

Prepared by and

Return to: Verle W. Norris, 300 W. Marion, P.O. Box 256, Corydon, IA 50060 641-872-1363
Grantor: City of Chariton, Iowa
Grantees: Iowa Department of Natural Resources

**IOWA SOLID WASTE PROGRAM
ENVIRONMENTAL COVENANT**

This environmental covenant is established pursuant to Iowa Code (IC) chapter 455I entitled Uniform Environmental Covenants Act.

The City of Chariton, Iowa, hereafter “grantor”, and the Iowa Department of Natural Resources (DNR) in its capacity as an agency of Iowa state government enter into this environmental covenant for the purpose of subjecting the affected property described below to certain activity and use limitations in accordance with the terms and conditions as specified and the authorities granted the DNR in Iowa Code (IC) chapter 455I, § 455B.103(7), and DNR rules in 567 Iowa Administrative Code (IAC).

1. **Affected Property**. The grantor is the fee title owner of the property located on 500th Avenue, Monroe County, Iowa. The affected property is legally described as:

The Northwest fractional one-quarter of the Southwest one-quarter (NW-1/4 SW-1/4) of Section Thirty (30), Township Seventy-two (72) North, Range Nineteen (19) West of the 5th P.M., Monroe County, Iowa

Hereinafter, the affected property will be referred to as “the property.”

2. **Risk Management and Institutional Controls**.

In accordance with Chapter 455B of the Iowa Code, DNR permitted municipal solid wastes to be disposed on the affected property under solid waste disposal project permit 68-SDP-01-75C issued to the City of Chariton, Iowa.

Permit, investigations and reports are available for review in the DNR Solid Waste files under permit 68-SDP-01-75C.

Presence of buried municipal solid wastes on the property may present a risk to public health and the environment if certain activities occur on the property. As such, the Director, pursuant to her authority under IC § 455B.103(7), has determined that an environmental covenant is necessary to manage risk of future exposure by limiting specified activities on the property and establishing affirmative obligations.

3. **Reopening.** The signatories acknowledge that in the event that activity and use limitations provided in this environmental covenant fail to serve their intended purpose - including prevention of exposure to contamination - DNR may reopen its review and regulatory oversight of the contaminant condition on the property as provided under the terms of this covenant, IC chapter 455I, and applicable DNR administrative rules.

4. **Identity of Grantor(s) and Holder(s).**

GRANTOR: City of Chariton, Iowa

HOLDERS: None

AGENCY: Iowa Department of Natural Resources

5. **Representations and Warranties.** The grantor warrants to the other signatories to this covenant the following:

- a. The grantor is the sole fee title owner of the property;
- b. The grantor holds sufficient fee title to the property to grant the rights and interests described in this covenant free of any conflicting legal and equitable claims;

6. **Running with the Land.** This environmental covenant is perpetual and runs with the land as provided in IC § 455I.9 until modified or terminated. The terms of this environmental covenant are binding on the grantors and all successors in interest, assigns and all transferees acquiring or owning any right, title, lien or interest in the property and their heirs, successors, assigns, grantees, executors, administrators and devisees. The term “transferee,” as used in this environmental covenant, shall mean any future owner of any interest in the property or any portion thereof, including, but not limited to, owners of an interest in fee simple, contract buyers, mortgagees, easement holders and/or lessees.

7. **Activity and Use Limitations and Terms.** The property is subject to the following activity and use limitations:

- a. Except for excavations less than 2 feet deep or emergency and non-emergency repairs of existing structures including landfill caps, landfill gas collection systems and leachate management systems, all construction activities taking place on the property shown on Exhibit A must be approved by DNR.

