

RESOLUTION NO. 2021- 494

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT BY AND BETWEEN EVERGREEN ENVIRONMENTAL, LLC, WAYNE, PA AND THE CITY OF VINELAND FOR THE PURCHASE OF RIPARIAN MITIGATION CREDITS, IN CONNECTION WITH THE LANDIS AVENUE, PHASE 5 RESURFACING PROJECT.

WHEREAS, the City of Vineland is developing a resurfacing project for Landis Avenue, Phase 5 between Orchard Road and Mill Road; and

WHEREAS, this project will provide sidewalks where none existed within a stream corridor, a permanent disturbance necessary to keep pedestrians and bicyclists safe; and

WHEREAS, due to the disturbance of a riparian zone habitat, a Flood Hazard Area (FHA) permit from the New Jersey Department of Environmental Protection is required; and

WHEREAS, the City has obtained an FHA permit for the above project; said permit requires the purchase of Riparian Mitigation Credits from a NJDEP approved mitigation bank to provide compensatory mitigation for the disturbance of riparian zone habitat and/or other aquatic resources during construction activities such as transportation projects; and

WHEREAS, the City Engineer is requesting authorization to enter into an agreement for the purchase of 0.278 Riparian Credits, in the amount of \$187,650.00, with Evergreen Environmental, LLC owner of the Evergreen Abbot Creek Mitigation Bank located on 142.82 acres of land along Abbot Creek; and

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Vineland as follows:

1. THAT the Mayor or his designee is hereby authorized and directed to execute an agreement by and between Evergreen Environmental, LLC, Wayne, PA and the City of Vineland for the purchase of 0.278 Riparian Mitigation Credits, in the amount of \$187,650.00.
2. THAT the Purchasing Agent is hereby authorized to issue purchase orders under this agreement as directed by the City Engineer to implement the executed agreement for the purchase of 0.278 Riparian Mitigation Credits, in the amount of \$187,650.00.

Adopted:

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President of Council

ATTEST:

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City Clerk

## Reid Wanda

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**From:** Caudill Rickie  
**Sent:** Tuesday, October 5, 2021 4:47 PM  
**To:** Maillet David; Dickenson Bob  
**Cc:** Reid Wanda  
**Subject:** RE: Request for resolution  
**Attachments:** 937188\_LUP210001\_30872745.pdf; Agreement of Sale City of Vineland 0.278 Abbot 10-1-21 (004).pdf

See attached supporting documents.

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**From:** Maillet David <dmaillet@vinelandcity.org>  
**Sent:** Tuesday, October 5, 2021 4:46 PM  
**To:** Dickenson Bob <bdickenson@vinelandcity.org>  
**Cc:** Caudill Rickie <rcaudill@vinelandcity.org>; Reid Wanda <wreid@vinelandcity.org>  
**Subject:** Request for resolution

Bob,

Per our conversation, the FHA permit associated with the Landis Avenue Phase 5 requires the purchase of "Riparian Mitigation Credits". I have attached the permit as well as an agreement for purchase of mitigation credits for your use.

This permitting and mitigation is generally not needed for our road projects. For this one, it's needed because we are providing sidewalk where none existed within a stream corridor. This is permanent disturbance; necessary to keep pedestrians and bicyclists safe.

There is a timeline on this that must be met. The credits must be purchased by October 29, 2021. Therefore, I respectfully request that a resolution be put onto the next City Council agenda to enter into contract with Evergreen Environmental, LLC to purchase Riparian Mitigation Credits.

Very truly yours,

David J. Maillet, P.E.  
City Engineer  
Division of Engineering  
City of Vineland  
640 E. Wood Street  
PO Box 1508  
Vineland, NJ 08362-1508  
(856) 794-4000, extn. 4098  
Cell: 609-774-5903  
[dmaillet@vinelandcity.org](mailto:dmaillet@vinelandcity.org)  
[www.vinelandcity.org](http://www.vinelandcity.org)

*\*The most dangerous thing you do everyday is simply exist above an asphalt surface\**



**AGREEMENT FOR PURCHASE AND SALE  
OF  
RIPARIAN MITIGATION CREDITS**

THIS AGREEMENT FOR PURCHASE AND SALE OF RIPARIAN MITIGATION CREDITS ("Agreement") is made as of this 1<sup>st</sup> day of October, 2021 ("Effective Date") by and between **EVERGREEN ENVIRONMENTAL, LLC** a Delaware limited liability company with offices located at 425 Darby Paoli Road, Wayne, PA 19087 ("Evergreen" or "Seller"), and **CITY OF VINELAND** ("Buyer"), with offices at 640 East Wood Street, Vineland, NJ 08362 (collectively the "Parties"). This agreement will be null and void unless executed by the Parties on or prior to October 22, 2021.

