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Jefferson County Aud ASPECT CONSULTING LL COV 53.00

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MAR 23 2009

Model Restrictive (Environmental) Covenant

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APR 15 2009
Washington State
Department of Ecology

After Recording Return to:
Chuck Cline
Department of Ecology – Southwest Regional Office
PO Box 47775
Olympia, WA 98504-7775

Environmental Covenant

Grantor: GS2 Properties, Inc.
Grantee: State of Washington, Department of Ecology
Legal: A portion of Lots 160 and 161 of the Seventh Avenue Acre Tracts, as per plat recorded in Volume 2 of Plats, Page 127, records of Jefferson County, in Section 3, Township 29 North, Range 1 West, W.M., Jefferson County, Washington
Tax Parcel Nos.: 994200032
Cross Reference: None

Grantor, GS2 Properties, Inc., hereby binds Grantor, its successors and assigns to the land use restrictions identified herein and grants such other rights under this environmental covenant (hereafter "Covenant") made this 13th day of March, 2009 in favor of the State of Washington Department of Ecology (Ecology). Ecology shall have full right of enforcement of the rights conveyed under this Covenant pursuant to the Model Toxics Control Act, RCW 70.105D.030(1)(g), and the Uniform Environmental Covenants Act, 2007 Wash. Laws ch. 104, sec. 12.

This Declaration of Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by GS2 Properties, Inc., its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

A remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Covenant. The Remedial Action conducted at the property is described in the following documents:

Aspect Consulting, LLC, 2008, Site Characterization and Focused Feasibility Study, prepared for GS II Properties, Inc., August 14, 2008.

Aspect Consulting, LLC, 2008, Monitoring Well Installation and Sampling, Former Community Shell, December 11, 2008.

Aspect Consulting, LLC, 2008, Pump Island Soil Removal Action, Former Community Shell, December 11, 2008.

Aspect Consulting, LLC, 2008, Confirmation Monitoring Plan, Former Community Shell, December 11, 2008.

These documents are on file at Ecology's Southwest Regional Office.

This Covenant is required because the Remedial Action resulted in residual concentrations of benzene, toluene, ethylbenzene, total xylenes, naphthalene, and Total Petroleum Hydrocarbons as gasoline, which exceed the Model Toxics Control Act Method A Cleanup Levels for soil established under WAC 173-340-740(2).

The undersigned, GS2 Properties, Inc., is the fee owner of real property (hereafter "Property") in the County of Jefferson, State of Washington, that is subject to this Covenant. The Property is legally described in Attachment A of this covenant and made a part hereof by reference.

GS2 Properties, Inc. makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

Section 1.

1. A portion of the Property contains benzene, toluene, ethylbenzene, total xylenes, naphthalene, and Total Petroleum Hydrocarbons as gasoline contaminated soil located under the western third of the existing commercial building (see Attachment B). The Owner shall not alter, modify, or remove the existing structure in any manner that may result in the release or exposure to the environment of that contaminated soil or create a new exposure pathway without prior written approval from Ecology.

2. A portion of the Property contains benzene, toluene, ethylbenzene, total xylenes, naphthalene, and Total Petroleum Hydrocarbons as gasoline contaminated soil located between the commercial building and an easement for State Highway 19 and adjacent to Irondale Road (see Attachment B). This area is capped with asphalt, which will be maintained as part of the Remedial Action. Any activity on the Property that may result in the release or exposure to the environment of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited. Some examples of activities that are prohibited in the capped areas include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork.

3. Groundwater confirmation monitoring will be conducted at three Property monitoring wells (MW-1, MW-2, and MW-3) to ensure long-term effectiveness of the Remedial Action. Monitoring well locations are shown in Attachment B. Groundwater confirmation monitoring will occur at a frequency of once every 18 months (as noted in the attached Confirmation Monitoring Plan) until Ecology conducts a periodic review to determine if continued monitoring is required. Additional details on the confirmation monitoring are provided in the Confirmation Monitoring Plan. The monitoring wells will be maintained pending Ecology's review of monitoring results and determination of the need for continued monitoring.

Section 2. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

Section 3. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 4. The Owner of the property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.

Section 5. The Owner must restrict leases to uses and activities consistent with the Covenant and notify all lessees of the restrictions on the use of the Property.

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 7. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, to determine compliance with this Covenant, and to inspect records that are related to the Remedial Action.

Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

GS2 Properties, Inc.

Norman Sather
Chairman/CEO

Dated: 3/17/09

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Rebecca Lawson

Rebecca Lawson, PE, LHG
SWRO Section Manager, Toxics Cleanup Program

Dated: 3/30/09

CORPORATE ACKNOWLEDGMENT

STATE OF WASHINGTON
COUNTY OF _____

On this _____ day of _____, 20__, I certify that _____ personally appeared before me, acknowledged that **he/she** is the _____ of the corporation that executed the within and foregoing instrument, and signed said instrument by free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that **he/she** was authorized to execute said instrument for said corporation.

_____
Notary Public in and for the State of Washington, residing at
_____.
My appointment expires_____.

See attached Calif required form

CALIFORNIA ALL PURPOSE ACKNOWLEDGEMENT

State of California
County of Riverside

On March 17, 2009 before me, Judy Stinson
Notary Public

Personally appeared Norman Sather

Who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Judy Stinson
Signature of Notary Public

JUDY STINSON
Commission # 1671438
Notary Public - California
Riverside County
My Comm. Expires May 17, 2009

(Seal)

Exhibit A
Legal Description

Tract 160

The Westerly 50 feet of Tract 160 of Seventh Avenue Acre Tracts, as per plat recorded in Volume 2 of Plats, on page 127, records of Jefferson County, Washington;

Excepting therefrom right of way for County Road No. 18;

And except that portion thereof conveyed to Jefferson County for road by instrument recorded under Auditor's File No. 266307;

And except that portion conveyed to Jefferson County by deed recorded February 26, 2001 under Auditor's File No. 441265.

Situate in the County of Jefferson, State of Washington.

Tract 161

That portion of Tract 161 and of Vacated 10th Avenue lying Southerly of the County Road to Irondale, which traverses the Northerly portion of said tracts, and lying Northerly of permanent Highway No. 7, known as the Four Corners to Chimacum County Road, all in Seventh Avenue Acre Tracts, according to the plat recorded in Volume 2 of Plats, page 127, records of Jefferson County, Washington.

Except that portion conveyed to Jefferson County by deed recorded February 26, 2001 under Auditor's File No. 441265.

Situate in the County of Jefferson, State of Washington.

Exhibit B

Locations of Residual Soil Contamination