

**Brownfields Project #:** 04011-00-41 & 14030-10-41  
**Brownfields Property:** Cotton Mill Square, 801 Merritt Drive  
**Property Owner (In whole or part):** GREENSBORO D/E/P, LLC



**LAND USE RESTRICTIONS ("LUR") UPDATE**

LUR 1: No water supply wells may be installed or used at the Brownfields Property and groundwater may not be otherwise accessed or used at the Brownfields Property for any purpose.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 2: No mining activities may be conducted on the Brownfields Property.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 3: No activities which result in direct exposure to or removal of groundwater (for example, construction or excavation activities which encounter or expose groundwater) may be conducted on the Property without prior sampling and analysis of groundwater in the area where such activities are to be conducted, submittal of the analytical results to the Department of Environment and Natural Resources (DENR) or its successor in function along with plans and procedures to protect public health and the environment during those activities, and approval of those activities by DENR or its successor in function.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 4: No fountains, ponds, lakes, swimming pools or other items which are supplied, in whole or in part, by groundwater may be constructed on the Brownfields Property.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 5: During January of each year after the year in which this Notice is recorded, the owner of any part of the Brownfields Property as of January 1<sup>st</sup> of that year shall submit a notarized Land Use Restrictions Update ("LURU") to DENR, and to the chief public health and environmental officials of Guilford County, certifying that, as of said January 1<sup>st</sup>, the Notice of Brownfields Property containing these land use restrictions remains recorded at the Guilford County Register of Deeds office and that the land use restrictions are being complied with, and stating:

- a. the name, mailing address, telephone and facsimile numbers, and contact person's e-mail address of the owner submitting the LURU if said owner acquired any part of the Property during the previous calendar year; and
- b. the transferee's name, mailing address, telephone and facsimile numbers, and contact person's e-mail address, if said owner transferred any part of the Brownfields Property during the previous calendar year.

In compliance  Out of compliance

Remarks: The name, mailing address, telephone and facsimile numbers and contact person's email address for the owner submitting the annual update is as follows:

Curtis Burnett  
GREENSBORO D/E/P, LLC (owner in whole or in part)  
3411 Richmond Avenue  
Suite 200  
Houston, Texas 7704  
(832) 209-1257 (p)  
(832) 209-1298 (f)  
Curtis.Burnett@tdc-properties.com

LUR 6: Soil on the Property may not be disturbed at a depth greater than two (2) feet without a minimum of seven (7) business days advance written notice to DENR, unless DENR states otherwise in writing in advance. Soil at the Brownfields Property

may not be disturbed at a depth greater than two (2) feet unless and until DENR has approved in writing field screening techniques to be employed during such disturbance. Excavated soil that field screening and/or observation indicates may be contaminated with regulated substances above the applicable soil remediation goals ("SRGs") of DENR's Inactive Hazardous Sites Branch shall be stockpiled pending sampling and laboratory analysis. Any such stockpiles shall be covered so as to prevent water infiltration and run-off, and shall be sampled and analyzed in accordance with a plan approved, in writing in advance, by DENR. Any soil that is shown by sampling results to exceed applicable SRGs shall be disposed of, otherwise treated in accordance with applicable law, or managed on site in accordance with a management plan approved in writing by DENR. A soil management plan approved in writing by DENR shall also include a sampling protocol for surficial soils to be implemented following the conclusion of construction-related soil disturbance but prior to non-construction worker occupation at the Brownfields Property that confirms applicable SRGs are met in all those areas not covered by at least two feet of clean fill and/or capped by impervious surfaces or buildings placed on the Brownfields Property. If sampling determines that contamination is present in concentrations lower than the SRGs, or DENR otherwise concludes that returning the soil to the excavation from which it came would not render the Brownfields Property unsuitable for the uses specified in LUR 11 below and/or render public health and the environment less than fully protected, the soil may be so returned.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
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LUR 7: No fill material may be placed on the Brownfields Property unless DENR has been informed in writing of the source of said material and, if DENR so requires, unless DENR has been provided documentation satisfactory to DENR that the fill material does not contain regulated substances at concentrations above residential SRGs or naturally occurring background levels.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 8: No building may be constructed on the Brownfields Property until DENR has been consulted regarding the proximity of the planned building to volatile

contaminant plumes, as reflected in the most recent sampling results reasonably available to DENR. If DENR determines that the footprint of a building proposed to be constructed would fall within 100 feet of said plume, it may not be constructed until :