**R E C I T A L S**

R-1. Seller owns the Evergreen Abbot Creek Mitigation Bank (the "Bank") located on 142.82 acres of land along Abbot Creek in Fairfield Township, Cumberland County in New Jersey Watershed Management Area 17, as established by that certain Banking Instrument, dated November, 2016 by and among Seller, United States Army Corps of Engineers ("USACE"), U.S. Fish and Wildlife Service, National Marine Fisheries Service and New Jersey Department of Environmental Protection ("NJDEP"). The Bank sells credits ("Riparian Credits") to provide compensatory mitigation for the disturbance of riparian zone habitat and/or other aquatic resources during construction activities such as transportation projects.

R-2. In conjunction with the Reconstruction of Landis Avenue (Phase 5) Mill Road to Orchard Road (CR628) in Vineland City Cumberland County New Jersey ("Project"), Buyer has obtained Flood Hazard Area Individual Permit 0614-21-0005.1 LUP210001, FWA IP FHA Verification ("Permits") for the disturbance of riparian zone habitat from the applicable state agencies having jurisdiction over the

use and disturbance of riparian zones, by the applicable state and federal statutes and agency regulations.

R-3. As a condition of approval of its plans for the Project, Buyer has been, or expects to be, required to provide riparian mitigation as a permit condition.

R-4. NJDEP has approved or is expected to approve the use of Riparian Credits from the Bank as compensation for the impacts caused by the Project.

R-5. Buyer wishes to purchase 0.278 Riparian Credits (“City of Vineland Riparian Credits”) from Seller for the purpose of satisfying all or a portion of the expected permit condition(s) for mitigating riparian impacts resulting from the Project. As used herein, one Riparian Credit shall be deemed to be the amount of a combination of created, restored, enhanced and preserved riparian zones in the Bank to compensate for one acre of riparian impact.

R-6. Evergreen is willing to sell the City of Vineland Riparian Credits to the Buyer for a price of One Hundred Eighty-Seven Thousand Six Hundred Fifty Dollars (\$187,650.00) (the “Payment”).

NOW, THEREFORE, in consideration of the Payment, the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which Buyer and Seller hereby acknowledge, the parties hereto agree as follows:

1. Incorporation of Recitals. The recitals set forth above are hereby incorporated into this Agreement and are an integral part of this Agreement as if fully set forth in the following provisions.

2. Riparian Mitigation Credits. On and subject to the terms of this Agreement, upon receipt of the Payment as such term is defined below, Seller hereby agrees to convey to the Buyer the City of Vineland Riparian Credits from the Bank for purposes of meeting Buyer's expected obligation to provide riparian mitigation in conjunction with the Project and will have no rights whatsoever to any Riparian Credits developed in the Bank other than the City of Vineland Riparian Credits and the entitlements set forth herein. Except for the right to purchase the City of Vineland Riparian Credits from the Bank, Buyer

will have no mitigation credit rights under this Agreement to any riparian mitigation areas or riparian banks that are presently owned by Seller or that may be acquired by Seller in the future.

3. Buyer's Responsibilities.

Buyer shall pay to Seller Payment no later than thirty (30) days following the Effective Date as consideration for the City of Vineland Riparian Credits.

4. Seller's Responsibilities. Seller shall take the following actions upon receipt of the Payment:

- A. Provide Buyer with a Bill of Sale evidencing receipt of the Payment.
- B. Record the sale of the City of Vineland Riparian Credits on the Bank ledger and notify the Buyer and NJDEP of said sale and provide Buyer with simultaneous copies of all correspondence sent and received by Seller in connection with the Project.
- C. Provide to Buyer such documentation concerning the Bank and Riparian Credits as may be reasonably necessary for the Buyer to satisfy the conditions of the Permits using the City of Vineland Riparian Credits to be conveyed to Buyer by this Agreement.

