

RESOLUTION NO. _____

A resolution approving a notice of land use restrictions applicable to a portion of the campus of the Omohundro Water Treatment Plant. (Proposal No. 2025M-015PR-001)

WHEREAS, the Metropolitan Government, by and through its Department of Water and Sewerage Services, owns and operates the Omohundro Water Treatment Plant on an approximately 127-acre parcel of property (the "Property"); and,

WHEREAS, an approximately 16-acre portion (the "Landfill Area") of the Property was once used as a landfill by the City of Nashville; and,

WHEREAS, pursuant to the Notice of Land Use Restrictions attached to this resolution as Exhibit 1, the Metropolitan Government and the State of Tennessee, by and through its Department of Environment and Conservation, propose to memorialize the conditions of use and sale of the Landfill Area for the protection of the public and the local environment; and,

WHEREAS, approval of the Notice of Land Use Restrictions is in the best interest of The Metropolitan Government of Nashville and Davidson County.

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

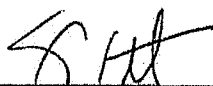
Section 1. Execution and recording of the Notice of Land Use Restrictions (Exhibit 1) is hereby approved.

Section 2. The Metropolitan Mayor or designee is authorized to execute such additional reasonable and customary documents as necessary to carry out the intent of this resolution.

Section 3. This resolution shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

RECOMMENDED BY:

INTRODUCED BY:



Scott Potter, Director
Department of Water and Sewerage Services

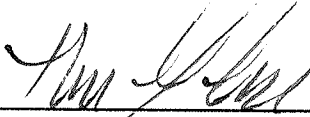
APPROVED AS TO AVAILABILITY
OF FUNDS:



Jerneen Reed, Director
Department of Finance

Member(s) of Council

APPROVED AS TO FORM AND
LEGALITY:



Assistant Metropolitan Attorney

This instrument prepared by:

Thomas G. Cross
Metropolitan Department of Law
108 Metro Courthouse
PO Box 196300
Nashville, Tennessee 37219

Grantor: Metropolitan Government of Nashville and Davidson County
Division of Remediation Site Number: 19-524
County Parcel Identification No: 09400003900

NOTICE OF LAND USE RESTRICTIONS

Notice is hereby given that pursuant to Tennessee Code Annotated section 68-212-225, the Commissioner of the Tennessee Department of Environment and Conservation (“TDEC” or “Department”) has determined that this land use restriction is an appropriate remedial action at the below-described Property for the environmental conditions identified. The Register of Deeds shall record this Notice and index it in the grantor index under the name of the below-referenced Grantor. Tenn. Code Ann. § 68-212-225(d). The effective date of this Notice of Land Use Restrictions shall be the date upon which the Notice has been recorded with the Register of Deed’s Office of Davidson County.

Witnesseth:

WHEREAS, the Grantor, the Metropolitan Government of Nashville and Davidson County is the owner of the real property located at 1450 Lebanon Pike, Nashville, Davidson County, State of Tennessee, 37210, and described in a deed recorded with the Davidson County Register of Deeds as Instrument No. 20120827-0076918, herein after referred to as the “Property,” which is more particularly described in Exhibit A hereto, and,

WHEREAS, the Property includes the 16-acre former Lebanon Road Landfill property (Landfill Area). A legal description and a survey of the Landfill Area are attached hereto as Exhibit B.

WHEREAS, Grantor, also sometimes referred to herein as the “Liable Party,” entered into a Commissioner’s Order in 1996, amended in 1998, with TDEC pursuant to Tennessee Code Annotated section 68-212-206 for the purpose of addressing the real or perceived threat of hazardous substances, solid waste, or other pollutants at the Lebanon Road Landfill; and

WHEREAS, the Grantor has agreed to impose certain land use restrictions on the Landfill Area as set forth hereinafter and has agreed to preserve and maintain these restrictions.

