GLOUCESTER COUNTY AGRICULTURE DEVELOPMENT BOARD

RIGHT TO FARM RESOLUTION

CERTIFYING COMMERCIAL FARM OPERATION AND RECOMMENDING SITE SPECIFIC AGRICULTURE MANAGEMENT PRACTICE FOR ALL AMERICAN LANDSCAPES, LLC AND ALL AMERICAN FARMS, LLC, TOWNSHIP OF FRANKLIN

DATED: September 18, 2014

WHEREAS, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1, et. seq. and the State Agriculture Development Committee regulations, N.J.A.C. 2:76-2.3, a commercial farm owner or operator may make a request to the County Agriculture Development Board (hereinafter "CADB" or "Board") to determine if his or her operation constitutes a generally accepted management practice; and

WHEREAS, All-American Landscapes, LLC, is the operator of the farming operation on Block 2302, Lot 30.01(hereinafter the Property), Township of Franklin, (hereinafter "Franklin Township"), New Jersey, in addition to other lands in the Borough of Clayton, Elk Township, Franklin Township, and Monroe Township in Gloucester County, with said lands totaling more than 2,000 acres; and All American Farms, LLC, owns Block 2302, Lot 30.01, Franklin Township; and

WHEREAS, on June 2, 2014, William L. Horner, Esquire, on behalf of All American Landscapes, LLC, and All-American Farms, LLC, as operator and owner of the commercial farming operation on Block 2302, Lot 30.01, Franklin Township, made a request in writing to the Board that the operations at the Property be designated as a commercial farm under the Right to Farm definition; and

WHEREAS, William L. Horner, Esquire, on behalf of All American Landscapes, LLC, and All-American Farms, LLC, on June 2, 2014 also requested in writing to the Board for the development of site-specific Agriculture Management Practices (hereinafter "AMP") for a number of activities concerning certain agricultural operations on the Property, as follows:

1. A determination that the applicant meets the commercial farm eligibility requirements.
2. A determination that the affected Block and Lot may be developed and used as the site of a farm office, storage, and equipment maintenance and fueling area for commercial farm operations as depicted on the applicant's Conceptual Farm Plan, and that such development and use constitutes a generally accepted agricultural operation or practice.
3. A determination that the proposed development and use of the property does not constitute a health and safety threat.
4. A determination that the proposed development and use of the property be designated as a Site-Specific Agricultural Management Practice (SSAMP).
5. A determination that the proposed development and use of the property does not require a site plan, zoning permit, variance, or other municipal approvals for issuance of construction or building permits.
6. A determination that the CADB retain jurisdiction over the matter; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3 (c), the Board advised in writing the State Agriculture Development Committee and the Township of Franklin of All-American Landscapes, LLC and All-American Farms, LLC's request; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3 (b), the Board requested that All-American Landscapes, LLC and All-American Farms, LLC provide proof that the agricultural operation at the Property is a commercial farm as defined at N.J.S.A. 4:1C-3 and N.J.A.C. 2:76-2.1; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3 (b), All-American Landscapes, LLC and All-American Farms, LLC provided their commercial farm certification, including supporting documentation that their agricultural operation is a commercial farm as defined at N.J.S.A. 4:1C-3 and N.J.A.C. 2:76-2.1; and

WHEREAS, a public hearing was noticed to take place at the June 19th, 2014 Board meeting; and

WHEREAS, notice of the public hearing was provided to all property owners within two hundred (200) feet as suggested by the Court in Curzi v. Raub, 415 N.J.Super.1 (N.J.Super. A.D. 2010); and

WHEREAS, On June 18, 2014, CADB Solicitor Eric M. Campo and Land Preservation Director/CADB Secretary Ken Atkinson spoke with Mr. Horner on the phone, wherein Mr. Horner requested a postponement of the SSAMP request to the CADB's next meeting, which request Mr. Horner also confirmed on that date by e-mail to Secretary Atkinson; and

WHEREAS, on June 19, 2014, the CADB received correspondence, entered into evidence as noted below, from John C. Eastlack, Jr., Esq., Solicitor for Franklin Township, wherein Mr. Eastlack indicated that Franklin Township was in opposition to the SSAMP request; and

WHEREAS, at its June 19, 2014 meeting the CADB granted the applicant's postponement request, whereupon Secretary Atkinson announced to the public that the SSAMP request would be carried over to the Board's special meeting of August 7, 2014; and

WHEREAS, a public hearing was noticed to take place at the August 7th, 2014 Board meeting; and