5. Other Obligations and Conditions.

A. In the event Buyer should fail to make any portion of the Payment, as provided herein, which failure remains uncured for a period of five (5) business days following written notice thereof from Seller to Buyer, then Buyer shall be deemed to be in default hereunder and, as Seller's sole and exclusive remedy, Seller shall retain all funds paid prior to Buyer's failure to pay; this Agreement shall immediately and automatically terminate and Buyer shall lose all rights to purchase or acquire the City of Vineland Riparian Credits from Seller hereunder. Buyer understands that this could invalidate any conditions in the Permit issued in reliance upon mitigation at the Bank by NJDEP.

B. Seller shall cooperate in a reasonable manner during the term of this Agreement and after the purchase of the City of Vineland Riparian Credits with Buyer's efforts to obtain any required

applicable permits, it being agreed that Seller shall sign any applicable permit, as required, for the limited purpose of meeting the mitigation obligations set forth in such permit.

C. The Payment shall only entitle Buyer to:

- (1) the use of the City of Vineland Riparian Credits being sold and purchased under the terms of this Agreement for satisfying permit conditions for the Project;
- (2) the right to require Seller to perform Seller's obligations under this Agreement.

6. Notice and Payments. Any notice required or permitted to be delivered thereunder must be in writing and shall be deemed to be delivered when received, if hand delivered, one day after tender to a national overnight delivery service, or three days after deposit in the United States Mail, certified or registered (return receipt requested), postage fully paid, to the addresses for the respective parties set forth hereinafter, or to such other address as either party may subsequently designate, in writing.

If to Seller, to:

Evergreen Environmental, LLC  
425 Darby Paoli Road  
Wayne, PA 19087  
Attn: James R. Holt, Jr.

If to Buyer:

City of Vineland  
640 East Wood Street  
Vineland, NJ 08362  
Attn: Robert Dickenson, Jr.

Payments made hereunder may be wired directly to Evergreen Environmental, c/o Bryn Mawr Trust Company, bank routing no: 031908485, for credit to Evergreen Environmental, LLC, account no. 9060104321 or made by check payable to Evergreen Environmental, LLC.

7. Entire Agreement. Except as otherwise agreed by the parties hereto, this Agreement contains the entire agreement between the parties and is intended to be an integration of all prior or contemporaneous agreements, conditions or undertakings between them; and there are no promises, agreements, conditions, undertakings, warranties or representation (whether oral or written, express or

implied) between them other than as herein set forth.

8. Headings. The headings of the several articles in this Agreement have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of this Agreement.

9. No Waiver/No Assignment. Failure by Seller or Buyer to insist upon or enforce any of its rights hereunder shall not constitute a waiver. Neither Seller nor Buyer shall have the right to assign its rights and/or obligations under this Agreement without the advance written consent of the other party, which consent shall not be unreasonably withheld, conditioned, or delayed.

10. Enforcement/Applicable Law. This Agreement shall be interpreted and enforced under the laws of the State of New Jersey. In the event either party to this Agreement is required to resort to litigation or collection procedures to enforce the terms of this Agreement, then the defaulting or non-prevailing party in any enforcement litigation shall be obligated to pay to the non-defaulting party all reasonable costs of collection and/or all attorney's fees, court costs and other reasonable costs of litigation.

**IN WITNESS WHEREOF**, the parties hereto have caused their duly authorized officers to execute this Agreement and to affix their respective corporate seals on the day and year first above written.

CITY OF VINELAND

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ROBERT E. DICKENSON, JR.  
Business Administrator

EVERGREEN ENVIRONMENTAL, LLC

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JAMES R. HOLT, JR.  
Manager and Member





**STATE OF NEW JERSEY**  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**WATERSHED & LAND MANAGEMENT**  
 Mail Code 501-02A, P.O. Box 420, Trenton, New Jersey 08625-0420  
 Telephone: (609) 777-0454 or Fax: (609) 777-3656  
 www.nj.gov/dep/landuse