NOW, THEREFORE, in consideration of the foregoing, the Grantor hereby declares that the Landfill Area should be held, sold, and conveyed subject to the following land use restrictions:

I. LOCATION OF CONTAMINATION

In November 1970, the Metropolitan Government of Nashville and Davidson County ("Metro") leased the Landfill Area, then known as the Meadowbrook Lake property, from Dr. G.S. Meadows for use as a municipal dump. Metro's Department of Public Works ("MDPW") operated the dump from 1971 until 1974, at which time the Tennessee Division of Solid Waste Management (DSWM) recommended closure due to large amounts of leachate production and minimal soil available for cover. During its operation, the landfill received waste from both residential and industrial sources. In 1974, DSWM received a closure plan from MDPW calling for a final cover of 24 inches of compacted soil with future plans to conduct an engineering study to determine how to handle leachate if it continues to be a problem. DSWM recommended a monitoring program be instituted to assist MDPW in evaluating the effectiveness of the final cover in stopping or reducing the leachate flow.

On May 23, 1985, the site was promulgated and added to the State List of Hazardous Substance Sites. A Commissioner's Order was issued on October 29, 1996. An Amendment to Commissioner's Order was issued to Metro and AA Property Holdings, Inc. on January 30, 1998.

Metro purchased the property in 2012 for use by its Department of Water and Sewerage Services for additional storage space and facility expansion for the adjacent water treatment facility. Metro removed buildings and re-established the landfill cap with two feet of new compacted clay cover. New stormwater control measures were also installed. Metro also paved a parking lot on a portion of the Landfill Area and added vegetative cover to the rest of the Landfill Area. A solar energy facility has been constructed on top of the clay-capped area on the north side of the Landfill area.

II. RESTRICTIONS

The purpose of these land use restrictions is to ensure the protection of human health and the environment by preventing certain uses or activities that could result in exposure to contamination present at the Landfill Area through direct contact, ingestion, or inhalation. The Grantor, its successors, or assigns shall operate and maintain these land use restrictions to protect the functional integrity of the remedy, which is the engineering control described herein. Unless otherwise specified, the following restrictions apply to Landfill Area. These restrictions shall run with the land and bind the Grantor, successors, and assigns, including without limitation any agents, representatives, contractors, subcontractors, or employees thereof. The Grantor agrees that the use of Landfill Area will be restricted as follows:

Land Use Controls

For purposes of this land use restriction, the following definition applies:

“Residential land use” means land on which a person resides. Types of dwellings associated with residential land use can include but are not limited to: single family homes; duplexes; multifamily homes such as apartments or condominiums; manufactured homes; mobile homes; group homes; jails or prisons; retirement homes; boarding houses; or dormitories. Schools, day-use senior or child-care centers, and churches are also considered residential land use even though people do not typically live there.

Uses of the Landfill Area are restricted as follows:

No Residential Land Use:

The Landfill Area shall not be used for residential purposes as the term is defined above.

Engineered Controls

All contaminated media and waste associated with the Landfill Area are contained within an engineered cap or cover, as shown in Exhibit B. The engineered cap includes a parking lot and a soil cap; a portion of the soil cap is covered by a solar array. This Landfill Area shall remain covered by a minimum of 24 inches of clean soil or by an impervious surface (concrete, asphalt, or pavement). The growing of trees and other invasive activities on this area(s) is prohibited. These protections shall be maintained until such time as TDEC determines they are no longer needed. The Grantor, its successors, or assigns shall not remove or disturb the engineered cap without prior written approval by TDEC. TDEC may require written evidence demonstrating to the satisfaction of TDEC that any such proposed action will not pose a danger to public health, safety, or the environment. Any approval granted by TDEC for such action shall be in writing and must contain a reference to this instrument. A copy of this approval should be retained by the Property owner and TDEC, and the Property owner should give any Property purchaser a copy of any written approvals.

Groundwater Control

The groundwater beneath the Landfill Area shall not be used, accessed, extracted, or otherwise disturbed unless required by a Government agency of competent jurisdiction or otherwise approved by TDEC. This Land Use Restriction prohibits (1) the installation of groundwater wells for any purpose other than environmental monitoring and (2) the installation of groundwater wells intended for use as a potable water source.

Invasive Activity Notice

The entire Landfill Area includes soil and other media that is impacted or reasonably suspected to be impacted, and shall not be excavated or otherwise disturbed in any manner:

- 1) without the prior written approval of TDEC. Based on the potential hazards associated with the soil disturbance activities, TDEC may deny the request to disturb the Landfill Area or may require specific protective or remedial actions before allowing such soil disturbance activities to occur; or,
- 2) except in accordance with a TDEC-approved Site or Soil Management Plan.

