and described as follows:

Beginning at an iron monument at a point of tangency in the centerline of Rockside Road, 80 feet wide, said point being distant southwesterly measured along said curved centerline an arc distance of 2278.53 feet from its intersection with the centerline of Turney Road;

Thence North 51 degrees 19 minutes 12 seconds West 40.00 feet to an iron pin set in the northwesterly line of Rockside Road;

Thence South 38 degrees 40 minutes 48 seconds West along the northwesterly line of Rockside Road, 353.22 feet to an iron pin set at its intersection with the northeasterly line of a parcel of land conveyed to The Cleveland Electric Illuminating Company by deed recorded in Volume 12701, Page 963 of Cuyahoga County Records;

Thence North 51 degrees 11 minutes 54 seconds West along the northeasterly line of said land conveyed to The Cleveland Electric Illuminating Company, 249.02 to its intersection with the northerly line of a parcel of land conveyed to Boyas Excavating, Inc. by deed recorded as A.F.N. 200211272118 of Cuyahoga County Records, and the principal place of beginning of the parcel herein described, and from which point an iron pin found bears North 44 degrees 11 minutes 25 seconds West, 1.79 feet; North 45 degrees 48 minutes 35 seconds East, 2.22 feet;

Thence North 51 degrees 11 minutes 54 seconds West, parallel to the original centerline of The Lake Erie and Pittsburg Railway Company, and distant 75.00 feet therefrom by rectangular measurement, 1833.93 feet to an iron pin set at its intersection with the westerly prolongation of the southerly line of Parcel 1 of land conveyed to Peter J. Ltd. by deed recorded as A.F.N. 200209160912 of Cuyahoga County Records;

Thence North 89 degrees 08 minutes 17 seconds East along the westerly prolongation of the southerly line of said land conveyed to Peter J. Ltd., 39.17 feet to an iron pin set;

Thence North 51 degrees 11 minutes 54 seconds West, parallel to the original centerline of The Lake Erie and Pittsburg Railway Company, and distant 100.00 feet therefrom by rectangular measurement, 361.00 feet, to an iron pin set at an angle point in the southwesterly line of said land conveyed to Peter J. Ltd.;

C.L.E - 1608248.1

## Appendix A

P.P.N. 543-11-001  
Peter J. Ltd.  
Approx. 4.2 Acres

Thence North 38 degrees 48 minutes 06 seconds East, along the southwesterly line of said land conveyed to Peter J. Ltd., 106.00 feet to an iron pin set, at an angle point, therein;

Thence South 49 degrees 37 minutes 25 seconds East along the southwesterly line of land conveyed to Peter J. Ltd. 1128.03 feet to an iron pin set at its intersection with the southwesterly line of Parcel 4 of said land so conveyed;

Thence South 51 degrees 11 minutes 54 seconds East along the southwesterly line of said Parcel 4 of land conveyed to Peter J. Ltd. 223.67 feet to its intersection with the southwesterly line of a parcel of land conveyed to Peter J. Ltd, by deed recorded as A.F.N. 200307100728 of Cuyahoga County Records, and from which point an iron pin found bears South 89 degrees 33 minutes 45 seconds West, 0.29 feet.;

Thence South 44 degrees 11 minutes 25 seconds East along the southwesterly line of said land conveyed to Peter J. Ltd., 819.63 feet to the principal place of beginning, and containing 4.2386 acres of land according to the survey by Donald G. Bohning and Associates, Inc dated May, 2003.

The courses used in this description are referenced to an assumed meridian and are used to indicate angles only.

EXCEPTING THEREFROM a parcel of land conveyed to Garfield Land Development, LLC by Quit-Claim Deed dated February 25, 2005 and recorded April 18, 2005 in A.F.N. 200504181372 of Cuyahoga County Records, bounded and described as follows:

Situated in the City of Garfield Heights, County of Cuyahoga, and State of Ohio, and known as being part of Original Independence Township Tract 2, East of the Cuyahoga River, and bounded and described as follows.

Beginning at an iron pin set at the southwesterly corner of Transportation Boulevard (Extension), 90 feet wide, being also the most easterly corner of Parcel 7 in the Heritage Boyas Subdivision No. 3 as shown by the recorded plat in Volume 337, Page 75 of Cuyahoga County Map Records;

Thence South 47 degrees 01 minute 28 seconds East 155.00 feet to an iron pin set;

# Appendix A

P.P.N. 543-11-001  
Peter J. Ltd.  
Approx. 4.2 Acres

Thence South 42 degrees 58 minutes 32 seconds West 735.79 feet to an iron pin set in the southwesterly line of Block "C" in the Heritage/Boyas Subdivision No. 2 as shown by the recorded plat in Volume 328, Page 59 of Cuyahoga County Map Records, and the principal place of beginning of the parcel herein described;

Thence South 42 degrees 58 minutes 32 seconds West 105.66 feet to an iron pin set in the northeasterly line of Split Parcel "A", as shown by the recorded plat in Volume 336, Page 34 of Cuyahoga County Map Records;

Thence North 51 degrees 11 minutes 54 seconds West along the northeasterly line of said Split Parcel "A", being also the Corporation Line between the City of Garfield Heights and the Village of Valley View, 15.16 feet to an iron pin set at its intersection with a southeasterly line of said Block "C";

Thence North 38 degrees 48 minutes 06 seconds East along said southeasterly line of said Block "C", 106.00 feet to an iron pin set at its intersection with the southwesterly line of said Block;

Thence South 49 degrees 37 minutes 25 seconds East along the southwesterly line of said Block "C", 22.86 feet to the principal place of beginning, and containing 2,010 square feet or 0.0461 acres of land according to the survey by Donald G. Bohning & Associates, Inc. dated February, 2005.

The courses used in this description are referenced to an assumed meridian and are used to indicate angles only.