## PERMIT

<p>In accordance with the laws and regulations of the State of New Jersey, the Department of Environmental Protection hereby grants this permit to perform the activities described below. This permit is revocable with due cause and is subject to the terms, conditions, and limitations listed below and on the attached pages. For the purpose of this document, "permit" means "approval, certification, registration, authorization, waiver, etc." Violation of any term, condition, or limitation of this permit is a violation of the implementing rules and may subject the permittee to enforcement action.</p>		<b>Approval Date</b> <b>September 29, 2021</b>
		<b>Expiration Date</b> <b>September 28, 2026</b>
<b>Permit Number(s):</b> 0614-21-0005.1 LUP210001	<b>Type of Approval(s):</b> Flood Hazard Area Individual Permit Flood Hazard Area Verification	<b>Governing Rule(s):</b> N.J.A.C. 7:13-1.1(b) N.J.S.A. 58:10A-1 et seq. N.J.S.A. 58:16A-50 et seq. N.J.S.A. 13:1D-1 et seq. N.J.S.A. 13:1D-29 et seq. N.J.S.A. 58:11A-1 et seq.
<b>Permittee:</b> Robert Dickenson, Jr. City of Vineland 640 East Wood Street Vineland, NJ 08362	<b>Site Location:</b> Block(s) & Lot(s): [N/A, N/A] Municipality: Vineland City County: Cumberland	
<b>Description of Authorized Activities:</b> This document verifies the design flood hazard area of Little Robin Branch at this location to be 67.0' NAVD and the riparian zone limits to be 300'  This document also authorizes the reconstruction and widening of Landis Avenue, which is an existing public county roadway. The proposed activities include reconstruction/widening of outer lanes and intersections, milling of inner lanes, pedestrian safety improvements, utility relocation, signal improvements and construction of stormwater management facilities. The stormwater management facilities include two (2) subsurface detention basins, twelve (12) Filterra bioretention MTDs, two (2) CDS MTDs, and an inlet/piping collection network.  <i>The Department has determined that the herein approved activities meet the requirements of the (FHACA) rules. This approval does not obviate the local Floodplain Administrator's responsibility to ensure all development occurring within their community's Special Flood Hazard Area is compliant with the local Flood Damage Prevention Ordinance, and minimum NFIP standards, regardless of any state-issued permits. FEMA requires communities to review and permit all proposed construction or other development within their SFHA in order to participate in the NFIP.</i>		
<b>Prepared by:</b> Andre G. Thompson, P.E.	<b>Received and/or Recorded by</b> <b>County Clerk:</b>	
If the permittee undertakes any regulated activity, project, or development authorized under this permit, such action shall constitute the permittee's acceptance of the permit in its entirety as well as the permittee's agreement to abide by the requirements of the permit and all conditions therein.		
<b>This permit is not valid unless authorizing signature appears on the last page.</b>		

**STATEMENT OF AUTHORIZED IMPACTS:**

The authorized activities allow for the permittee to undertake impacts to regulated areas as described below. Additional impacts to regulated areas without prior Department approval shall constitute a violation of the rules under which this document is issued and may subject the permittee and/or property owner to enforcement action, pursuant to N.J.A.C. 7:13-24.

<b>Riparian Zone Vegetation</b>	<b>Area of riparian zone (Acres)</b>
<b>Permanent Disturbed</b>	0.278
<b>Temporary Disturbed</b>	0.567

**PRECONSTRUCTION PERMIT CONDITIONS:**

1. Prior to the commencement of any site preparation, clearing, grading or construction the applicant is responsible for installing and maintaining a silt fence sediment barrier around all soils disturbed by construction, which are sufficient to prevent the sedimentation of the freshwater wetlands and Little Robin Branch. These fences shall serve as both a siltation and debris barrier as well as a physical barrier protecting the undisturbed regulated areas from encroachment by construction vehicles or activities. All sediment barriers and other soil erosion control measures shall be maintained on a daily basis in proper working condition throughout the entire duration of the project until such time that the site is stabilized.
2. The permittee shall comply with Freshwater Wetlands Permit No. 0614-19-0005.1 (LUP190001).
3. Within 90 calendar days of the date of this permit, the applicant shall submit the following information to the clerk of each county in which the site is located, and shall send proof to the Department that this information is recorded on the deed of each lot referenced in the verification:
  - a. The Department file number for the verification;
  - b. The approval and expiration dates of the verification;
  - c. A metes and bounds description of any flood hazard area limit and/or floodway limit approved under the verification;
  - d. The flood hazard area design flood elevation, or range of elevations if variable, approved under the verification;
  - e. The width and location of any riparian zone approved under the verification; and
  - f. The following statement: “The State of New Jersey has determined that all or a portion of this lot lies in a flood hazard area. Certain activities in flood hazard areas are regulated by the New Jersey Department of Environmental Protection and some activities may be prohibited on this site or may first require a permit. Contact the Watershed and Land Management Program at (609) 777-0454 for more information prior to any construction onsite.”

