

CAMPBELL WOODS, PLLC

ATTORNEYS AND COUNSELORS AT LAW

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FACSIMILE (304) 348-2433

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POST OFFICE BOX 1835
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Nicholas Reynolds
NReynolds@campbellwoods.com

6 March 2007

Mr. Ken Ellison, Director
Division of Land Restoration
West Virginia Department of Environmental Protection
601 57th Street, SE
Charleston, WV 25304

Re: Fairfield Stadium Site
Land Use Covenant Recordation

Dear Mr. Ellison:

Enclosed is an originally executed Land Use Covenant that was recorded in the Office of the Clerk of Cabell County on 9 February 2007. The enclosed document should have been sent to you by the Clerk's Office, but was sent to us. We forward it herewith.

Very truly yours,



Nicholas Reynolds



WNR:jsl

Enclosure

cc: James J. Schneider,
Senior Associate Dean for Finance & Administration
Marshall University

LAND USE COVENANT

The MARSHALL UNIVERSITY, JOAN C. EDWARDS SCHOOL OF MEDICINE has entered into a Voluntary Remediation Agreement (hereinafter referred to as "the Agreement") 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, located at Charleston Avenue & Columbia Avenue in Gideon District, Cabell County, West Virginia and more particularly described in a deed of record in the office of the Clerk of the County Commission of Cabell County, West Virginia. Paragraph 75 of the Agreement requires the Marshall University, Joan C. Edwards School of Medicine, as the owner of said property, to file a Land Use Covenant with the Clerk of the Cabell County Commission. 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 Cabell County Commission 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 Marshall University, Joan C. Edwards School of Medicine, hereinafter referred to as "Owner," and the Secretary have provided in the Agreement, the following restrictions shall apply to this property:

1. The Owner shall prohibit all activities on the property which may interfere with the remedial action required by the Agreement.
2. 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:
 - Extraction of groundwater for any potable or nonpotable uses, other than monitoring
3. The Owner shall restrict the uses of the property to:
 - Non-residential, industrial land use.
4. The Owner shall provide written notice to the Secretary of the Department of Environmental Protection of the intent to transfer any interest in the property.

Leslie Dillon
517 9th Street
Huntington, WV 25701

CABELL COUNTY CLERK
AGREEMENT
Date/Time: 02/09/2007 15:25
Inst #: 257198
Book/Page: 347- / 479-
Recd/Tax: 6.00
Clerk 23
.00

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 2, 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 Department of Environmental Protection may enforce the restrictions set forth in this Land Use Covenant 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 relieves the Owner and any subsequent successors and assigns of the Owner 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 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 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 shall continue in perpetuity.

10. If any provision of this Land Use Covenant 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 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

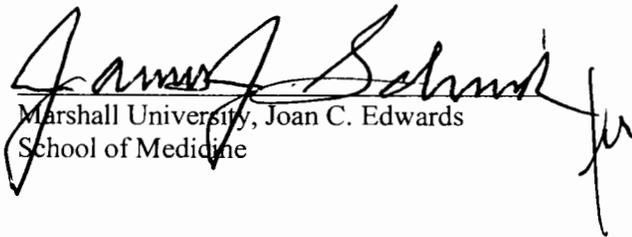
CABELL COUNTY CLERK
AGREEMENT
Date/Time: 02/09/2007 15:25
Inst #: 257198
Book/Page: 347-490-
Retax/Tax: 6.00
.00

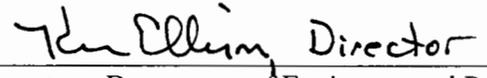
successor in accordance with regulations promulgated by the Secretary or his successor. Within 5 days of executing an amendment, modification or termination of this Land Use Covenant, the Owner shall record such amendment, modification or termination with the Clerk of the Cabell County Commission, and within 5 days thereafter, the Owner shall provide a true copy of the recorded amendment, modification or termination to the Secretary of the Department of Environmental Protection.

The undersigned persons executing this Land Use Covenant on behalf of the Owner represent and certify that they are duly authorized and have been fully empowered to execute and deliver this Land Use Covenant.

IN WITNESS WHEREOF, the said Owner of the above described property and the Secretary of the Department of Environmental Protection have caused this Land Use Covenant to be executed this 1st day of January, 2007.

SIGNED:


James J. Schmidt
Marshall University, Joan C. Edwards
School of Medicine


Ken Collins, Director
Secretary, Department of Environmental Protection

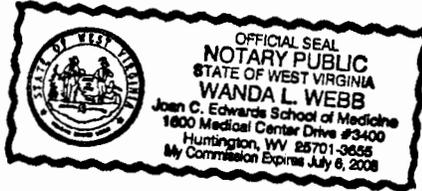
Notary Public Wanda L. Webb

My Commission Expires 7/6/08

CABELL COUNTY CLERK
AGREEMENT Clerk 23
Date/Time: 02/09/2007 15:25
Inst #: 257188
Book/Page: 347- / 481-
Recd/Tax: 6.00 .00

I, Wanda L. Webb, a Notary Public in and for the State and County aforesaid, do hereby certify that James J. Schneider, whose name is signed to the writing above, bearing date the 1st day of January, 2007, has this day acknowledged same to be his true act and deed.