ST 32003



# Appendix A



**DONALD G. BOHNING & ASSOCIATES, INC.**

CIVIL ENGINEERING & SURVEYING

7979 HUB PARKWAY • VALLEY VIEW, OHIO 44125 • (216) 642-1130

FAX • (216) 642-1132

3.4648 Acres

Garfield Heights Board of Education

DGB 2003-24

December, 2007

## LEGAL DESCRIPTION

Situated in the City of Garfield Heights, County of Cuyahoga, and State of Ohio, and known as being part of Original Independence Township Tract 2, East of the River, and bounded and described as follows:

Beginning at an iron monument at a point of tangency in the centerline of Transportation Boulevard, 90 feet wide, said monument being the first monument southeasterly along said centerline of Transportation Boulevard from its intersection with the centerline of Vista Way;

Thence South 44 degrees 38 minutes 54 seconds East along the centerline of Transportation Boulevard, 1504.85 feet to an iron monument found at a point of curvature;

Thence southeasterly along the curved centerline of Transportation Boulevard, being the arc of a curve deflecting to the left, 245.97 feet to an iron monument found at a point of reverse curvature, said arc having a radius of 600.00 feet, a central angle of 23 degrees 29 minutes 17 seconds, and a chord which bears South 56 degrees 23 minutes 33 seconds East, 244.25 feet;

Thence North 25 degrees 00 minutes 04 seconds East, 45.06 feet to an iron pin set in the northeasterly line of Transportation Boulevard at its intersection with the southerly line of Block "D" in the Heritage/Boyas Subdivision No. 2 as shown by the plat recorded in Volume 328, Page 59 of Cuyahoga County Map Records, and the principal place of beginning of the parcel herein described;

Thence North 88 degrees 33 minutes 56 seconds East along the southerly line of said Block "D", 410.71 feet to an iron pin set;

Thence South 47 degrees 01 minute 28 seconds East, 607.60 feet to an iron pin set in the northerly line of Block "C" in said Heritage/Boyas Subdivision No. 2;

# Appendix A



**DONALD G. BOHNING & ASSOCIATES, INC.**

CIVIL ENGINEERING & SURVEYING

7979 HUB PARKWAY • VALLEY VIEW, OHIO 44125 • (216) 642-1130  
FAX • (216) 642-1132

3.4648 Acres  
Garfield Heights Board of Education  
DGB 2003-24

Thence South 88 degrees 46 minutes 32 seconds West along the northerly line of said Block "C", 351.42 feet to an iron pin set at its intersection with the northeasterly line of Transportation Boulevard;

Thence North 47 degrees 01 minute 28 seconds West along the northeasterly line of Transportation Boulevard, 419.03 feet to an iron pin set at a point of curvature;

Thence northwesterly along the curved northeasterly line of Transportation Boulevard, being the arc of a curve deflecting to the left, 235.20 feet to the principal place of beginning, said arc having a radius of 645.00 feet, a central angle of 20 degrees 53 minutes 35 seconds, and a chord which bears North 57 degrees 28 minutes 15 seconds West, 233.90 feet, and containing 3.4648 acres of land according to the survey by Donald G. Bohning & Associates, Inc. dated December, 2007.

The courses used in this description are referenced to an assumed meridian and are used to indicate angles only.

  
Kenneth L. Bohning  
Registered Surveyor No. 6720

M:\adcadd\p\2003-24\Documents\Legal Descriptions\2007\12-13-07.doc

# Appendix A



**DONALD G. BOHNING & ASSOCIATES, INC.**

CIVIL ENGINEERING & SURVEYING

7979 HUB PARKWAY • VALLEY VIEW, OHIO 44125 • (216) 642-1130

FAX • (216) 842-1132

11.8873 Acres  
Garfield Heights Board of Education  
DGB 2003-24

February, 2009

## LEGAL DESCRIPTION

Situated in the City of Garfield Heights, County of Cuyahoga, and State of Ohio, and known as being part of Original Independence Township Tract 2, East of the River, and bounded and described as follows:

Beginning at an iron pin set in the northeasterly line of Transportation Boulevard Extension, 90 feet wide, at its intersection with the southerly line of Block "D" in the Heritage/Boyas Subdivision No. 2 as shown by the plat recorded in Volume 328, Page 59 of Cuyahoga County Map Records, and from which point an iron monument found in the centerline of Transportation Boulevard Extension bears South 25 degrees 00 minutes 04 seconds West, 45.06;

Thence North 88 degrees 33 minutes 56 seconds East along the southerly line of said Block "D", 410.71 feet to an iron pin set at its intersection with the northeasterly line of Split Parcel "1-A" as shown by the recorded plat in Volume 354, Page 86 of Cuyahoga County Map Records, and the principal place of beginning of the parcel herein described;

Thence North 88 degrees 33 minutes 56 seconds East along the southerly line of said Block "D" and its easterly prolongation, 1431.35 feet to an iron pin set;

Thence South 1 degree 13 minutes 28 seconds East, 428.84 feet to an iron pin set in the northerly line of Block "C" in said Heritage/Boyas Subdivision No. 2;

Thence South 88 degrees 46 minutes 32 seconds West along the northerly line of said Block "C", 995.75 feet to an iron pin set at its intersection with the northeasterly line of said Parcel "1-A";

# Appendix A



**DONALD G. BOHNING & ASSOCIATES, INC.**

CIVIL ENGINEERING & SURVEYING

7979 HUB PARKWAY • VALLEY VIEW, OHIO 44125 • (216) 642-1130

FAX • (216) 642-1132

**11.8873 Acres**  
**Garfield Heights Board of Education**  
**DGB 2003-24**

Thence North 47 degrees 01 minute 28 seconds West along the northeasterly line of said Parcel "1-A", 607.60 feet to the principal place of beginning, and containing 11.8873 acres of land according to the survey by Donald G. Bohning & Associates, Inc. dated February, 2009.

The courses used in this description are referenced to an assumed meridian and are used to indicate angles only.

---

**Kenneth L. Bohning**  
**Registered Surveyor No. 6720**

*M:\adcadd\p\2003-24\Documents\Legal Descriptions\2009\11.8873 Acres 2-25-09.doc*





APPENDIX C

**ENVIRONMENTAL COVENANT**

This Environmental Covenant is entered into pursuant to Ohio Revised Code ("ORC") §§ 5301.80 to 5301.92 by Peter J. Ltd. having offices at 10055 Sweet Valley Drive, Valley View, Ohio 44125, Cuyahoga County, Ohio ("Owner"), and the Ohio Environmental Protection Agency ("Ohio EPA") as a non-holder agency, for the purpose of subjecting certain property described in Exhibits 1, 2, 3 and 4 hereto ("Property"), to the activity and use limitations set forth herein.