Any and all excavated soil or other media from the Landfill Area shall be managed, transported, and disposed of in compliance with all applicable federal, state, and local laws, regulations, and ordinances including without limitation those pertaining to environmental protection and occupational safety. Any approval required or requested that is granted by TDEC shall be in writing and must contain a reference to this instrument. The Grantor, its successors, or assigns seeking such approval shall not conduct these activities without accepting responsibility for costs incurred by TDEC in the review and oversight of work or associated with the review of any work plan or other associated documents.

Vapor Mitigation System

The Grantor, its successors, or assigns shall not begin construction of any buildings or expand any future buildings in the Landfill Area without evaluating whether environmental conditions pose a threat of vapor intrusion into the new building(s) or expansion, sharing its findings with TDEC, and receiving TDEC's written approval. If a vapor mitigation system is determined by TDEC to be warranted based upon the data evaluation in order to safely allow occupancy of such impacted buildings, then construction or expansion of any impacted building(s) is prohibited until such structures are equipped with an appropriate passive or active mitigation system with a corresponding operation and maintenance (O&M) plan as proposed by the property owner and approved by TDEC. No one shall disturb, modify, damage, or remove any vapor mitigation features at any structure at the Property unless approved in advance by TDEC and pursuant to a TDEC-approved work plan. Any approval granted by TDEC shall be in writing and must contain a reference to this instrument.

Emergency Contingencies

The Grantor, its successors, and/or assigns may only undertake invasive activities or some other disturbance of media that is or may be contaminated to complete emergency repairs to utility lines or other infrastructure on the Landfill Area or to respond to other types of emergencies (e.g., utility line break, fires, floods) if Grantor, its successors, and/or assigns take the following actions:

- i. notify TDEC within two (2) business days of obtaining knowledge of such emergency conditions to provide TDEC with the opportunity to oversee this work;

- ii. assure that the persons carrying out the excavation limit the disturbance of the soil or other media to the minimum reasonably necessary to adequately respond to the emergency;
- iii. assure that the persons carrying out the excavation prepare and implement such measures necessary to prevent actual, potential, present, or future risk to human health or the environment with TDEC's concurrence, including to undertake precautions to minimize exposure to workers responding to the emergency (e.g., provide appropriate types of protective clothing for workers conducting the excavation or other invasive activities and establish procedures for minimizing the dispersal of dust); and
- iv. assure that any excavated contaminated soil is managed or disposed of in compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances including, without limitation, those pertaining to environmental protection and occupational safety.

III. GENERAL PROVISIONS

1. Access by the Department

The Property meets the definition of a hazardous substance site or brownfield project as they are defined in Tennessee Code Annotated section 68-212-202(a). In addition to any rights already possessed by the Department for access, this Notice of Land Use Restrictions grants TDEC a right of reasonable access of the Property in connection with implementation or enforcement of this Notice of Land Use Restrictions.

2. Compliance Enforcement

Any owner of the Property or any unit of local government having jurisdiction over any part of the Property may enforce this Notice of Land Use Restrictions by means of a civil action. The Commissioner of TDEC may enforce this Notice of Land Use Restrictions through the issuance of an Administrative Order or by means of a civil action, including one to obtain an injunction against present or threatened violations of the restriction. Any person who fails, neglects, or refuses to comply with a land use restriction commits a Class B misdemeanor and is subject to the assessment of a civil penalty of up to ten thousand dollars (\$10,000) per day. Tenn. Code Ann. § 68-212-213. Nothing in this Notice of Land Use Restrictions shall restrict the Commissioner of TDEC from exercising any authority under applicable law.

Any easily curable default of a relatively minor nature may be cured by Grantor and shall not constitute an Event of Default, if Grantor, after receiving written notice from TDEC demanding cure of such default: (a) cures the default within fifteen (15) days; or (b) if the cure requires more than fifteen (15) days, immediately initiates steps which TDEC deems in TDEC's sole discretion to be sufficient to cure the default and thereafter continues and

completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

3. Notice of Limitations in Future Conveyances

Each instrument hereafter conveying any interest in the Property subject to this Notice of Land Use Restrictions shall contain a notice of the activity and use limitations set forth herein and shall provide the recorded location of this Notice of Land Use Restrictions in the records of the Register of Deed's Office specified above. Any future master plan of subdivision shall reference this Notice of Land Use Restrictions.