**FLOOD HAZARD AREA PERMIT CONDITIONS:**

1. The Department has determined that the required riparian zone adjacent to the regulated waters affected by the project is 300 feet from the top of the bank. Any additional disturbance to the riparian zone shall be considered a violation of the Flood Hazard Area Control Act Rules (FHACAR) unless a permit is obtained, prior to the start of the disturbance, from the Division of Land Resource Protection.

2. The Department has determined that the riparian zone onsite along the Little Robin Branch 300 feet. Therefore, vegetation within 300 feet of the top of the bank shall only be disturbed in the areas specifically shown on the approved drawings. Upon completion of the project, all temporary disturbed areas shall be replanted with indigenous, non-invasive vegetation in accordance with N.J.A.C. 7:13-11.2(z).
3. The flood hazard area design flood elevation of 67.0' NAVD referenced in this verification was conservatively approximated using Method 5 at N.J.A.C. 7:13-3.5. The limits of the floodway cannot be determined using this method. As such, any future work that may possibly be located within the floodway onsite may be prohibited or restricted.
4. The Department has determined that this project meets the requirements of the Stormwater Management rules at N.J.A.C. 7:8. Any future expansion or alteration of the approved stormwater management system, which would affect water quality, increase the rate or volume of stormwater leaving the site, affect the infiltration capacity on the site, or alter the approved low impact site design, shall be reviewed and approved by the Department prior to construction. This includes any proposed changes to the discharge characteristics of any basin, the construction of new inlets or pipes that tie into the storm sewer network and/or the replacement of existing inlets or pipes with structures of different capacity.
5. The applicant shall make specific arrangements to ensure the continuous maintenance and efficient operation of all proposed stormwater management measures onsite. This includes the inspection (and cleaning where necessary) of any and all constructed swales, basins, inlets, and mechanical treatment devices at least four times per year and after every major storm totaling 1 inch of rainfall or more, the use of appropriate soil conservation practices onsite, and any other reasonable effort required to maintain the stormwater management system in good working order.
6. **Within 30 days of the issuance of this permit**, the permittee must submit an operation and maintenance manual for the proposed stormwater management facilities.
7. Construction equipment shall not be stored, staged, or driven within any regulated areas onsite, unless expressly approved by this permit or described on the approved plans.

#### **RIPARIAN ZONE MITIGATION CONDITIONS**

1. **Within 30 days of the issuance of this permit**, the permittee shall mitigate for the loss of 0.278 acres of riparian zone vegetation through the purchase of 0.278 riparian mitigation credits from an approved mitigation bank.

At this time, the following bank(s) are approved to serve the project area; additional banks may be approved at any time, so please contact the Mitigation unit for the most up to date service area information if you would like additional options.

**Abbot Creek Mitigation Bank** Mark Renna, Evergreen Environmental, LLC, 709 Natures Way, Franklin Lakes, NJ 07417 and he can be reached at 201-644-7302 or 973-356-7164 or by email at [mrenna@evergreenenv.com](mailto:mrenna@evergreenenv.com)

2. Within 60 days and prior to initiation of regulated activities, the permittee shall submit proof of purchase for the amount of mitigation credits listed above to the attention of the Mitigation

Unit Supervisor, NJDEP, Division of Land Use Regulation at Mail Code 501-02A, P.O. Box 420, Trenton, NJ 08625-0420.

3. In the event that mitigation credits are no longer available from the above referenced mitigation bank, the permittee shall contact the Division of Land Use Regulation, Mitigation Unit to arrange for an alternative mitigation option prior to the initiation of regulated activities.