**WHEREAS**, the Director of Ohio EPA issued a Director's Authorization and Exemption Order ("Order") dated \_\_\_\_\_, 2011 to Peter J. Ltd. regarding the Property.

**WHEREAS**, the Property consists of portions of two formerly closed municipal solid waste disposal facilities and is approximately 69.0392 acres in size. Maps of the Property boundary and the Property ownership are attached as Exhibit 5 and incorporated herein by reference.

**WHEREAS**, the Order authorized the performance of various activities in an Ohio Administrative Code ("OAC") Rule 3734-27-13 Authorization (Appendix B to the Order) which constitutes in part an "Environmental Response Project" on the Property as defined in ORC §5301.80, including:

- excavation, commingling and relocation of solid waste to allow cap construction and achieve slope stability;
- installation of subsurface borings, settlement plates, storm water management systems, a leachate collection and disposal system, an active gas extraction system, a three-foot-thick constructed clay cap, and a minimum of ten feet of structural fill;
- on-site soil stockpiling, grading, and placement as authorized on the Property.

**WHEREAS**, the administrative record for the Property and Order can be found at the Ohio EPA's Northeast District Office located at 2110 East Aurora Road, Twinsburg, Ohio 44087-1969.

**NOW THEREFORE**, the Owner and Ohio EPA ("Parties") agree to the following:

1. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to O.R.C. §§ 5301.80 to 5301.92.
2. Property. The Property is approximately 69.0392 acres and includes four separate parcels as described in Exhibits 1, 2, 3 and 4 attached hereto and incorporated by reference herein. The map of the Property boundary is attached as Exhibit 5 and incorporated by reference herein. The boundaries of the four separate parcels that comprise the Property are also reflected on Exhibit 5.

3. Intention of the Parties. This Environmental Covenant is intended to limit the use of the Property and restrict certain activities from occurring on the Property, and/or require certain activities to occur on the Property. It is also the intent of the Parties that the Environmental Covenant be binding upon, and inure to the benefit of, the Parties and continue in perpetuity with the Property, subject to ORC §5301.89. It is the further intention of the Parties that the Environmental Covenant be enforceable at law pursuant to ORC §5301.91.
4. Owner. Peter J. Ltd. ("Owner") whose address is 10055 Sweet Valley Drive, Valley View, Cuyahoga County, Ohio 44125 is the Owner of the Property.
5. Holder. Pursuant to ORC 5301.81, the holder of this Environmental Covenant ("Holder") is the Owner listed above.
6. Activity and Use Limitations. The Owner hereby imposes and agrees to comply with the following activity and use limitations on the Property:
  - a. The Property or any portion of the Property shall not be used for residential purposes. "Residential purposes" means use for single or multi-family dwelling units whether owned or leased.
  - b. The ground water underlying the Property or any portion of the Property shall not be extracted or used for any purpose, potable or otherwise except for investigation, monitoring or remediation of the ground water; or for dewatering during authorized construction or excavation activities, or during installation or maintenance of subsurface utilities.
  - c. The integrity of the landfill engineered environmental components installed on the Property, including, but not limited to the explosive gas monitoring, collection and extraction system; the leachate collection system; and the three-foot-thick constructed clay landfill cap and related engineered components shall not be adversely affected. Subsequent installation of pilings through the engineered environmental components or the alteration of the elevations of or installation of infrastructure components in the structural fill shall not be deemed to violate this prohibition if the construction work is conducted in accordance with the express provisions of an approved written authorization from Ohio EPA under OAC Rule 3734- 27-13 or other applicable authority.
  - d. The Property shall not be used in a manner that results in the unlawful human exposure to volatile organic compounds, including but not limited to, exposure to volatile emissions to indoor air.
7. Running with the Land. This Environmental Covenant shall be binding upon the Owner, during the time that the Owner owns the Property or any portion thereof, and upon all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to R.C. §5301.85, subject to amendment or termination as set forth herein. The term

8. Compliance Enforcement. Compliance with this Environmental Covenant may be enforced pursuant to ORC §5301.91 or other applicable law. Failure to timely enforce compliance with this Environmental Covenant or the activity and use limitations contained herein shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict the Director from exercising any authority under applicable law in order to protect public health or safety or the environment.
9. Rights of Access. Owner hereby grants to Ohio EPA, its agents, contractors, and employees the right of access to the Property in connection with the implementation or Enforcement of this Environmental Covenant. The Ohio EPA will make a good faith effort to provide Owner (or assigns or successors in interest) reasonable prior notice of the Agency's intention to access the Property.
10. Compliance Reporting. Owner and any Transferee shall submit to Ohio EPA annual written documentation verifying that the activity and use limitations remain in place and are being complied with. Said written documentation may be a statement submitted by the Owner or Transferee under affidavit or in conjunction with any other reporting requirements imposed by law or agreement, as long as said documentation is submitted no less than annually.
11. Notice of Activity and Use Limitations upon Conveyance. Each instrument hereafter conveying any interest in the Property or any portion of the Property shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, DATED \_\_\_\_ 2011, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE CUYAHOGA COUNTY RECORDER ON \_\_\_\_\_, 2011, IN [DOCUMENT \_\_\_\_\_, OR BOOK \_\_\_\_\_, PAGE \_\_\_\_\_].  
THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

- a. The Property or any portion of the Property shall not be used for residential purposes. "Residential purposes" means use for single or multi-family dwelling units whether owned or leased.
- b. The ground water underlying the Property or any portion of the Property shall not be extracted or used for any purpose, potable or otherwise except for investigation, monitoring or remediation of the ground water; or for dewatering during authorized construction or excavation activities, or during installation or maintenance of subsurface utilities.