- b. No deposited municipal waste shall be excavated, disrupted, or removed from the site without first providing written notice to DNR.
- c. Construction of drinking water wells within the boundaries of the property shall require approval by DNR. "Drinking water wells" are defined as any groundwater wells used as a source of drinking water by humans and groundwater wells used primarily for production of food or medicine for human consumption in facilities characterized with standard industrial codes group 283 for drugs and 20 for foods.
- d. Construction of residences within the boundaries of the property must be approved by DNR.
- e. On a biennial basis, the site shall be inspected, by a professional engineer licensed in the State of Iowa, to verify that the property activity and use limitations enumerated in this covenant have been complied with. A report of this inspection shall be sent to the DNR's Solid Waste Section within 30 days of completion.

In addition to general restrictions above, the following specific restrictions are imposed:

- f. Restrictions and use limitations and terms due to continued management of landfill gas:
 - 1) There shall be no placement of or construction of enclosed structures on the landfill cap.
 - 2) There shall be no controlled vegetation burns on the property.
 - g. Restrictions and use limitations and terms due to continued management of leachate:

None.
 - h. Restrictions and use limitations and terms related to site access:
 - 1) The fencing near the current front entrance gate shall be maintained in perpetuity.
 - i. Restrictions and use limitations and terms related to land use:
 - 1) The landfill's cap integrity must be maintained in perpetuity.
8. **Notice of Non-Compliance.** Any property owner or subsequent transferee of an interest in the property shall notify DNR as soon as possible of conditions which would constitute a breach of the activity and use limitations in paragraph seven (7) if

they have actual knowledge of these conditions or would reasonably be deemed to have knowledge within the normal course of administration of their property interest.

9. **Notice to Lessees.** Grantor, any holder with a property interest sufficient to grant a lease of the property, and any subsequent transferee shall incorporate the activity and use limitations of this covenant either in full or by reference to this instrument in any lease, license, or other instrument granting a right to possession of the property.
10. **Access to Property.** Reasonable access to the property is granted to DNR or any authorized representative of DNR, public or private, for the purpose of implementation, monitoring and enforcement of the terms of this environmental covenant. DNR, its authorized representatives, or other persons entitled to access shall provide the current owner of the property with reasonable notice, an explanation of the reasons for entry, and the scope of onsite activities prior to access. Right of access includes, but is not limited to, the following activities:
 - a. repair and maintenance of remedial action equipment, soil caps, groundwater monitoring wells and associated aboveground or subsurface structures,
 - b. fencing and other technological controls,
 - c. groundwater sampling and monitoring,
 - d. additional drilling,
 - e. construction of soil boring and/or groundwater monitoring wells, and,
 - f. other activities authorized or otherwise directed by DNR.
11. **Groundwater Hazard Statement Notice.** IC § 558.69 requires submission of a groundwater hazard statement and disclosure if “hazardous waste” exists on the property as defined in IC § 455B.411(3) or if the DNR determines that solid waste exists on the property that is potentially hazardous. If hazardous waste is present, the groundwater hazard statement must state that the condition is being managed in accordance with DNR rules. The signatories and all subsequent transferees required to submit a groundwater hazard statement under IC § 558.69 shall make reference to this environmental covenant in substantially the following form - filling in the blanks with the relevant and applicable details:

THE INTEREST CONVEYED IS SUBJECT TO AN
ENVIRONMENTAL COVENANT, DATED
_____, RECORDED IN THE DEED OR
OFFICIAL RECORDS OF THE LUCAS COUNTY
RECORDER ON _____ IN
_____.

THE ENVIRONMENTAL COVENANT CONTAINS THE
FOLLOWING ACTIVITY AND USE LIMITATIONS:

- a. Except for excavations less than 2 feet deep or emergency and non-emergency repairs of existing structures including landfill caps, landfill gas collection systems and leachate management systems, all construction activities taking place on the property shown on Exhibit A must be approved by DNR.
- b. No deposited municipal waste shall be excavated, disrupted, or removed from the site without first providing written notice to DNR.
- c. Construction of drinking water wells within the boundaries of the property shall require approval by DNR. "Drinking water wells" are defined as any groundwater wells used as a source of drinking water by humans and groundwater wells used primarily for production of food or medicine for human consumption in facilities characterized with standard industrial codes group 283 for drugs and 20 for foods.
- d. Construction of residences within the boundaries of the property must be approved by DNR.
- e. On a biennial basis, the site shall be inspected, by a professional engineer licensed in the State of Iowa, to verify that the property activity and use limitations enumerated in this covenant have been complied with. A report of this inspection shall be sent to the DNR's Solid Waste Section within 30 days of completion.

