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1701 E. Third Street
Charlotte, NC 28204

October 25, 2012

David Peacock
NC Dept. Of Environmental and Natural Resources
Div. of Waste Management – Brownfields Program
1646 Mail Service Center
Raleigh, NC 27699-1646



Re: City West Commons - LURU
1510 West Boulevard
Charlotte, NC 28208

Dear David:

Enclosed please find the completed LURU forms for the above referenced location. If you have any questions or concerns, please feel free to contact me directly.

Sincerely,

NAI SOUTHERN REAL ESTATE
As Agent for Richard H. Marbut Properties, LLC

A handwritten signature in black ink, appearing to read 'Doug Weaver'.

Doug Weaver
Property Management

DW/te

Enclosure

Brownfields Project #: 02008-98-60
Brownfields Property: City West Commons, 1510 West Boulevard
Property Owner (In whole or part): Richard H. Marbut Properties, LLC



LAND USE RESTRICTIONS (“LUR”) UPDATE

LUR 1: The owner(s) of the portions of the Brownfields Property containing the monitoring wells denominated MW-1 and MW-2, on the plat recorded as part of this Notice, shall maintain those wells: if the owner of the portion of the Brownfields Property containing either well discovers that the well on her, his, or its portion is not functioning properly, that owner shall immediately notify the Department of Environment and Natural Resources (“DENR”) or its successor in function and shall install a new monitoring well in a location satisfactory to DENR or its successor in function.

In compliance Out of compliance

Remarks: _____

LUR 2: Beginning between twenty (20) and twenty-two (22) months after the effective date of the Brownfields Agreement and every two years thereafter, the owner(s) of the portions of the Brownfields Property containing the monitoring wells denominated MW-1 and MW-2, on the plat recorded as part of the Notice of Brownfields Property, shall effect sampling of the well on her, his or its portion in accordance with the most current version of the Guidelines of the Inactive Hazardous Sites Branch of DENR’s Superfund Section. The groundwater samples collected during such activities shall be analyzed for volatile and semi-volatile organic compounds by method 8260 of the U.S. Environmental Protection Agency or any comparable method approved in advance by DENR or its successor if function. A Groundwater Monitoring Report setting forth the procedures and results of these groundwater sampling activities shall be submitted with the Land Use Restriction Update referenced in land use restriction number (11) below in those years during which groundwater sampling is required. If DENR or its successor in function states in writing that the results of three consecutive sampling events required by this subparagraph indicate no exceedances of applicable legal standards, no further sampling shall be required. Within sixty (60) days after any affected owner’s receipt of any such statement by DENR or its successor in function, the relevant owner shall effect abandonment of MW-1 and MW-2 in accordance with subchapter 2C of Title 15A of the North Carolina Administrative Code and shall, within thirty (30) days after completing

any such abandonment activities, submit to DENR or its successor in function a report setting forth the procedures and results of the activities.

In compliance Out of compliance

Remarks: _____

LUR 3: Nothing which makes use of or accesses groundwater may occur at the Brownfields Property, including without limitation watersupply wells, fountains, ponds, lakes or swimming pools, except for sampling of the monitoring wells denominated MW-1 and MW-2 on the plat recorded as part of the Notice of Brownfields Property.

In compliance Out of compliance

Remarks: _____

LUR 4: No mining may be conducted on or under the Brownfields Property, including, without limitation, extraction of coal, oil, gas or any other minerals or non-mineral substances.

In compliance Out of compliance

Remarks: _____

LUR 5: No basements may be constructed on the Brownfields Property unless they are, as determined by DENR or its successor in function, vented in conformance with applicable building codes.

In compliance Out of compliance

Remarks: _____

LUR 6: None of the contaminants know to be present in the environmental media at the Brownfields Property, including those listed in the Notice of Brownfields Property, may be used or stored at the Brownfields Property without the prior approval of DENR or its successor in function, except in *de minimis* amounts for cleaning and other routine house keeping activities.

In compliance Out of compliance

Remarks: _____

LUR 7: The Brownfields Property may not be used as a park or for sports of any kind, including, but not limited to, golf, football, soccer and baseball, without the prior written approval of DENR or its successor in function.

In compliance Out of compliance

Remarks: _____

LUR 8: The Brownfields Property may not be used for agriculture, grazing, timbering, or timber production.

In compliance Out of compliance

Remarks: _____

LUR 9: The Brownfields Property may not be used as a playground, or for child care centers or schools.

In compliance Out of compliance

Remarks: _____

LUR 10: The Brownfields Property may not be used for kennels, private animal pens or horse-riding.

In compliance Out of compliance

Remarks: _____

LUR 11: Within (7) days of each anniversary of the effective date of the Brownfields Agreement, the then current owner of the Brownfields Property shall submit a notarized Land Use Restriction Update (“LURU”) to DENR or its successor in function certifying that the Notice of Brownfields Property remains recorded at the Mecklenburg County Register of Deeds office, and that the land use restrictions are being complied with. The Groundwater Monitoring Report referenced in land use restriction number 2 above shall be submitted with the LURU in those years during which groundwater monitoring is required, and DENR or its successor in function may require an update of the plat component of the Notice of Brownfields Property based upon future data from investigations by the UST Section of DENR or its successor in function, or others. Alternatively, the obligations of this subparagraph may be discharged on behalf of some or all owners by a party that satisfies DENR or its successor in function that it is validly acting as agent for said owners, and that accepts responsibility for compliance with this subparagraph pursuant to a notarized instrument satisfactory to DENR or its successor in function.

In compliance Out of compliance

Remarks: _____

Notarized signing and submittal of this Land Use Restrictions Update constitutes certification that the Notice of Brownfields Property remains recorded at the Mecklenburg County Register of Deeds office and that the Land Use Restrictions are being complied with.

This Land Use Restrictions Update is certified by _____,
owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: _____

In the case of owners that are entities:

Signature of individual signing: _____

Name typed or printed: _____

Title: _____

DW II
Doug Weaver II
Property Management - As Agent for Owner

In the case of all owners:

Date: 10/24/12

[use for LLCs]

[Name of LLC]

By: _____

Name typed or printed:

Member/Manager

NORTH CAROLINA
Mecklenburg COUNTY

I, Connie B Tedder, a Notary Public of the county and state aforesaid, certify that Doug Weaver II personally came before me this day and acknowledged that he/she is a Member of Richard H. Whitcomb Properties LLC, a North Carolina (state) limited liability company, and its Manager, and that by authority duly given and as the act of the company, the foregoing Land Use Restriction Update was signed in its name by him/her.

WITNESS my hand and official stamp or seal, this 24th day of October, ~~2012~~ 2012

Connie B Tedder
Name typed or printed: Connie B Tedder
Notary Public

My Commission expires: October 17, 2016

[Stamp/Seal]