- c. The integrity of the landfill engineered environmental components installed on the Property, including, but not limited to the explosive gas monitoring, collection and extraction system; the leachate collection system; and the three-foot-thick constructed clay landfill cap and related engineered components shall not be adversely affected. Subsequent installation of pilings through the engineered environmental components or the alteration of the elevations of or installation of infrastructure components in the structural fill shall not be deemed to violate this prohibition if the construction work is conducted in accordance with the express provisions of an approved written authorization from Ohio EPA under OAC Rule 3734- 27-13 or other applicable authority.
  - d. The Property shall not be used in a manner that results in the unlawful human exposure to volatile organic compounds, including but not limited to, exposure to volatile emissions to indoor air.
12. Notice Upon Conveyance. Owner or Transferee, if applicable, shall notify Ohio EPA within thirty (30) days after each conveyance of an interest in any portion of the Property. Owner's notice shall include the name, address and telephone number of the Transferee, and a copy of the deed or other documentation evidencing the conveyance, with a survey and map that shows the boundaries of the Property or portion thereof being transferred.
13. Representations and Warranties. The Owner hereby represents and warrants to the other signatories hereto:
- a. that the Owner is the sole owner of the Property;
  - b. that the Owner holds fee simple title to the Property which is free, clear and unencumbered;
  - c. that the Owner has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
  - d. that the Owner has identified all other persons that own an interest in or hold an encumbrance on the Property and notified such persons of the Owner's intention to enter into this Environmental Covenant; and
  - e. that this Environmental Covenant will not materially violate or contravene or constitute a material default under any other agreement, document, or instrument to which Owner is a party or by which Owner may be bound or affected; and
  - f. to the extent that any other interests in or encumbrances on the Property conflict with the activity and use limitations set forth in this Environmental Covenant, the persons who own such interests or hold such encumbrances have agreed to subordinate such interests or encumbrances to the Environmental Covenant, pursuant to ORC §5301.86.
14. Amendment or Termination of the Environmental Covenant. This Environmental Covenant may be amended or terminated only by written instrument executed by and documenting the consent of all of the following: the Owner or a Transferee, the Holders, and the

Director of Ohio EPA pursuant to ORC §§5301.89 or 5301.90. The term "Amendment," as used in this Environmental Covenant, shall mean any changes to the Environmental Covenant, including the activity and use limitations set forth herein, or the elimination of one or more activity and use limitations when there is at least one limitation remaining. The term, "Termination," as used in this Environmental Covenant, shall mean the elimination of all activity and use limitations set forth herein and all other obligations under this Environmental Covenant. Within thirty (30) days of signature of all requisite parties on any amendment or termination of this Environmental Covenant, the Owner or Transferee, if applicable, shall file such instrument for recording with the Cuyahoga County Recorder's Office, and shall provide a file- and date-stamped copy of the recorded instrument to Ohio EPA and Holders.

15. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired. Owner expressly waives the ability to contest the legality and operation of this Environmental Covenant.
16. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Ohio.
17. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Property with the Cuyahoga County Recorder.
18. Recordation and Distribution. Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, Owner shall file this Environmental Covenant for recording in the same manner as a deed to the Property, with the Cuyahoga County Recorder's Office. The Owner shall distribute in accordance with ORC §5301.83 a file and date-stamped copy of the recorded Environmental Covenant to the Ohio EPA; any other signatories to the Environmental Covenant; and the City of Garfield Heights.
19. Notice. Unless otherwise notified in writing by or on behalf of the Ohio EPA, any document or communication required by this Environmental Covenant shall be submitted to:

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Materials and Waste Management  
2110 East Aurora Road  
Twinsburg, Ohio 44087

20. Counterparts. This Environmental Covenant may be executed in several counterparts, each of which may be deemed an original, and all of such counterparts together shall constitute one and the same Environmental Covenant.

The undersigned representative of the Owner represents and certifies that she is authorized to execute this Environmental Covenant.

IT IS SO AGREED:

**OWNER:**

**PETER J. LTD**

\_\_\_\_\_  
Lea Boyas Morabito, Member

Date: \_\_\_\_\_

State of Ohio                    )  
  ) ss  
County of Cuyahoga            )

Before me, a notary public, in and for said county and state, personally appeared Lea Boyas Morabito, Member of Peter J. Ltd, who acknowledged to me that she did execute the foregoing instrument on behalf of Peter J. Ltd. Garfield Land Development, LLC.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

\_\_\_\_\_  
Notary Public

(Rest of this page intentionally left blank)

**OHIO ENVIRONMENTAL PROTECTION AGENCY**

\_\_\_\_\_  
Scott J. Nally, Director

Date: \_\_\_\_\_

State of Ohio                    )  
  ) ss  
County of Franklin            )

Before me, a notary public, in and for said county and state, personally appeared \_\_\_\_\_  
\_\_\_\_\_ who is a duly authorized representative of Ohio EPA, who acknowledged to me  
that he did execute the foregoing instrument on behalf of Ohio EPA.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

\_\_\_\_\_  
Notary Public

Environmental Covenant  
Peter J. Ltd. Redevelopment  
Garfield Heights, Ohio

Exhibit 1

Peter J. Ltd.  
49.4946 acre parcel

# Exhibit 1

Heritage/Boyas Subd. 2  
Part of Block "C"  
Peter J. Ltd.  
49.4946 Acres  
DGB 2003-21

May, 2011

## LEGAL DESCRIPTION

Situated in the City of Garfield Heights, County of Cuyahoga, and State of Ohio, and known as being part of Block "C" in the Heritage/Boyas Subdivision No. 2 of part of Original Independence Township Tract 2 East of the River, as shown by the recorded plat in Volume 328, Page 59 of Cuyahoga County Map Records, and bounded and described as follows:

Beginning at an iron pin set in the northeasterly line of Transportation Blvd. (Extension), 90 feet wide, at its intersection with the southerly line of a parcel of land conveyed to the Garfield Heights Board of Education by deeds recorded in Volume 7460, Page 363 and Volume 10393, Page 275 of Cuyahoga County Records;

Thence North 88 degrees 46 minutes 32 seconds East along the southerly line of said land conveyed to the Garfield Heights Board of Education, 1536.79 feet to an iron pin found at its intersection with the westerly line of Honey Lane Subdivision No. 2 as shown by the recorded plat in Volume 178, Page 29 of Cuyahoga County Map Records;

Thence South 3 degrees 42 minutes 45 seconds East along the westerly line of said Honey Lane Subdivision No. 2, 1464.36 feet to an iron pin set at its intersection with the northerly line of the remainder of land conveyed to Forest City Rental Properties Corporation by deed recorded in Volume 13836, Page 655 of Cuyahoga County Records;

