

LAND USE COVENANT AND NOTICE OF RESTRICTION

The City of Parkersburg (City) entered into a Voluntary Remediation Agreement dated November 8, 2002 (hereinafter referred to as "the Agreement"), and modified on January 16, 2003, with the Department of Environmental Protection for the State of West Virginia pursuant to the Voluntary Remediation and Redevelopment Act, W.Va. Code §§ 22-22-1 through 22-22-2 (hereinafter referred to as "the Act"), for certain property owned by the City located at the intersection of 3rd Street and 4th Street with Avery Street, Parkersburg, Wood County, West Virginia 26101. On May 5, 2003, the City transferred ownership of the site to the Urban Renewal Authority of the City of Parkersburg with the understanding that the site remain in the Voluntary Remediation Program. In this Land Use Covenant and Notice of Restriction the terms "Applicant" and "Owner" shall refer to both the City and the Urban Renewal Authority of the City of Parkersburg. The site is further described in deeds of record in the office of the Clerk of the County Commission of Wood County, West Virginia as follows:

Book	Page	Grantor	Grantee	Date
995	671	CSX Transportation, Inc.	The City of Parkersburg	03/5/1999
1053	199	The City of Parkersburg	The Urban Renewal Authority of the City of Parkersburg	5/5/2003

Section 75 of the Agreement requires the Applicant, as the Owner of said property, to file a Land Use Covenant and Notice of Restriction with the Clerk of the County Commission of Wood County. The Agreement allows certain levels of contamination to remain on the property and requires a land use covenant be recorded in the office of the Clerk of the County Commission of Wood County for the purposes of protecting public health and the environment and to prevent interference with the performance, operation and maintenance of any remedial actions required by the Agreement.

NOW THEREFORE, as the Applicant, and the Secretary of the West Virginia Department of Environmental Protection have provided in the Agreement, the following restrictions shall

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
13. IANSFORD STREET
CHARLESTON, WV 25301

apply to this property:

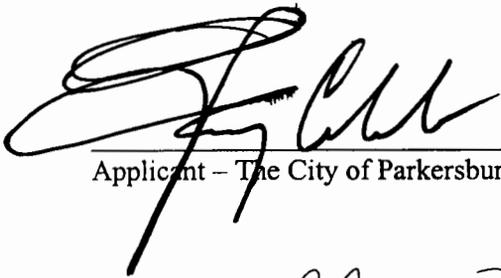
1. The Owner shall restrict the uses of the property to commercial and industrial use. This restriction prohibits use of the property for any residential use, including schools, daycare centers, nursing homes, or other residential-style facilities or recreational areas.
2. The Owner shall prohibit all activities on the property that may interfere with the remedial action required by the Agreement.
3. The Owner shall prohibit all activities that may result in human exposures above those specified by the Agreement or that would result in the release of a contaminant that was contained as part of the remedial action. These activities include, but are not limited to:
 - a) Extraction of groundwater at the site for any potable or non-potable use, with the exception of extraction of groundwater from properly permitted environmental monitoring wells for purposes of groundwater monitoring.
4. The Owner shall provide written notice to the Secretary of the West Virginia Department of Environmental Protection of the intent to transfer any interest in the property.
5. The Owner shall not convey any title, easement, or other interest in the property without adequate and complete provision for the continued implementation, operation and maintenance of any remedial action that has been implemented on the property pursuant to the Agreement and without assuring prevention of the releases and exposures described in the provisions of paragraph 3, above.
6. The Owner shall grant the West Virginia Department of Environmental Protection and its designated representatives the right to enter the property at reasonable times for the purpose of monitoring compliance with the Agreement, and the Certificate of Completion, including the right to take samples, inspect the operation to evaluate the effectiveness of remedial activities, and inspect records all as provided in the Agreement.
7. The West Virginia Department of Environmental Protection may enforce the restrictions set forth in this Land Use Covenant and Notice of Restriction by legal action in a court of appropriate jurisdiction.
8. In accordance with the provisions of the Act regarding land use covenants, W. Va. Code §22-22-

15 and in addition to any rights or duties contained in the Certificate of Completion, this Land Use Covenant and Notice of Restriction relieves the Owner and any subsequent successors and assigns of the Owner and any person identified in W. Va. Code §22-22-18 from all civil liability to the state as provided under the Act so long as the property complies with the applicable standards identified in the Agreement.