**RIPARIAN ZONE MITIGATION PERMIT CONDITIONS-TEMPORARY:**

1. **At least 90 days prior to commencing regulated activities authorized by this permit**, the permittee shall submit a proposal to mitigate for the temporary of 0.567 acres of riparian zone vegetation. The proposal shall be designed in accordance with the standards at N.J.A.C. 7:13-13. Activities authorized by this permit shall not begin until the permittee has obtained written approval of a mitigation plan from the Department (N.J.A.C. 7:13-13.2(b)).
2. All mitigation shall be conducted immediately following completion of the activity that cause the disturbance and shall be continued to completion within six months after the end of the activity that caused the disturbance.
3. If the permittee fails to perform mitigation within the applicable time-period the activity shall be considered permanent and mitigation shall be required to replace the affected resource.
4. The permittee shall obtain a secured bond or other financial surety acceptable to the Division from a firm licensed to provide such services in New Jersey. (N.J.A.C. 7:13-13.15)
5. The permittee shall notify the Mitigation Unit at the Division of Land Resource Protection in writing **at least 30 days prior to the start of construction of the riparian zone mitigation project** to arrange an on-site pre-construction meeting among the permittee, the contractor, the consultant and the Division.
6. To ensure the intent of the mitigation design is realized in the landscape, the mitigation designer shall be present on-site during all critical stages of mitigation construction and during the restoration of any temporarily impacted areas. Critical stages of construction include but are not limited to herbicide applications, earthmoving activities, planting, and inspections.
7. The permittee shall be responsible for ensuring that best management practices are used throughout construction to control the spread and colonization of highly invasive plants. Specifically, all equipment, especially tracks and tires, must be thoroughly cleaned every time equipment or vehicles move from an area containing invasive plants or from off-site to the mitigation area. In addition, soil containing root fragments and above-ground vegetative material from invasive plants shall be carefully managed during earthmoving activities and disposed of at a suitable off site location rather than mulched and reused or stockpiled elsewhere on the site. For information on the specific species that are considered to be invasive, please refer to the Invasive Plant Atlas at <http://www.invasiveplantatlas.org/index.html>.
8. If changes to the mitigation design are necessary to ensure success of the project as a result of on-site conditions, the mitigation designer shall immediately notify the Division in writing and submit an alternative plan which achieves the proposed riparian zone conditions. The Division shall review the plan in accordance with N.J.A.C. 7:13-13.7. Any modifications to the plan that are reviewed and approved by the Division must be shown on a signed and sealed revised plan. The As-Built plans required as a part of the Construction Completion Report may serve as the signed and sealed revised

plan required to be submitted as part of the construction modification process described above if time constraints warrant such action and have been approved by the Division in writing.

9. **Within 30 days of final grading of the mitigation site and prior to planting**, the permittee shall notify the Mitigation Unit at the Division of Land Resource Protection in writing to arrange a post-grading construction meeting among the permittee, contractor, consultant and the Division.
10. **Within 30 days following the final planting of the mitigation project**, the permittee shall submit a Construction Completion Report to the Division detailing as-built conditions (see below) and any changes to the approved mitigation plan that were made during construction (N.J.A.C. 7:13-13.12). The Construction Completion Report shall contain, at a minimum, the following information:
  - i. A completed [Wetland Mitigation Project Completion of Construction Form](http://www.nj.gov/dep/landuse/forms/index.html). This form is located at <http://www.nj.gov/dep/landuse/forms/index.html> and certifies that the mitigation project has been constructed as designed and that the proposed area of riparian zone restoration or enhancement has been accomplished;
  - ii. As-Built plans which depict final grade elevations at one foot contours and include a table of the species and quantities of vegetation that were planted including any grasses that may have been used for soil stabilization purposes; and
  - iii. Photos of the constructed riparian zone mitigation project with a photo location map as well as the GPS waypoints in NJ state plane coordinates NAD 1983.
11. **Within 30 days following final planting of the mitigation project**, the permittee shall post the mitigation area with permanent signs which identify the site as a riparian mitigation project and that all-terrain vehicle use, motorbike use, mowing, dumping, draining, cutting and/or removal of plant materials is prohibited and that violators shall be prosecuted and fined to the fullest extent under the law. The signs must also state the name of the permittee, a contact name and phone number, and the Department's permit number.
12. The permittee shall monitor riparian mitigation projects for 5 full growing seasons beginning the year after the mitigation project has been completed. The permittee shall submit monitoring reports to the Division of Land Resource Protection no later than December 31<sup>st</sup> of each full monitoring year (N.J.A.C. 7:13-13.12(c)). All monitoring reports must include the standard items identified in the checklist entitled, "Wetland Mitigation Monitoring Project Checklist", which can be found at <http://www.nj.gov/dep/landuse/forms/index.html>.
13. Once the required monitoring period has expired and the permittee has submitted the final monitoring report, the Division will make the finding that the mitigation project is either a success or a failure. This mitigation project will be considered successful if the permittee demonstrates all of the following:
  - i. That the goals of the riparian zone mitigation project, as stated in the approved riparian zone mitigation proposal and the permit have been satisfied;
  - ii. The site has an 85 percent survival and 85 percent area coverage of the mitigation plantings; and
  - iii. The site has less than 10 percent coverage by invasive or noxious species.
14. The permittee is responsible for assuming all liability for any corrective work necessary to meet the success criteria established above (N.J.A.C. 7:13-13.12(e) and (f)). The Division will notify the

permittee in writing if the mitigation project is considered to be a failure. Within 30 days of notification, the permittee shall submit a revised mitigation plan to meet the success criteria identified above for Division review and approval. The financial surety, if required, will not be released by the Division until such time that the permittee satisfies the success criteria as stipulated above.