Thence South 89 degrees 08 minutes 17 seconds West along the northerly line of said land conveyed to Forest City Rental Properties Corporation, 559.63 feet to an iron pin set at its intersection with the westerly line of said land so conveyed;

Thence South 11 degrees 14 minutes 54 seconds East along the westerly line of said land conveyed to Forest City Rental Properties Corporation, 585.27 feet to its intersection with the southerly line of said land so conveyed, and from which point an iron pin found bears South 89 degrees 31 minutes 30 seconds West, 1.02 feet; North 0 degrees 28 minutes 30 seconds West, 0.50 feet;

Thence South 89 degrees 31 minutes 30 seconds West, 140.33 feet to an angle point in the northeasterly line of a parcel of land conveyed to Boyas Excavating, Inc. by deed recorded as AFN 200412100047 of Cuyahoga County Records, and from which point an iron pin found bears South 89 degrees 31 minutes 30 seconds West, 0.29 feet;

Thence North 51 degrees 11 minutes 54 seconds West along the northeasterly line of said land conveyed to Boyas Excavating, Inc., 223.67 feet to an angle point, therein;

# Exhibit 1

Heritage/Boyas Subd. 2  
Part of Block "C"  
Peter J. Ltd.  
49.4946 Acres  
DGB 2003-21

Thence North 49 degrees 37 minutes 25 seconds West along the northeasterly line of said land conveyed to Boyas Excavating, Inc., 1105.17 feet to an iron pin set at its intersection with the southeasterly line of Parcel 7C as shown by the recorded plat of the Heritage/Boyas Subdivision No. 4 in Volume 348, Page 47 of Cuyahoga County Map Records;

Thence North 42 degrees 58 minutes 32 seconds East along the southeasterly line of said Parcel 7C, 735.79 feet to an iron pin set at its intersection with the northeasterly line of said parcel;

Thence North 47 degrees 01 minute 28 seconds West along the northeasterly line of said Parcel 7C, 155.00 feet to an iron pin set at its intersection with the southeasterly line of Transportation Blvd. (Extension);

Thence North 42 degrees 58 minutes 32 seconds East along the southeasterly line of Transportation Blvd. (Extension), 90.00 feet to an iron pin set at its intersection with the northeasterly line of said right-of-way;

Thence North 47 degrees 01 minute 28 seconds West along the northeasterly line of Transportation Blvd. (Extension), 654.44 feet to the place of beginning, and containing 49.4946 acres of land as described by Donald G. Bohning & Associates, Inc. in May, 2011.

The courses used in this description are referenced to an assumed meridian and are used to indicate angles only.

Environmental Covenant  
Peter J. Ltd. Redevelopment  
Garfield Heights, Ohio

Exhibit 2

Peter J. Ltd.  
4.1925 acre parcel

## Exhibit 2

P.P.N. 543-11-001  
Peter J. Ltd.  
Approx. 4.2 Acres

### LEGAL DESCRIPTION

Situated in the City of Garfield Heights, County of Cuyahoga, State of Ohio, and known as being part of Original Independence Township Tract 2, East of the Cuyahoga River, and bounded and described as follows:

Beginning at an iron monument at a point of tangency in the centerline of Rockside Road, 80 feet wide, said point being distant southwesterly measured along said curved centerline an arc distance of 2278.53 feet from its intersection with the centerline of Turney Road;

Thence North 51 degrees 19 minutes 12 seconds West 40.00 feet to an iron pin set in the northwesterly line of Rockside Road;

Thence South 38 degrees 40 minutes 48 seconds West along the northwesterly line of Rockside Road, 353.22 feet to an iron pin set at its intersection with the northeasterly line of a parcel of land conveyed to The Cleveland Electric Illuminating Company by deed recorded in Volume 12701, Page 963 of Cuyahoga County Records;

Thence North 51 degrees 11 minutes 54 seconds West along the northeasterly line of said land conveyed to The Cleveland Electric Illuminating Company, 249.02 to its intersection with the northerly line of a parcel of land conveyed to Boyas Excavating, Inc. by deed recorded as A.F.N. 200211272118 of Cuyahoga County Records, and the principal place of beginning of the parcel herein described, and from which point an iron pin found bears North 44 degrees 11 minutes 25 seconds West, 1.79 feet; North 45 degrees 48 minutes 35 seconds East, 2.22 feet;

Thence North 51 degrees 11 minutes 54 seconds West, parallel to the original centerline of The Lake Erie and Pittsburg Railway Company, and distant 75.00 feet therefrom by rectangular measurement, 1833.93 feet to an iron pin set at its intersection with the westerly prolongation of the southerly line of Parcel 1 of land conveyed to Peter J. Ltd. by deed recorded as A.F.N. 200209160912 of Cuyahoga County Records;

Thence North 89 degrees 08 minutes 17 seconds East along the westerly prolongation of the southerly line of said land conveyed to Peter J. Ltd., 39.17 feet to an iron pin set;

Thence North 51 degrees 11 minutes 54 seconds West, parallel to the original centerline of The Lake Erie and Pittsburg Railway Company, and distant 100.00 feet therefrom by rectangular measurement, 361.00 feet, to an iron pin set at an angle point in the southwesterly line of said land conveyed to Peter J. Ltd.;

C.L.E - 1608248.1

## Exhibit 2

P.P.N. 543-11-001  
Peter J. Ltd.  
Approx. 4.2 Acres

Thence North 38 degrees 48 minutes 06 seconds East, along the southwesterly line of said land conveyed to Peter J. Ltd., 106.00 feet to an iron pin set, at an angle point, therein;

Thence South 49 degrees 37 minutes 25 seconds East along the southwesterly line of land conveyed to Peter J. Ltd. 1128.03 feet to an iron pin set at its intersection with the southwesterly line of Parcel 4 of said land so conveyed;

Thence South 51 degrees 11 minutes 54 seconds East along the southwesterly line of said Parcel 4 of land conveyed to Peter J. Ltd. 223.67 feet to its intersection with the southwesterly line of a parcel of land conveyed to Peter J. Ltd, by deed recorded as A.F.N. 200307100728 of Cuyahoga County Records, and from which point an iron pin found bears South 89 degrees 33 minutes 45 seconds West, 0.29 feet.;

Thence South 44 degrees 11 minutes 25 seconds East along the southwesterly line of said land conveyed to Peter J. Ltd., 819.63 feet to the principal place of beginning, and containing 4.2386 acres of land according to the survey by Donald G. Bohning and Associates, Inc dated May, 2003.