9. The restrictions and other requirements described in this Land Use Covenant and Notice of Restriction shall run with the land and shall be binding upon any future owners, successors or assigns and their authorized agents, employees or persons acting under their direction or control. Subject to subsequent written modification or release signed by the Secretary of the West Virginia Department of Environmental Protection and the owner at the time of such modification or release, and filed in the office of the Clerk of the County Commission of the county where these covenants have been recorded, this Land Use Covenant and Notice of Restriction shall continue in perpetuity.
10. If any provision of this Land Use Covenant and Notice of Restriction is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions hereof. All such other provisions shall continue unimpaired and in full force and effect.
11. This Land Use Covenant and Notice of Restriction shall not be amended, modified or terminated except by written instrument executed by and between the Owner at the time of the proposed amendment, modification or termination, and the Secretary of the West Virginia Department of Environmental Protection, or his successor in accordance with regulations promulgated by the Secretary or his successor. Within five days of executing an amendment, modification or termination of this Land Use Covenant and Notice of Restriction, the Owner shall record such amendment, modification or termination with the Clerk of the County Commission of Wood County, and within five days thereafter, the Owner shall provide a true copy of the recorded amendment, modification or termination to the Secretary of the West Virginia Department of Environmental Protection.

IN WITNESS WHEREOF, the said Owner of the above described properties and the Secretary of the West Virginia Department of Environmental Protection have caused this Land Use Covenant and Notice of Restriction to be executed this 15th day of September, 2003.

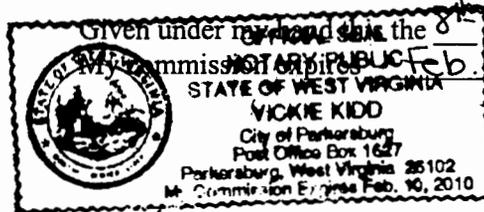
SIGNED:


Applicant - The City of Parkersburg

for Ken Ellison, Director
Secretary, West Virginia Department of Environmental Protection

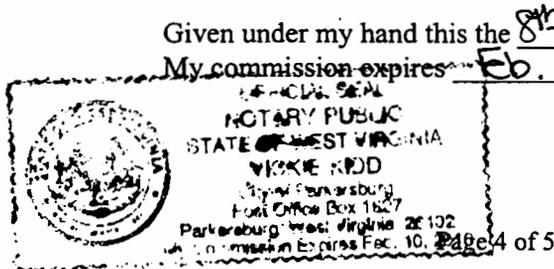

Applicant - Urban Renewal Authority of the City of Parkersburg

I, Vickie Kidd, a Notary Public in and for the State and County aforesaid, do hereby certify that **The City of Parkersburg**, whose name is signed to the writing above, bearing date the 8th day of September, 2003, has this day acknowledged same to be his true act and deed.



Given under my hand this the 8th day of September, 2003
My commission expires Feb. 10, 2010
Vickie Kidd
Notary Public

I, Vickie Kidd, a Notary Public in and for the State and County aforesaid, do hereby certify that **The Urban Renewal Authority of the City of Parkersburg**, whose name is signed to the writing above, bearing date the 8th day of September, 2003, has this day acknowledged same to be his true act and deed.

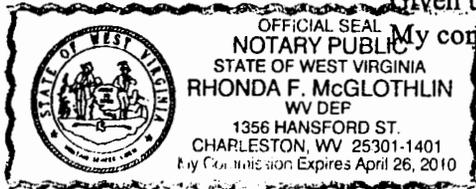


Given under my hand this the 8th day of September, 2003
My commission expires Feb. 10, 2010
Vickie Kidd
Notary Public

The City of Parkersburg
FEIN: 55-600027
WVDEP VRP# 05184

I, Rhonda F. McGlothlin, a Notary Public in and for the State and County aforesaid, do hereby certify that **Secretary, West Virginia Department of Environmental Protection**, whose name is signed to the writing above, bearing date the 15th day of September, 2003, has this day acknowledged same to be his true act and deed.

Given under my hand this the 15th day of September 2003



My commission expires April 26, 2010

Rhonda F. McGlothlin
Notary Public

Notice to the Clerk of the County Commission of Wood County:

It is requested that a true and executed copy of the recorded deed with this attached Land Use Covenant and Notice of Restriction be forwarded to the Secretary of the West Virginia Department of Environmental Protection.

WOOD COUNTY COMMISSION
AGREEMENT Clerk 04
Date/Time: 09/15/2003 10:20
Inst #: 419209
Book/Page: 1057- / 74-
Recd/Tax: 6.00 .00

THIS INSTRUMENT PREPARED BY

POTESTA and Associates, Inc.