**STANDARD CONDITIONS:**

1. The issuance of a permit shall in no way expose the State of New Jersey or the Department to liability for the sufficiency or correctness of the design of any construction or structure(s). Neither the State nor the Department shall, in any way, be liable for any loss of life or property that may occur by virtue of the activity or project conducted as authorized under a permit.
2. The issuance of a permit does not convey any property rights or any exclusive privilege.
3. The permittee shall obtain all applicable Federal, State, and local approvals prior to commencement of regulated activities authorized under a permit.
4. A permittee conducting an activity involving soil disturbance, the creation of drainage structures, or changes in natural contours shall obtain any required approvals from the Soil Conservation District or designee having jurisdiction over the site.
5. The permittee shall take all reasonable steps to prevent, minimize, or correct any adverse impact on the environment resulting from activities conducted pursuant to the permit, or from noncompliance with the permit.
6. The permittee shall immediately inform the Department of any unanticipated adverse effects on the environment not described in the application or in the conditions of the permit. The Department may, upon discovery of such unanticipated adverse effects, and upon the failure of the permittee to submit a report thereon, notify the permittee of its intent to suspend the permit.
7. The permittee shall immediately inform the Department by telephone at (877) 927-6337 (WARN DEP hotline) of any noncompliance that may endanger public health, safety, and welfare, or the environment. The permittee shall inform the Watershed & Land Management by telephone at (609) 777-0454 of any other noncompliance within two working days of the time the permittee becomes aware of the noncompliance, and in writing within five working days of the time the permittee becomes aware of the noncompliance. Such notice shall not, however, serve as a defense to enforcement action if the project is found to be in violation of this chapter. The written notice shall include:
  - i. A description of the noncompliance and its cause;
  - ii. The period of noncompliance, including exact dates and times;
  - iii. If the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and
  - iv. The steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
8. Any noncompliance with a permit constitutes a violation of this chapter and is grounds for enforcement action, as well as, in the appropriate case, suspension and/or termination of the permit.

9. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the authorized activity in order to maintain compliance with the conditions of the permit.
10. The permittee shall employ appropriate measures to minimize noise where necessary during construction, as specified in N.J.S.A. 13:1G-1 et seq. and N.J.A.C. 7:29.
11. The issuance of a permit does not relinquish the State's tidelands ownership or claim to any portion of the subject property or adjacent properties.
12. The issuance of a permit does not relinquish public rights to access and use tidal waterways and their shores.
13. The permittee shall allow an authorized representative of the Department, upon the presentation of credentials, to:
  - i. Enter upon the permittee's premises where a regulated activity, project, or development is located or conducted, or where records must be kept under the conditions of the permit;
  - ii. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit; and
  - iii. Inspect, at reasonable times, any facilities, equipment, practices, or operations regulated or required under the permit. Failure to allow reasonable access under this paragraph shall be considered a violation of this chapter and subject the permittee to enforcement action.
14. The permittee shall not cause or allow any unreasonable interference with the free flow of a regulated water by placing or dumping any materials, equipment, debris or structures within or adjacent to the channel while the regulated activity, project, or development is being undertaken. Upon completion of the regulated activity, project, or development, the permittee shall remove and dispose of in a lawful manner all excess materials, debris, equipment, and silt fences and other temporary soil erosion and sediment control devices from all regulated areas.
15. The permittee and its contractors and subcontractors shall comply with all conditions, site plans, and supporting documents approved by the permit.
16. All conditions, site plans, and supporting documents approved by a permit shall remain in full force and effect, so long as the regulated activity, project, or development, or any portion thereof, is in existence, unless the permit is modified pursuant to the rules governing the herein approved permits.
17. The permittee shall perform any mitigation required under the permit in accordance with the rules governing the herein approved permits.
18. If any condition or permit is determined to be legally unenforceable, modifications and additional conditions may be imposed by the Department as necessary to protect public health, safety, and welfare, or the environment.
19. Any permit condition that does not establish a specific timeframe within which the condition must be satisfied (for example, prior to commencement of construction) shall be satisfied within six months of the effective date of the permit.