The courses used in this description are referenced to an assumed meridian and are used to indicate angles only.

EXCEPTING THEREFROM a parcel of land conveyed to Garfield Land Development, LLC by Quit-Claim Deed dated February 25, 2005 and recorded April 18, 2005 in A.F.N. 200504181372 of Cuyahoga County Records, bounded and described as follows:

Situated in the City of Garfield Heights, County of Cuyahoga, and State of Ohio, and known as being part of Original Independence Township Tract 2, East of the Cuyahoga River, and bounded and described as follows.

Beginning at an iron pin set at the southwesterly corner of Transportation Boulevard (Extension), 90 feet wide, being also the most easterly corner of Parcel 7 in the Heritage Boyas Subdivision No. 3 as shown by the recorded plat in Volume 337, Page 75 of Cuyahoga County Map Records;

Thence South 47 degrees 01 minute 28 seconds East 155.00 feet to an iron pin set;

## Exhibit 2

P.P.N. 543-11-001  
Peter J. Ltd.  
Approx. 4.2 Acres

Thence South 42 degrees 58 minutes 32 seconds West 735.79 feet to an iron pin set in the southwesterly line of Block "C" in the Heritage/Boyas Subdivision No. 2 as shown by the recorded plat in Volume 328, Page 59 of Cuyahoga County Map Records, and the principal place of beginning of the parcel herein described;

Thence South 42 degrees 58 minutes 32 seconds West 105.66 feet to an iron pin set in the northeasterly line of Split Parcel "A", as shown by the recorded plat in Volume 336, Page 34 of Cuyahoga County Map Records;

Thence North 51 degrees 11 minutes 54 seconds West along the northeasterly line of said Split Parcel "A", being also the Corporation Line between the City of Garfield Heights and the Village of Valley View 15.16 feet to an iron pin set at its intersection with a southeasterly line of said Block "C";

Thence North 38 degrees 48 minutes 06 seconds East along said southeasterly line of said Block "C", 106.00 feet to an iron pin set at its intersection with the southwesterly line of said Block;

Thence South 49 degrees 37 minutes 25 seconds East along the southwesterly line of said Block "C", 22.86 feet to the principal place of beginning, and containing 2,010 square feet or 0.0461 acres of land according to the survey by Donald G. Bohning & Associates, Inc. dated February, 2005.

The courses used in this description are referenced to an assumed meridian and are used to indicate angles only.

ST 32003

Environmental Covenant  
Peter J. Ltd. Redevelopment  
Garfield Heights, Ohio

Exhibit 3

Peter J. Ltd.  
3.4648 acre parcel  
(Former Garfield Heights Board of Education Property)

# Exhibit 3



**DONALD G. BOHNING & ASSOCIATES, INC.**

CIVIL ENGINEERING & SURVEYING

7979 HUB PARKWAY • VALLEY VIEW, OHIO 44125 • (216) 642-1130

FAX • (216) 642-1132

3.4648 Acres

Garfield Heights Board of Education

DGB 2003-24

December, 2007

## LEGAL DESCRIPTION

Situated in the City of Garfield Heights, County of Cuyahoga, and State of Ohio, and known as being part of Original Independence Township Tract 2, East of the River, and bounded and described as follows:

Beginning at an iron monument at a point of tangency in the centerline of Transportation Boulevard, 90 feet wide, said monument being the first monument southeasterly along said centerline of Transportation Boulevard from its intersection with the centerline of Vista Way;

Thence South 44 degrees 38 minutes 54 seconds East along the centerline of Transportation Boulevard, 1504.85 feet to an iron monument found at a point of curvature;

Thence southeasterly along the curved centerline of Transportation Boulevard, being the arc of a curve deflecting to the left, 245.97 feet to an iron monument found at a point of reverse curvature, said arc having a radius of 600.00 feet, a central angle of 23 degrees 29 minutes 17 seconds, and a chord which bears South 56 degrees 23 minutes 33 seconds East, 244.25 feet;

Thence North 25 degrees 00 minutes 04 seconds East, 45.06 feet to an iron pin set in the northeasterly line of Transportation Boulevard at its intersection with the southerly line of Block "D" in the Heritage/Boyas Subdivision No. 2 as shown by the plat recorded in Volume 328, Page 59 of Cuyahoga County Map Records, and the principal place of beginning of the parcel herein described;

Thence North 88 degrees 33 minutes 56 seconds East along the southerly line of said Block "D", 410.71 feet to an iron pin set;

Thence South 47 degrees 01 minute 28 seconds East, 607.60 feet to an iron pin set in the northerly line of Block "C" in said Heritage/Boyas Subdivision No. 2;

Exhibit 3



**DONALD G. BOHNING & ASSOCIATES, INC.**

CIVIL ENGINEERING & SURVEYING

7979 HUB PARKWAY • VALLEY VIEW, OHIO 44125 • (216) 642-1130

FAX • (216) 642-1132

3.4648 Acres  
Garfield Heights Board of Education  
DGB 2003-24

Thence South 88 degrees 46 minutes 32 seconds West along the northerly line of said Block "C", 351.42 feet to an iron pin set at its intersection with the northeasterly line of Transportation Boulevard;

Thence North 47 degrees 01 minute 28 seconds West along the northeasterly line of Transportation Boulevard, 419.03 feet to an iron pin set at a point of curvature;

Thence northwesterly along the curved northeasterly line of Transportation Boulevard, being the arc of a curve deflecting to the left, 235.20 feet to the principal place of beginning, said arc having a radius of 645.00 feet, a central angle of 20 degrees 53 minutes 35 seconds, and a chord which bears North 57 degrees 28 minutes 15 seconds West, 233.90 feet, and containing 3.4648 acres of land according to the survey by Donald G. Bohning & Associates, Inc. dated December, 2007.

The courses used in this description are referenced to an assumed meridian and are used to indicate angles only.