WHEREAS, notice of the August 7, 2014 public hearing was provided to all property owners within two hundred (200) feet as suggested by the Court in Curzi v. Raub, 415 N.J.Super.1 (N.J.Super. A.D. 2010); and

WHEREAS, On July 23, 2014, the CADB received an amendment, entered into evidence as noted below, to the original SSAMP request from Mr. Horner indicating that the applicant now intends to store on the affected Block and Lot ONLY equipment and supplies utilized for All American Landscapes' commercial farm operation. The amendment further states that the applicant no longer requests a SSAMP determination from the CADB with respect to storage of equipment and supplies that are used for off-farm lawn mowing, or off-farm installation and maintenance of products that All American Landscapes does not grow or produce, such as blocks, pavers, sod, hydro-seeding, and underground irrigation systems. The amendment also set forth a list of farm equipment and supplies that would be stored on the affected Block and Lot to be used in conjunction with the applicant's commercial farm operation, and also included a list of equipment and supplies used for off-farm activities that will not be stored or staged on Lot 30.01 without applicable municipal approvals; and

WHEREAS, on August 7, 2014 the CADB received correspondence from John C. Eastlack, Jr., Esq., Solicitor for Franklin Township, entered into evidence as noted below, wherein Mr. Eastlack reiterated the position that Franklin Township remained in opposition to the SSAMP request, even as amended; and

WHEREAS, in accordance with the procedure set forth in N.J.A.C. 2:76-2.10, a public hearing was held on August 7, 2014, when All-American Landscapes, LLC and All-American Farms, LLC presented its case, through its attorney, William L. Horner, Esquire; and Franklin Township appeared through its Solicitor, Mr. Wesley Fenza, Esquire, of John Eastlack's firm Weir and Partners to add input regarding the applicant's request for and on behalf of the said municipality; and

WHEREAS, the Board received into evidence the following Exhibits:

Exhibit GC-1 - - June 2, 2014 correspondence from William L. Horner, Esquire, on behalf of the applicant, requesting the Board to consider this SSAMP request, which included the following attachments:

a. List of properties farmed by All American Farms and All Landscapes
b. An aerial map showing the properties farmed by All American Farms and All American Landscapes
c. An engineering plan signed by Steven Filippone New Jersey Licensed Professional Engineer, depicting the proposed development of the Property as per the SSAMP request
d. A photograph of the grain bins proposed to be housed on the property as per the SSAMP request

e. A copy of a Zoning Permit from the Township of Franklin dated April 23, 2014, approving the development of the proposed farm buildings on the Property as per the SSAMP request;

Exhibit GC-2 - - June 16, 2014 letter from Rutgers Cooperative Extension Agricultural Agent Michelle Infante-Casella regarding the applicant's initial SSAMP request as provided to the Board;

Exhibit Franklin-1 - - June 19, 2014 letter from Franklin Township Solicitor John C. Eastlack, Jr. to CADB Solicitor Eric M. Campo, regarding the proposed SSAMP request;

Exhibit GC-3 - - July 23, 2014 correspondence from William L. Horner, Esquire, on behalf of the applicant, revising the original SSAMP request to remove any references with respects to the storage of equipment and supplies that are used for off-farm mowing, or off-farm installation and maintenance of products that All American Landscapes does not grow or produce, which included the following attachment:

a. A listing of all Farm equipment and supplies to be stored on the Property;

Exhibit GC-4 - - Commercial Farm Certification Form for All American Farms/All American Landscapes/Four Seasons, which included the following attachments:

a. April 30, 2014 invoice from Four Seasons
b. October 3, 2013 invoice from Four Seasons to Bridgeton Grain Elevator/Perdue Grain and Oilseed, LLC
c. Copy of 2015 *Farmland Assessment Form* for All American Farms marked as received by the Gloucester County Office of Assessment

Exhibit Franklin-2 - - August 7, 2014 letter from Franklin Township Solicitor John C. Eastlack, Jr. to CADB Chairman West Jay Kandle, III, regarding the proposed SSAMP request;

Exhibit All American-1 - - An aerial photograph of the Property and its neighboring properties with a superimposed image of the proposed improvements to the Property as per the SSAMP request, supplied by Matt Hender, New Jersey Professional Planner, as presented during his testimony to the Board;

Exhibit All American-2 - - A revised engineering plan signed by Steven Filippone, New Jersey Licensed Professional Engineer, depicting the proposed development of the Property as per the SSAMP request, supplied by Matt Hender, New Jersey Professional Planner, as presented during his testimony to the Board; and