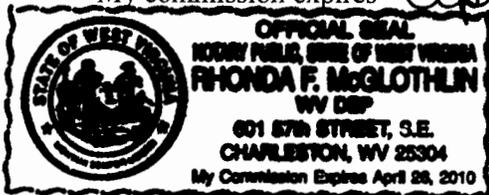
Given under my hand this the 1st day of January, 2007
My commission expires 7/6/08



Wanda L. Webb
Notary Public

I, Rhonda F. McGlottlin, a Notary Public in and for the State and County aforesaid, do hereby certify that Ken Ellison, whose name is signed to the writing above, bearing date the 28th day of December, 2006, has this day acknowledged same to be his true act and deed.

Given under my hand this the 28th day of December, 2006
My commission expires April 26, 2010



Rhonda F. McGlottlin
Notary Public

Instructions to the Clerk of the County Commission of Cabell County, West Virginia:

Please return the recorded document to:

Mr. Ken Ellison, Director
Division of Land Restoration
West Virginia Department of Environmental Protection
601 57th Street, SE
Charleston, WV 25304

WEST VIRGINIA, CABELL COUNTY CLERKS OFFICE THIS INSTRUMENT WAS FILED AND PRESENTED IN MY OFFICE ON 1 THEREUPON TOGETHER WITH THE CERTIFICATE THEREOF ANNEXED IS ADMITTED TO RECORD FEB 09 2007

CABELL COUNTY CLERK
AGREEMENT Clerk 23
Date/Time: 02/09/2007 15:25
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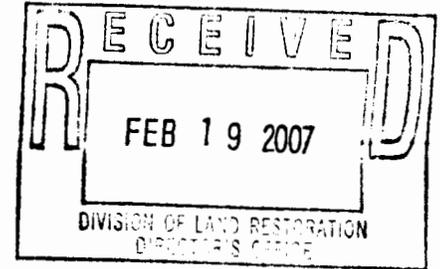
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Nicholas Reynolds
Nreynolds@campbellwoods.com

14 February 2007

Mr. Ken Ellison, Director
Division of Land Restoration
West Virginia Department of Environmental Protection
601 57th Street, SE
Charleston, WV 25304



Re: Fairfield Stadium Site
Land Use Covenant Recordation

Dear Mr. Ellison:

A copy of the Land Use Covenant entered into between Marshall University's Joan C. Edwards School of Medicine and the Department of Environmental Protection for the former Fairfield Stadium site, with the stamp of the Cabell County Clerk showing recordation of the same in his office, is enclosed for your files at the request of James Schneider of the Marshall School. The Clerk should return the original document, bearing evidence of its recordation, directly to you.

Very truly yours,

Nicholas Reynolds

WNR:jsl

Enclosure

cc: James J. Schneider,
Senior Associate Dean for Finance & Administration
Marshall University

LAND USE COVENANT

CABELL COUNTY CLERK
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successor in accordance with regulations promulgated by the Secretary or his successor. Within 5 days of executing an amendment, modification or termination of this Land Use Covenant, the Owner shall record such amendment, modification or termination with the Clerk of the Cabell County Commission, and within 5 days thereafter, the Owner shall provide a true copy of the recorded amendment, modification or termination to the Secretary of the Department of Environmental Protection.

The undersigned persons executing this Land Use Covenant on behalf of the Owner represent and certify that they are duly authorized and have been fully empowered to execute and deliver this Land Use Covenant.

IN WITNESS WHEREOF, the said Owner of the above described property and the Secretary of the Department of Environmental Protection have caused this Land Use Covenant to be executed this 1st day of January, 2007.

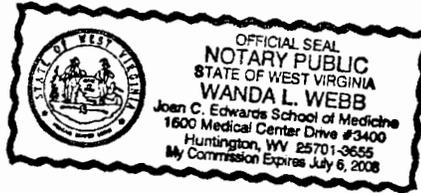
SIGNED:

James J. Schmidt for Ken Ellum, Director
Marshall University, Joan C. Edwards Secretary, Department of Environmental Protection
School of Medicine

Notary Public Wanda L. Webb My Commission Expires 7/6/08

I, Wanda L. Webb a Notary Public in and for the State and County aforesaid, do hereby certify that James J. Schneider whose name is signed to the writing above, bearing date the 1st day of January, 2007 has this day acknowledged same to be his true act and deed.

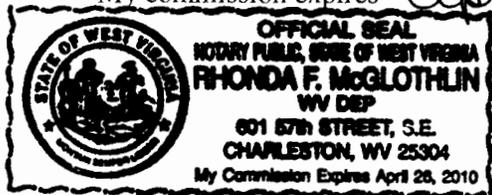
Given under my hand this the 1st day of January, 2007
My commission expires 7/6/08



Wanda L. Webb
Notary Public

I, Rhonda F. McGlothlin, a Notary Public in and for the State and County aforesaid, do hereby certify that Ken Ellison, whose name is signed to the writing above, bearing date the 28th day of December, 2006, has this day acknowledged same to be his true act and deed.

Given under my hand this the 28th day of December, 2006
My commission expires April 26, 2010



Rhonda F. McGlothlin
Notary Public

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