Kenneth L. Bohning  
Registered Surveyor No. 6720

M:\adcadd\p\2003-24\Documents\Legal Descriptions\2007\12-13-07.doc

Environmental Covenant  
Peter J. Ltd. Redevelopment  
Garfield Heights, Ohio

Exhibit 4  
11.8873 acre parcel  
(Former Garfield Heights Board of Education Property)

## Exhibit 4



**DONALD G. BOHNING & ASSOCIATES, INC.**

CIVIL ENGINEERING & SURVEYING

7979 HUB PARKWAY • VALLEY VIEW, OHIO 44125 • (216) 642-1130

FAX • (216) 642-1132

11.8873 Acres  
Garfield Heights Board of Education  
DGB 2003-24

February, 2009

### LEGAL DESCRIPTION

Situated in the City of Garfield Heights, County of Cuyahoga, and State of Ohio, and known as being part of Original Independence Township Tract 2, East of the River, and bounded and described as follows:

Beginning at an iron pin set in the northeasterly line of Transportation Boulevard Extension, 90 feet wide, at its intersection with the southerly line of Block "D" in the Heritage/Boyas Subdivision No. 2 as shown by the plat recorded in Volume 328, Page 59 of Cuyahoga County Map Records, and from which point an iron monument found in the centerline of Transportation Boulevard Extension bears South 25 degrees 00 minutes 04 seconds West, 45.06;

Thence North 88 degrees 33 minutes 56 seconds East along the southerly line of said Block "D", 410.71 feet to an iron pin set at its intersection with the northeasterly line of Split Parcel "1-A" as shown by the recorded plat in Volume 354, Page 86 of Cuyahoga County Map Records, and the principal place of beginning of the parcel herein described;

Thence North 88 degrees 33 minutes 56 seconds East along the southerly line of said Block "D" and its easterly prolongation, 1431.35 feet to an iron pin set;

Thence South 1 degree 13 minutes 28 seconds East, 428.84 feet to an iron pin set in the northerly line of Block "C" in said Heritage/Boyas Subdivision No. 2;

Thence South 88 degrees 46 minutes 32 seconds West along the northerly line of said Block "C", 995.75 feet to an iron pin set at its intersection with the northeasterly line of said Parcel "1-A";

Exhibit 4



**DONALD G. BOHNING & ASSOCIATES, INC.**

CIVIL ENGINEERING & SURVEYING

7979 HUB PARKWAY • VALLEY VIEW, OHIO 44125 • (216) 642-1130

FAX • (216) 642-1132

11.8873 Acres  
Garfield Heights Board of Education  
DGB 2003-24

Thence North 47 degrees 01 minute 28 seconds West along the northeasterly line of said Parcel "1-A", 607.60 feet to the principal place of beginning, and containing 11.8873 acres of land according to the survey by Donald G. Bohning & Associates, Inc. dated February, 2009.

The courses used in this description are referenced to an assumed meridian and are used to indicate angles only.

---

Kenneth L. Bohning  
Registered Surveyor No. 6720

*M:\adcadd\p\2003-24\Documents\Legal Descriptions\2009\11.8873 Acres 2-25-09.doc*

Environmental Covenant  
Peter J. Ltd. Redevelopment  
Garfield Heights, Ohio

Exhibit 5  
Peter J. Ltd.  
Property Boundary Map  
69.0392 acres  
And Property Ownership Map (May 2011)