- a. a vapor barrier and/or mechanical or passive vapor mitigation system approved in writing by DENR in advance is installed. Within 30 days following completion of installation, DENR shall be provided certification of proper installation under the seal of a professional engineer licensed in North Carolina, as well as photographs illustrating the installation and a brief narrative describing it; or
- b. an assessment of the risk posed by soil gas to potential users of the building is prepared that demonstrates to DENR's written satisfaction that neither a vapor barrier nor mitigation system is required.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
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LUR 9: No building on the Property may be constructed, nor any existing building altered, unless mechanical ventilation with outdoor air is provided in compliance with the most current version of the Mechanical Ventilation section of the Ventilation chapter of the North Carolina State Building Code ("Code") or another standard approved in writing in advance by DENR, unless compliance with this requirement is waived in writing by DENR in advance in regard to particular buildings or alterations. Within 30 days following completion of installation or modification of the subject ventilation, a professional engineer licensed in North Carolina shall provide DENR certification under seal that the ventilation system was installed or modified in accordance with its design specifications and complies with the Code.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 10: Surface water at the Property may not be used for any purpose without the prior written approval of DENR.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 11: No use may be made of the Property other than for office, retail or residential purposes, or any mix thereof. Within the meaning of this restriction, the following definitions apply:

- a. "Office" refers to the provision of business or professional services.
- b. "Retail" refers to the sale of goods directly to the consumer.
- c. "Residential" refers to use for a permanent dwelling of any single- or multi-unit building.

In compliance  Out of compliance \_\_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 12: Neither DENR nor any party conducting environmental assessment or remediation at the Property at the direction of, or pursuant to a permit, order or agreement issued or entered into by DENR, may be denied access to the Brownfields Property for purposes of conducting such assessment or remediation, which is to be conducted using reasonable efforts to minimize interference with authorized uses of the Brownfields Property.

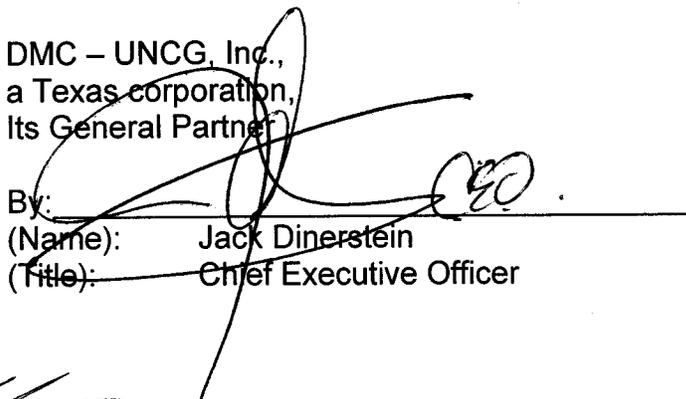
In compliance  Out of compliance \_\_\_\_\_

Remarks: \_\_\_\_\_  
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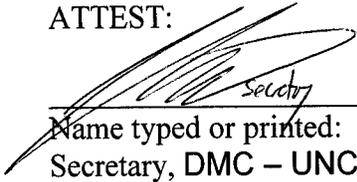
**GREENSBORO D/E/P, LLC,**  
a Delaware limited liability company

BY: Sterling – UNCG, L.P.,  
a Delaware limited partnership,  
Its Managing Member

BY: DMC – UNCG, Inc.,  
a Texas corporation,  
Its General Partner

By:   
(Name): Jack Dinerstein  
(Title): Chief Executive Officer

ATTEST:

  
Name typed or printed:  
Secretary, DMC – UNCG, Inc.,

TEXAS  
HARRIS COUNTY

I, Judith E Bucher, a Notary Public of the county and state aforesaid, certify that John CARTABIONE personally came before me this day and acknowledged that he/she is the Secretary of DMC – UNCG, Inc., a Texas corporation, and that by authority duly given and as the act of the corporation, the foregoing Land Use Restriction Update was signed in its name by its Chief Executive Officer and attested by him/her as its Secretary.

WITNESS my hand and official stamp or seal, this 20<sup>th</sup> day of January, 2014

  
Name:  
Notary Public

My Commission expires: 6-30-2014

[Stamp/Seal]