20. A copy of the permit and all approved site plans and supporting documents shall be maintained at the site at all times and made available to Department representatives or their designated agents immediately upon request.
21. The permittee shall provide monitoring results to the Department at the intervals specified in the permit.
22. A permit shall be transferred to another person only in accordance with the rules governing the herein approved permits.
23. A permit can be modified, suspended, or terminated by the Department for cause.
24. The submittal of a request to modify a permit by the permittee, or a notification of planned changes or anticipated noncompliance, does not stay any condition of a permit.
25. Where the permittee becomes aware that it failed to submit any relevant facts in an application, or submitted incorrect information in an application or in any report to the Department, it shall promptly submit such facts or information.
26. The permittee shall submit written notification to the Bureau of Coastal and Land Use Compliance and Enforcement, 401 East State Street, 4th Floor, PO Box 420, Mail Code 401-04C, Trenton, NJ 08625, at least three working days prior to the commencement of regulated activities.
27. The permittee shall record the permit, including all conditions listed therein, with the Office of the County Clerk (the Registrar of Deeds and Mortgages, if applicable) of each county in which the site is located. The permit shall be recorded within 30 calendar days of receipt by the permittee, unless the permit authorizes activities within two or more counties, in which case the permit shall be recorded within 90 calendar days of receipt. Upon completion of all recording, a copy of the recorded permit shall be forwarded to Watershed & Land Management at the address listed on page one of this permit.

**APPROVED PLAN(S):**

The drawings hereby approved consist of :

Four (4) sheets (Sheets 50-53 of 55) prepared by Frank J. Seney, Jr, N.J. P.E. of Remington and Vernick Engineers, dated June 2018, last revised September 9, 2021, and entitled:

“EROSION & SEDIMENT CONTROL PLAN, CITY OF VINELAND, RECONSTRUCTION OF LANDIS AVENUE (PHASE 5), MILL ROAD TO ORCHARD ROAD (CR628), CITY OF VINELAND, CUMBERLAND COUNTY, NEW JERSEY”,

Nine (9) sheets prepared by Frank J. Seney, Jr, N.J. P.E. of Remington and Vernick Engineers, dated June 2018, unrevised unless noted otherwise, and entitled:

“RECONSTRUCTION OF LANDIS AVENUE (PHASE 5), MILL ROAD TO ORCHARD ROAD (CR 628), CITY OF VINELAND, CUMBERLAND COUNTY, NEW JERSEY”,

“GRADING & UTILITY PLAN” sheets 12 – 15 of 51,

“CONSTRUCTION DETAILS” sheets 44 – 48 of 51.



**APPEAL OF DECISION:**

Any person who is aggrieved by this decision may submit an adjudicatory hearing request within 30 calendar days after public notice of the decision is published in the DEP Bulletin (available at [www.nj.gov/dep/bulletin](http://www.nj.gov/dep/bulletin)). If a person submits the hearing request after this time, the Department shall deny the request. The hearing request must include a completed copy of the Administrative Hearing Request Checklist (available at [www.nj.gov/dep/landuse/forms.html](http://www.nj.gov/dep/landuse/forms.html)). A person requesting an adjudicatory hearing shall submit the original hearing request to: NJDEP Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, Mail Code 401-04L, P.O. Box 402, 401 East State Street, 7th Floor, Trenton, NJ 08625-0402. Additionally, a copy of the hearing request shall be submitted to the Director of Watershed & Land Management at the address listed on page one of this permit. In addition to your hearing request, you may file a request with the Office of Dispute Resolution to engage in alternative dispute resolution. Please see [www.nj.gov/dep/odr](http://www.nj.gov/dep/odr) for more information on this process.

If you need clarification on any section of this permit or conditions, please contact Watershed & Land Management's Technical Support Call Center at (609) 777-0454.

Approved By:

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Keith P. Stampfel, P.E.  
Section Chief  
Bureau of Flood Hazard & Stormwater Engineering

c: Municipal Clerk, Vineland City  
Municipal Construction Official, Vineland City  
Agent (original) – Frank Seney – [frank.seney@rve.com](mailto:frank.seney@rve.com)