4. Notice to Lessees

The Grantor, its successors, or assigns agrees to incorporate either in full or by reference the restrictions of this Notice of Land Use Restrictions in any leases, licenses, or other instruments granting a right to use the Property.

This notice shall not be required for individual conveyances if there is a management company that is responsible for complying with this Notice of Land Use Restrictions.

5. Written Notice of the Presence of Contamination

The Grantor, its successors, or assigns agrees to include in any instrument conveying any interest in the Property or any portion thereof, including but not limited to deeds, leases, and subleases (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances), the following notice provision (with blanks to be filled in):

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO A NOTICE OF LAND USE RESTRICTIONS RECORDED IN THE REGISTERS OFFICE OF DAVIDSON COUNTY ON _____, 2025 INSTRUMENT NUMBER _____.

This notice shall not be required for individual conveyances if there is a management company that is responsible for complying with this Notice of Land Use Restrictions.

6. Subdivision

The Grantor, its successors, or assigns shall ensure that the restrictions established by this Notice of Land Use Restrictions remain on any subdivided property.

The notice provision in Section III.5. above shall be noted on the master deed of any planned development for the Property and noted, or referenced thereafter, on each individual deed of property subdivided from the Property and subject to the Notice.

7. Written Notice of Conveyance of Property

The Grantor, its successor, or assigns agrees to provide notice to TDEC of any conveyance (voluntary or involuntary) of any ownership interest or any conveyance of any leasehold interest in the Property (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances). The Grantor, its successor, or assigns must provide TDEC with the notice within 30 days of the conveyance and include the name and business address of the transferee. The term "Transferee," as used in this Notice of Land Use Restrictions, shall mean any future owner of any possessory interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, easement holders, or lessees. This notice shall not be required for individual conveyances if there is a management company that is responsible for complying with this Notice of Land Use Restrictions.

By taking title to an interest in or occupancy of the Property, any subsequent owner, lessee, or other party is required to comply with all the restrictions set forth in this Notice of Land Use Restrictions, Tennessee Code Annotated section 68-212-225(f), unless otherwise exempted by applicable law.

8. Term

This Notice of Land Use Restrictions shall run with and bind the Property and shall be binding upon all parties having right, title, or interest in the Property or any part thereof, their heirs, successors, assigns, grantees, and lessees unless this Notice of Land Use Restrictions is made less stringent or canceled as set forth under the paragraph entitled "Amendment and Termination."

9. Compliance Reporting

After written request by TDEC or by the end of every third January following the TDEC's approval of this Notice of Land Use Restrictions, the then-current owner of the Property shall submit to TDEC written documentation stating whether or not the activity and use limitations in this Notice of Land Use Restrictions are being abided by. In addition, within one month after any of the following events, the then-current owner of the Property shall submit to TDEC written documentation of any: (1) noncompliance with the activity and use limitations in this Notice of Land Use Restrictions; (2) transfer of the Property; (3) changes in use of the Property; or (4) filing of applications for building permits for the Property and any proposals for any site work, if the building or proposed site work will affect the contamination on the Property subject to this Notice of Land Use Restrictions.

10. Amendment and Termination

After public notice and an opportunity for public input as provided in Tennessee Code Annotated section 68-212-225(e), this Notice of Land Use Restrictions may be made less stringent or canceled by the Commissioner of TDEC where the risk has been eliminated or reduced so that less restrictive land use controls are protective of human health and the environment.

The Grantor, its successors, or assigns may request that TDEC approve a modification or termination of the Notice of Land Use Restrictions. The request shall contain information demonstrating the proposed modification or termination shall, if implemented, protect human health and the environment. TDEC shall review any submitted information and may request additional information. Information to support a request for modification or termination may include one or more of the following:

- a) a proposal to perform additional remedial work;
- b) new information regarding the risks posed by the residual contamination;
- c) information demonstrating that contamination identified in the Notice of Land Use Restrictions has diminished;
- d) information demonstrating that an engineered feature or structure is no longer necessary;
- e) information demonstrating that the proposed modification would not adversely impact the remedy and is protective of human health and the environment; or
- f) other appropriate supporting information.