# Exhibit 5

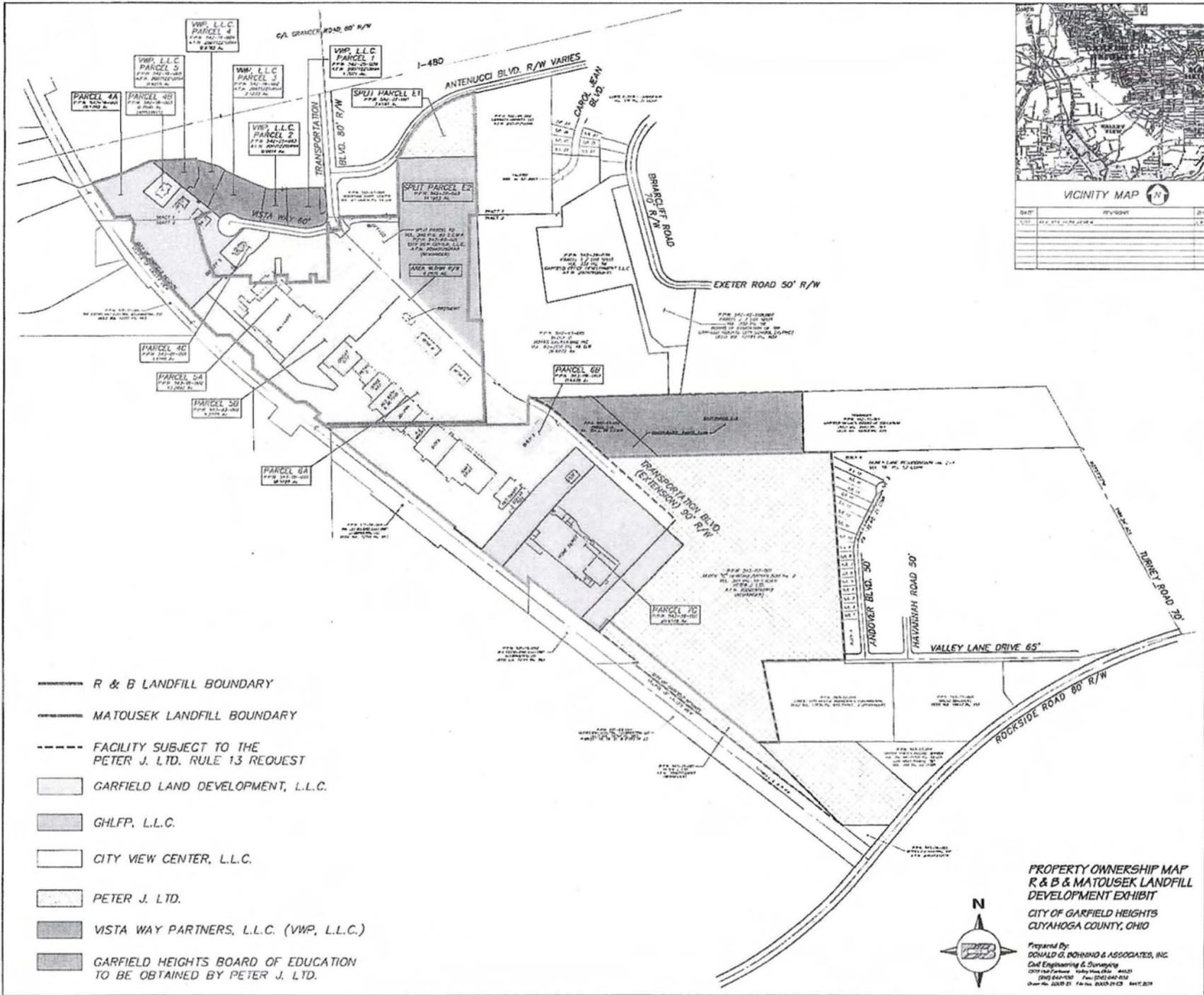
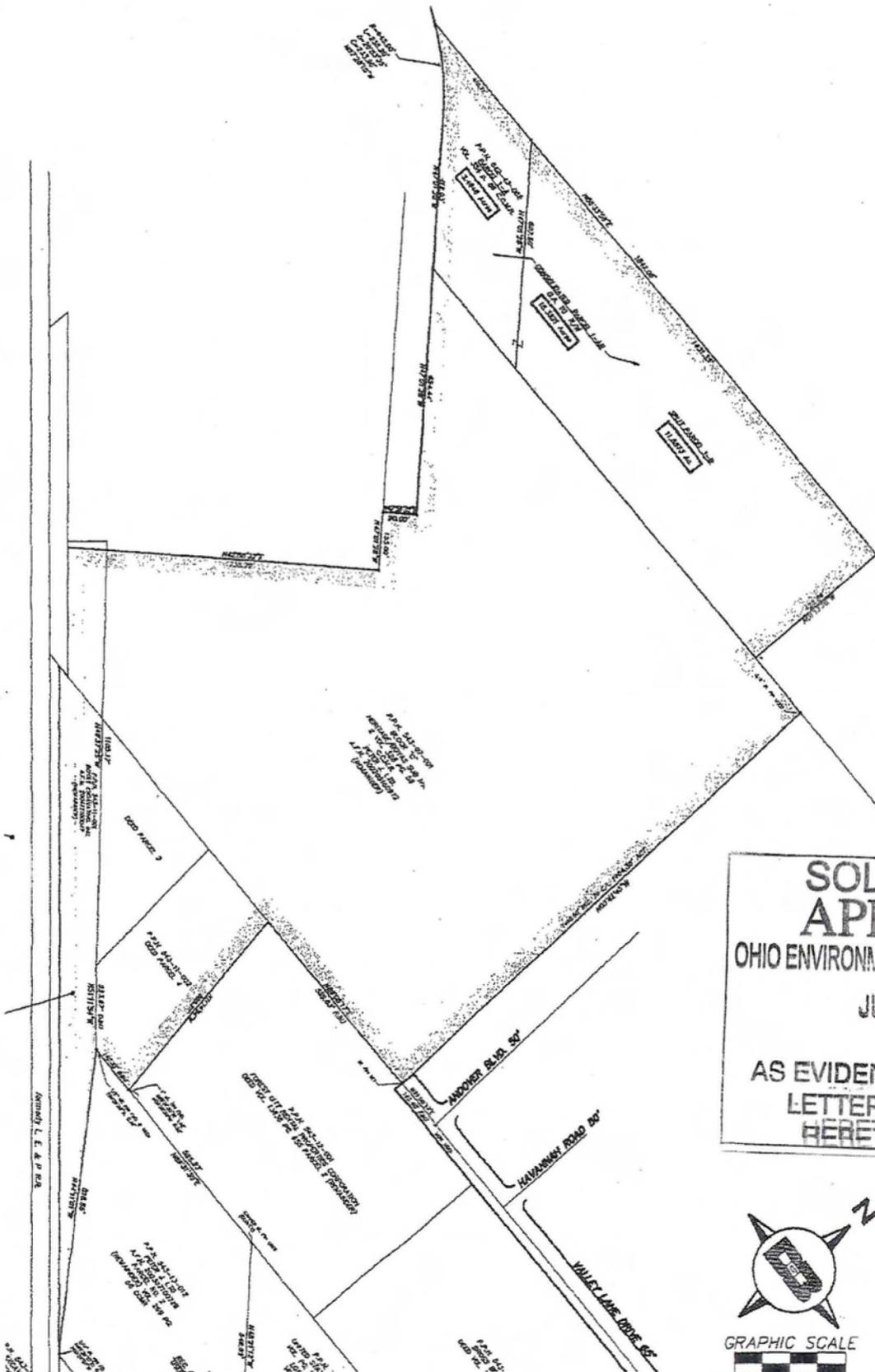


Exhibit 5



**SOLID WASTE  
APPROVED**  
OHIO ENVIRONMENTAL PROTECTION AGENCY  
JUN 14 2011  
AS EVIDENCED BY COPY OF  
LETTER OF APPROVAL  
HERETO ATTACHED

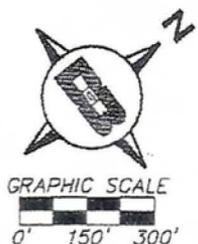


EXHIBIT TO ACCOMPANY  
LEGAL DESCRIPTION FOR  
P.P.N. 543-07-001 &  
P.P.N. 543-11-001  
FUTURE GAR. HTS. BOARD OF EDUCATION  
CONSOLIDATED PARCEL 1-AB  
GARFIELD HEIGHTS, CUYAHOGA CO., OHIO

 DONALD G. BOHNING & ASSOCIATES, INC. CIVIL ENGINEERING & SURVEYING 7979 WOOD PARKWAY • VALLEY VIEW, OHIO 44125 PHONE: (216) 842-1150 FAX: (216) 842-1132				
HORIZ. SCALE 1" = 300'	DATE L.R. T.S. MAY, 2011	SHEET NO. 1		
VERT. SCALE ---	FILE NO. 200323C	SHEET NO. 2003-23		