THE CORPORATION OF THE MUNICIPALITY OF MORRIS-TURNBERRY

BY-LAW No. 35-2013

“Being a by-law to adopt an ‘Underground Investigation Work’ Agreement for the Turnberry Landfill Site, with “Marlene Marie Metcalfe.”

WHEREAS Section 5 of the Municipal Act, R.S.O. 2001, as amended, provides that a municipal power shall be exercised by by-law unless the municipality is specifically authorized to do otherwise;

AND WHEREAS Council of the Corporation of the Municipality of Morris-Turnberry deems it necessary to enter into an ‘Underground Investigation Work’ agreement, for the Turnberry Landfill Site, with “Marlene Marie Metcalfe;

NOW THEREFORE Council of the Corporation of the Municipality of Morris-Turnberry enacts as follows:

1. That the agreement for ‘Underground Investigation Work’ for the Turnberry Landfill Site, with “Marlene Marie Metcalfe, attached hereto as Schedule ‘A’, is hereby adopted.

2. That the Mayor and Clerk are hereby authorized to sign the Turnberry Landfill Site Agreement on behalf of the Municipality.

3. That this By-law takes effect upon the date of final passing.

Read a First and Second Time 21st day of May, 2013
Read a Third Time and Finally Passed 21st day of May, 2013

Paul Gowling, Mayor

Nancy Michie, Clerk

I, Nancy Michie, Clerk of the Municipality of Morris-Turnberry, hereby certifies that this is a true copy of By-law No. 35 - 2013 for the Municipality of Morris-Turnberry, duly passed by Council on the 21st day of May, 2013.

Nancy Michie, Clerk
THIS AGREEMENT made in duplicate this \( \frac{1}{2} \)\textsuperscript{st} day of January, 2013

BETWEEN:

THE CORPORATION OF THE MUNICIPALITY OF MORRIS-TURNBERRY, a municipal corporation incorporated under the laws of the Province of Ontario

(hereinafter referred to as “Municipality”)

OF THE FIRST PART

-and-

Marlene Marie Metcalfe, a Landowner of Concession 10

Pt Lot 9,10, Turnberry,

located in the Municipality of Morris-Turnberry

(hereinafter referred to as “Landowner”)

OF THE SECOND PART

Throughout this agreement, the term “Parties” mean the Landowner and the Municipality of Morris-Turnberry.
Whereas, the Municipality of Morris-Turnberry has been decided to undertake groundwater investigation work (hereinafter called the “Works” described in Schedule ‘A’ attached), as part of a Turnberry through the Landfill hydrogeologic study, on lands owned by the Landowner, being:

Landfill Site: 90598 Jeffray Line, Concession 10, Spt of Lot 10 as RP 22R4086 Parts 1 & 2, Turnberry, PIN number- 41035-0003

Landowners property: 41615 Glenannon Road, Concession 10 Pt Lot 9 and 10, Turnberry, PIN number- 41035-0023

And Whereas, the Landowner and the Municipality agree to the activities as outlined in Schedule ‘A’.

Now Therefore, the Landowner and the Municipality further agree as follows:

1. Term of the Agreement:

The Parties agree:

That this agreement shall remain in force from the date of signing and may be discontinued by a Party or the Parties by acting under the ‘Provisions For Cancellation’ section of this agreement

That this agreement may be amended from time to time by mutual written agreement of the Parties.

That the equipment purchased and installed on the Lands shall remain in the ownership of the Municipality under the terms agreed upon by the Municipality, for the life of and after termination of this agreement.

2. Provisions For Cancellation:

The Parties agree:

That this agreement may be cancelled unilaterally by either Party by providing three (3) months notice in writing of the intention to cancel to the other Party or by mutual agreement with any agreed period of notice.
3. **Landowner Obligations:**
1. The Landowner grants to the Municipality, permission to enter upon the land for works as outlined in Schedule ‘A’ attached to this agreement.
2. The Landowner agrees not to remove or alter, in any way, the Works equipment without prior consultation and approval of the Municipality.
3. If there is any noticeable visible damage, accidental or otherwise, to the Works, the Landowner will undertake to use reasonable efforts to notify the Municipality provided the damage comes to the actual attention of the Landowner, but the Landowner should not be obligated to do so and shall not be liable for failure to notify the Municipality of such damage.
4. The Landowner, in the absence of negligence, hereby remises, releases and forever discharges the Municipality from all claims and demands for injuries, including death, loss, damages and costs, in any way related to the property on which the works are situated.

4. **Municipality Obligations:**
1. The Municipality shall perform the work as outlined in Schedule ‘A’ with due diligence and care.
2. The Municipality will make a reasonable attempt to notify the landowner before entering the Land for works. The Municipality will typically monitor the works in April/May and October/November of each year. Additional monitoring activities may be required from time to time.
3. During the life of the program, the Municipality or designate of, shall maintain the Works, in accordance with the Ontario Water Resources Act and Regulation 903.
4. Upon termination and without extension of this agreement, the Municipality agrees to remove and retain the possession of the existing Works equipment and to abandon the entire Works in accordance with the Ontario Water Resources Act and Regulation 903.
5. Upon request by the Landowner, the Municipality shall deliver to the Landowner, the water quantity and/or water quality data collected from the Landowner’s well by the Municipality for the life of this agreement.
6. The Municipality reserves the right to use the information generated by this program for the management and protection of the province’s water resources and human health. All data shall be subject to disclosure as required under provincial legislation.
7. The Municipality agrees to pay the landowner a lump sum of $100.00 as compensation for the (4) four test drilling locations at the Spt of Lots 9,10 Concession 10, as shown on Schedule ‘B’.