WHEREAS, Mr. Doyle was sworn in and confirmed that all of the information provided in the *Commercial Farm Certification Form* was accurate and truthful. Mr. Doyle then confirmed that to the best of his knowledge Block 2302, Lot 30.01, Franklin Township, has been actively farmed since 1998; and

WHEREAS, the Board determined the following:

1. There are credible exhibits that establish that the commercial farm is no less than five (5) acres;

2. The commercial farm produces agricultural/horticultural products worth at least $2,500 per year;

3. The farm is eligible for differential property taxation pursuant to the Farmland Assessment Act of 1964;

4. A farm has been in operation on the Property as of 1998;

Where all of the criteria above having been satisfied, the Board finds and determines that All-American Landscapes, LLC and All-American Farms, LLC meets the eligibility criteria of the Right to Farm Act; and

WHEREAS, Mr. Doyle provided testimony as to the history of his farming operation. He stated that his commercial landscaping service operations are now extremely small in comparison to his commercial farm operations, and that the only contracts they now pursue are

commercial ones. Mr. Doyle then confirmed the small percentage of workers, supplies, and equipment related to their commercial landscaping services would continue to be housed at their current location in Franklin Township, and that Block 2302, Lot 30.01 would only be used for activities associated with his commercial farm operations; and

WHEREAS, Mr. Doyle confirmed that Block 2302, Lot 30.01 was subdivided from a larger lot and the remaining Lot 30 is approximately 47-acres and is part of the 160-acres that Mr. Doyle farms in a contiguous area. Mr. Doyle then stated that some of the various properties he farms are scattered in some areas more than 17 miles apart. Mr. Doyle stated that this reinforces why he needs to consolidate the farming operations at one central location; and

WHEREAS, Matt Hender, of Engineering Design Associates was sworn in to provide testimony. Mr. Hender indicated that he is a licensed New Jersey Professional Planner and a licensed New Jersey Landscape Architect, with a degree in environmental planning and landscape architecture. Mr. Hender indicated that he has testified before many zoning and planning boards in the past, but that this was his first agriculture board. Mr. Hender indicated that he is not a licensed engineer; and

WHEREAS, Solicitor Campo then stated that based on Mr. Hender's qualifications as a licensed New Jersey Planner, he could be considered as an expert witness since his testimony was in relation to municipal planning and zoning requirements. Mr. Hender then confirmed that he prepared the plan presented to the CADB in conjunction with Mr. Doyle and Steven Filippone, New Jersey Licensed Engineer, with Engineering Design Associates. Mr. Hender then reviewed the plan as presented, including the buildings and parking area. Mr. Hender stated that while drafting the plans it was ensured that all requirements as per Franklin Township's zoning ordinances were adhered to, including all required buffers and setbacks. Mr. Hender stated that a small storm-water basin was indicated on Block 30 in the original plan; however this was moved to the subject Lot 30.01 in the revised plan. Mr. Hender confirmed that the design was constructed so that no water run-off would impact any neighboring properties; and

WHEREAS, Mr. Hender then provided the Board with an aerial photograph of Lot 30.01 and the surrounding properties. Mr. Hender confirmed that the photograph was supplied by Google Maps and was from 2012-13. Mr. Hender stated that he superimposed the development of Lot 30.01 as proposed on the photograph, and that it showed that there was only one residential dwelling contiguous with Lot 30.01, and the rest of the bordering lands were all farmland. Mr. Hender then confirmed Mr. Doyle would provide adequate buffering to ensure the proposed use of the property would not negatively impact the bordering residential home; and

WHEREAS, Mr. Hender testified that this site plan was slightly revised from the one included in the original application, and provided new copies of the revised plan for the Board's information. Mr. Hender indicated that the only changes from the original plan were that the storm-water basin had been moved from the adjacent lot to the subject lot, and that the original parking area had been revised to remove approximately 20 parking-spots, and that area will now be utilized as a turn-around for the equipment. The new plan provides 17 parking spots for office and farm staff. Mr. Hender then confirmed that the development of the lot will still leave more than 5-acres for farming activities, and that it conforms to Township zoning requirements for an office of this sort. Mr. Horner then reaffirmed that the lot was designed to conform to all municipal ordinance standards, and the proposed structures would also conform to all zoning requirements. Mr. Hender then confirmed that the proposed farm sign as indicated on the plan meets all NJDOT requirements in regards to size and setbacks, as Delsea Drive (Route 47) is a State highway. He stated that if lighted the sign would only utilize low level ground-mounted lights, and that the buildings would only utilize standard security lighting; and