In addition to general restrictions above, the following specific restrictions are imposed:

- f. Restrictions and use limitations and terms due to continued management of landfill gas:
 - 1) There shall be no placement of or construction of enclosed structures on the landfill cap.
 - 2) There shall be no controlled vegetation burns on the property.
- g. Restrictions and use limitations and terms due to continued management of leachate:

None.
- h. Restrictions and use limitations and terms related to site access:
 - 1) The fencing near the current front entrance gate shall be maintained in perpetuity.
- i. Restrictions and use limitations and terms related to land use:
 - 1) The landfill's cap integrity must be maintained in perpetuity.

12. **Modification and Termination.** Modification or termination of terms of this covenant shall comply with standards in IC chapter 455I and applicable DNR administrative rules. Terms of this environmental covenant may be modified or terminated by written consent of the Director of the DNR, the then-current fee simple title owner and all original signatories (unless exempted under the provisions of IC § 455I.10(1)"c" in accordance with and subject to the provisions of IC § 455I.10). The termination or modification is not effective until the document evidencing consent of all necessary persons is properly recorded. If not by consent, any modification or termination of this environmental covenant shall be in accordance with IC § 455I.9 and such additional terms as specified in this covenant.
13. **Enforcement.** Terms of this environmental covenant may be enforced in a civil action for injunctive or other equitable relief by the signatories and those persons authorized by and in accordance with IC § 455I.11.
14. **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.
15. **Governing Law.** This environmental covenant shall be governed by and interpreted in accordance with the laws of the State of Iowa.
16. **Recordation.** Within thirty (30) days after DNR approval of this environmental covenant, the grantor shall record the environmental covenant in the same manner as a deed to the property with the Lucas County Recorder's Office.
17. **Effective Date.** The effective date of this environmental covenant shall be the date upon which the fully executed environmental covenant has been properly recorded with the Lucas County Recorder's Office.
18. **Notice.** Unless otherwise notified in writing by the DNR, any document or communication required by this environmental covenant shall be submitted to:

Iowa Department of Natural Resources
Solid Waste Section Supervisor
Wallace State Office Building
502 E 9th St
Des Moines IA 50319

19. **Subordination and Consent.** By signing this environmental covenant, the signatories knowingly and intelligently acknowledge their consent to the terms of this agreement and agree to subordinate their interest in the property. The following persons have expressly consented and subordinated interests:

None

GRANTOR
CITY OF CHARITON, IOWA

By: _____
Jayma Hoch, Mayor

ATTEST:

Christy Metzger, City Clerk

HOLDER
IOWA DEPARTMENT OF NATURAL RESOURCES

By: _____

STATE OF IOWA)
)ss
COUNTY OF LUCAS)

Subscribed and sworn to before me by Jayma Hoch and Christy Metzger to me
as the Mayor and City Clerk, respectively, of the City of Chariton, Iowa, on this ____ day
of _____, 2023.

NOTARY PUBLIC IN AND FOR
THE STATE OF IOWA

STATE OF IOWA)
)ss
COUNTY OF _____)

Subscribed and sworn to before me by _____ as
_____ of the Iowa Department of Natural Resources on this ____
day of _____, 2023.

NOTARY PUBLIC IN AND FOR
THE STATE OF IOWA

Exhibit A

The Northwest fractional one-quarter of the Southwest one-quarter (NW-1/4 SW-1/4) of Section Thirty (30), Township Seventy-two (72) North, Range Nineteen (19) West of the 5th P.M., Monroe County, Iowa