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8. The Municipality agrees to pay the landowner an annual lump sum of $100.00 as compensation for each of the (4) four observation wells, that remains within the interior worked field area of the Spt of Lots 9, 10 Concession 10, as shown on Schedule ‘B’. This payment will cease in the year following the year that each such well is abandoned in accordance with Term 4.4 of this Agreement.

5. Insurance and Indemnity:
   1. During the term of this agreement, the Municipality agrees to obtain and keep in force a general public liability insurance policy in at least the amount of two million dollars, ($2,000,000) of lawful money of Canada, that protects the Municipality, any third party and the employees of the Municipality or third party, from all claims, demands, actions, causes of action that may be taken or made against them or any of them or any loss, damage or injury, including death of any nature or kind whatsoever, that may arise through any act or omission or both including negligent acts or omissions of the Municipality, any third party and the employees of the Municipality or third party.
   2. The Municipality agrees to protect, indemnify, keep indemnified and save harmless the Landowner from and against all claims, demands, costs, actions, causes of action, expenses, legal fees whatsoever which may be taken or made against them or any of them incurred or become payable by them or any of them for any loss, damage or injury, including death, of any nature or kind whatsoever arising out of or in consequence of any act, neglect or omission of the Municipality or any employee(s) or subcontractors of the Municipality in connection with the performance of this agreement.
   3. The Municipality agrees to protect, indemnify, keep indemnified and save harmless its officers, servants and agents from and against all claims, demands, costs, actions, causes of action, expenses, legal fees whatsoever which may be taken or made against them or any of them incurred or become payable by them or any of them for any loss, damage or injury, including death, of any nature or kind whatsoever arising out of or in consequence of any act, neglect or omission of the Municipality or any employee(s) or subcontractors of the Municipality, in connection with the performance of this agreement.

6. Occupational Hazards:
   1. The Municipality shall take special note on site of inherent occupational hazards, if any. The Municipality shall be knowledgeable of, and abide by, the provisions of all legislative enactment, by-laws and regulations in regard to health and safety in the Province of Ontario including, without limitation, the Health and Safety Act of Ontario.
   2. The Municipality shall at all times have available a competent supervisor who is authorized to act on the Municipality’s behalf and who is to ensure that the work and services are properly and safely carried out.
7. Comply with the Laws:
   1. The Municipality's employees and representatives, if any, shall at all times comply with any and all applicable federal, provincial and municipal laws, ordinances, statues, rules, regulations and orders and all by-laws of all relevant local authorities.

8. Schedules:
   The Landowner and the Municipality agree that the provisions of Schedule 'A' to this agreement form a part of this Agreement as if fully incorporated herein.

In witness whereof, the parties hereto have executed this agreement

Signed, sealed and delivered

Landowner:

[Signature]

Witness as to execution

Marlene Marie Metcalfe

Dated:

[Signature]

Seal of the Corporation

) The Corporation of the
) Municipality of Morris-Turnberry
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) Mayor, Paul Gowing
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) Clerk, Nancy Michie

We have authority to bind the Corporation.
SCHEDULE ‘A’

To the agreement between the Landowner and the Municipality of Morris-Turnberry, all or some of the following activities will be conducted as part of the Works by the Municipality, their employees and agents, through the Landfill Hydrogeologic Study

1. To install four (4) new test wells for sampling and monitoring.

2. Perform any clean-up works necessary to ensure reasonable access to the monitoring wells and equipment including general well site cleanup and removal of obstructions to well access and to the well site access road.

3. Monitoring wells to be instrumented within the network require preparation prior to instrumentation. General requirements for monitoring well refurbishment may include a clean out, back wash, well head casing preparation and adjustment and that a pump test be carried out to determine hydraulic conditions according to specifications outlined in Regulation 903 of the OWRA.

4. Regular visits (1-4 times/ annum) to the well site to collect water level monitoring data and water quality samples. Site inspections and maintenance of the installed monitoring equipment, and to perform any minor clean-up work necessary to ensure on-going reasonable access to the well site will be also done at this time.

5. Regular visits (1-4/annum) to the well site to operate water well purge equipment (pumps) prior to the collection of water quality samples from the well. These visits will coincide with regular site visits.

6. An initial site visit to ensure that the Landowner is given a briefing and documentation of the equipment housed at the well site. Additional periodic site visits can be provided to the landowner, as required.
APPROXIMATE LOCATIONS OF NEW OFF-SITE WELLS AS APPROVED BY NEIGHBOURING LANDOWNER MAY 2, 2013

TURNBERRY LANDFILL

SCALE: 1:2,000