WHEREAS, Mr. Hender stated that in his professional opinion the proposed use of the site meets all health and safety requirements. Mr. Hender stated that the driveway as proposed is 40 foot in width, which will allow the safe passage of all farm equipment and vehicles. Mr. Hender stated that since Delsea Drive is a State highway, NJDOT will also have the opportunity to comment on the proposed driveway to ensure it meets all proper State sight distances and other requirements; however the driveway was designed to meet all State requirements. Mr. Hender also confirmed that in his professional opinion the location of the proposed farm sign as shown on the plan meets all safety requirements, and that its proposed placement will not impede the vision of anyone entering on to Delsea Drive. Mr. Doyle then stated he only envisions daytime operations at the proposed operation, and at this point doesn't feel that the proposed

farm sign would require any illumination; and

WHEREAS, Mr. Horner then confirmed that the municipal zoning compliance has already been achieved at the proposed site and that the plan meets the required zoning requirements for the lot configuration, the placement of the proposed buildings, and their use. Mr. Horner stated that his review of municipal zoning ordinances state that agricultural buildings in Franklin Township do not require a site plan review, so the CADB is actually conducting a more formal site plan review of the proposal then the municipality would require. Mr. Horner then reaffirmed that Franklin Township has already issued a zoning permit for the proposed development of the property. Mr. Horner then stated that based on the decision in Township of Franklin v. den Hollander, CADB's have the authority to rule on this type of application regarding site improvements, while at the same time ensuring that all municipal requirements are considered. (case cite: 172 N.J. 147 (2002)) Mr. Horner stated that based on the testimony and evidence presented the CADB should be able to confirm that the proposed plan meets all necessary health, safety, and welfare requirements. Solicitor Campo then confirmed that All American Farms zoning permit was part of the package submitted by the applicant, and Mr. Doyle stated that he felt it best to come before the CADB for this SSAMP prior to applying for his construction permit. Solicitor Campo then asked Mr. Doyle to confirm that regardless of the Board's decision he still needs to apply for and receive all necessary building permits from Franklin Township, to which Mr. Doyle indicated that he was aware of the requirement; and

WHEREAS, Ms. Infante-Casella then commented that she reviewed the list of equipment to be stored on-site that was included in the application, and she recommended that it be expanded to include any replacement equipment, or new equipment that may be necessary to adequately manage any growth or expansion of the commercial farm's operations. Mr. Horner then stated that in his review of this matter he has found CADB decisions that allow commercial farm equipment to be used in other applications, such as landscaping, and vice-versa; however Mr. Horner confirmed that the staging of all commercial landscaping service operations will not occur on the subject property; and

WHEREAS, Mr. Horner confirmed that the nature of this SSAMP request is consistent with the requirements as identified in N.J.S.A. 4:1C-9; specifically section "6", which applies to permissible activities on commercial farms, specifically under subsections "a" and "b", which refer to the agricultural and horticultural output of the commercial farm and the processing and packaging of such output, though that other subsections may also be applicable; and

WHEREAS, at the conclusion of the applicant's testimony, Wesley Fenza, Esquire, representing Franklin Township, was invited to provide testimony, or ask any questions to the applicant. Mr. Fenza stated that he had no questions to ask the applicant, but that Franklin Township had an objection to the municipal zoning and planning boards being bypassed. Mr. Wesley then stated that the activities being proposed for the property do not specifically fall under N.J.S.A. 4:1C-9, and that even though Mr. Horner stated that they fall under subsections "a" and "b", which refer to the agricultural and horticultural output of the commercial farm and the processing and packaging of such output, the application only addresses the development and proposed use of the property. Solicitor Campo then again asked Mr. Fenza if he had any other specific questions that he wanted to pose to the applicant, to which Mr. Fenza said that he did not. The CADB inquired why the township was against the applicant using his farm in the way that it was proposed, specifically in regards to maintaining and fueling his farm equipment. Mr. Fenza then said that the Township's objection is that the applicant is bypassing the municipal planning and zoning boards through this request; and

WHEREAS, Mr. Horner responded to Mr. Fenza's testimony by stating that the storage, maintenance and fueling of commercial farm equipment need to happen somewhere. He stated that the municipal perspective on matters such as this is different from the requirements of the Right-to-Farm Act. Mr. Horner stated that municipalities are geared towards the activities that occur on a specific lot or lots, while the Right-to-Farm Act looks broadly at those who are subject to its jurisdiction. He stated that the CADB recognized this by already confirming that this operation meets the definition of a "commercial farm" as per the Right-to-Farm Act. He stated that the proposed uses of the property are accessory to a much larger farming operation, and that the municipality is looking at these proposed units as principal structures on this lot; however the proposed development and use of this site is in fact an accessory to the agricultural and horticultural output of the commercial farm and the processing and packaging of such output, which is protected under the Right-to-Farm Act. Mr. Horner then stated that it makes sense for a

farmer who has farmland in multiple municipalities and separated by many miles to have one centralized location. He further stated that this specific application complies with all municipal use and development standards, has gone through a site plan review before this Board where none would have been required by the Township as per its own requirements, has proven that it meets all required health and safety standards, and conforms with all municipal ordinances. Based on this Mr. Horner stated that the SSAMP request should be approved over the objections of Franklin Township; and

WHEREAS, Michelle Doyle, the owner of All American Landscapes, LLC, and Four Seasons Nursery, LLC., was sworn in to provide testimony. Mr. Horner asked Mrs. Doyle if all of the testimony and evidence provided this evening was accurate and true, to which Mrs. Doyle replied that it was; and

WHEREAS, Ms. Infante-Casella then stated that based on her position as County Agricultural Agent and fact-finder for the CADB, the development of farm-related structures and buildings is consistent with the agricultural production of commercial farms, and is thus recognized under the Right-to-Farm Act. Ms. Infante-Casella stated that in her opinion this SSAMP application is consistent with those protocols; and

WHEREAS, the Board has considered All-American Landscapes, LLC and All-American Farms, LLC's request (application), supporting certification, and the exhibits presented and testimony presented.

NOW, THEREFORE, BE IT RESOLVED, that All-American Landscapes, LLC and All-American Farms, LLC operates a commercial farm at the Property, and in accordance with the requirements of N.J.S.A. 4:1C-9; and is engaged in generally accepted agricultural operations or practices pursuant to N.J.A.C. 2:76-2B.2.

NOW, THEREFORE BE IT FURTHER RESOLVED, the Board finds that the proposed development and use of Block 2302, Lot 30.01, Franklin Township, Gloucester County, NJ, as the site of a farm office, storage, and equipment maintenance and fueling area for commercial farm operations as depicted on the Conceptual Farm Plan and as presented during testimony constitutes a generally accepted agricultural management practice as identified in N.J.S.A. 4:1C-9; specifically section "6 a and b", which applies to permissible activities on commercial farms, which refer to the agricultural and horticultural output of the commercial farm and the processing and packaging of such output, though that other subsections may also be applicable, and as per the revised application that this item only refers to the applicant's commercial farm operations, and that any activities associated with any landscaping service operations will not be staged on the subject property.

NOW, THEREFORE BE IT FURTHER RESOLVED, the proposed development and use of the property do not constitute a health and safety threat.

NOW, THEREFORE BE IT FURTHER RESOLVED, a determination that the applicant's proposed development and use of the property be designated as a Site-Specific Agricultural Management Practice (SSAMP) including the applicant's ability to replace existing farm equipment as identified in the revised application, and to also permit new equipment so long as it is utilized for the applicant's commercial farming operation.

NOW, THEREFORE BE IT FURTHER RESOLVED, the applicant's proposed development and use of the property does not require a new zoning permit, site plan, variance, or other municipal approval for issuance of construction or building permits.

NOW, THEREFORE BE IT FURTHER RESOLVED, the CADB retains jurisdiction over the matter.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board shall forward a copy of this Resolution as its written recommendation of these Site Specific Agriculture Management Practices to the State Agriculture Development Committee, the Township of Franklin, and All-American Landscapes, LLC and All-American Farms, LLC, within thirty (30) days.

WEST JAY KANDLE, III, CHAIRPERSON
GLOUCESTER COUNTY AGRICULTURE
DEVELOPMENT BOARD

YES: 5
NO: 0
ABSTAIN: 2
ABSENT: 0

CERTIFICATION

I, Kenneth Atkinson, Secretary to the Gloucester County Agriculture Development Board, do hereby certify the foregoing to be a true and accurate copy of the Resolution adopted by the Gloucester County Agriculture Development Board at a meeting of said Committee held on September 18th, 2014.

SEAL:

KENNETH P. ATKINSON
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES MAY 20, 2018

KENNETH ATKINSON, BOARD SECRETARY