The Grantor, its successors, or assigns seeking approval of other land uses or to cancel or make a Land Use Restriction less stringent shall be responsible for any costs incurred by TDEC in the review and oversight of work associated with the restriction modification.

11. Severability

Invalidation of any of these covenants or restrictions by judgement or court order shall in no way affect any other provisions, which shall remain in full force and effect.

The administrative record for the Property referenced in this Notice of Land Use Restrictions is maintained by the Tennessee Department of Environment and Conservation, Division of Remediation. For further information concerning the Property refer to site number 19-524.

Notice of Land Use Restrictions for:
Site # 19-524
1450 Lebanon Pike, Nashville, Tennessee

Real property described in a Deed of record with the Davidson County Register of Deeds as Instrument No. 20120827-0076918.

This Notice of Land Use Restrictions has been reviewed and approved by the Tennessee Department of Environment and Conservation, Division of Remediation

Name: James S. Sanders
Title: Director

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Personally appeared before me, the undersigned, Notary Public having authority within the aforesaid State, James S. Sanders, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is the Director of the Division of Remediation and is authorized to execute this instrument on behalf of the Department.

WITNESS my hand, at office, this _____ day of _____, 2025.

Notary Public _____

My Commission Expires: _____
Name: _____

Approved as to form and legality:

Michael D Lewis Senior Associate Counsel, Office of General Counsel
Tennessee Department of Environment and Conservation

Notice of Land Use Restrictions for:
Site # 19-524
1450 Lebanon Pike, Nashville, Tennessee

IN WITNESS WHEREOF, the undersigned has executed this instrument this _____ day
of _____ 2025.

Grantor

By:

Name: _____

Title: _____

STATE OF _____)
COUNTY OF _____)

Personally appeared before me, the undersigned Notary Public having authority
within the aforesaid State, _____, with whom I am personally
acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath,
acknowledged such person to be the _____ of _____
the within named Grantor, a corporation, and that such person executed this instrument for
the purposes herein contained, by signing the name of the corporation by such person as

WITNESS, this _____ day of _____, 2025.

Notary Public

Commission Expiration

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Land in Davidson County, Tennessee, being part of the same property conveyed from AA Property Holdings, Inc., a Delaware corporation, to Tennessee Services Corporation, a Delaware corporation, by Warranty Deed of record as Instrument No. 20021028-013868, said Register's Office, being more particularly described as follows:

COMMENCING at the northwest corner of a bridge where Lebanon Road crosses over the railroad, thence North 03 degrees 56 minutes 26 seconds East, 15.26 feet to an iron pin found at the southeast corner of the herein described property, this being the POINT OF BEGINNING;

Thence, South 81 degrees 53 minutes 22 seconds West, 668.09 feet to an iron pin (set);
Thence, South 07 degrees 19 minutes 17 seconds East, 5.03 feet to an iron pin (set);
Thence, South 81 degrees 53 minutes 22 seconds West, 150.09 feet to an iron pin (found);
Thence, North 06 degrees 26 minutes 12 seconds East, 798.32 feet to a mag nail (set);
Thence, South 81 degrees 11 minutes 35 seconds West, 170.06 feet to a mag nail (set);
Thence, South 07 degrees 19 minutes 59 seconds West, 222.48 feet to an iron pin (found);
Thence, South 79 degrees 44 minutes 29 seconds West, 51.66 feet to an iron pin (found);
Thence, North 10 degrees 41 minutes 52 seconds East, 29.19 feet to a mag nail (found);
Thence, South 83 degrees 17 minutes 31 seconds West, 259.93 feet to a mag nail (found);
Thence, South 83 degrees 44 minutes 52 seconds West, 554.23 feet to an iron pin (set);
Thence, South 83 degrees 29 minutes 15 seconds, West 319.41 feet to an iron pin (set);
Thence, South 11 degrees 53 minutes 55 seconds, West 595.87 feet to an iron pin (set);
Thence, with a curve to the right having a radius of 1,118.50 feet, an arc length of 45.28 feet, a chord bearing of North 78 degrees 48 minutes 19 seconds West, a chord length of 45.28 to an iron pin (set);

Thence, North 77 degrees 41 minutes 03 seconds West, 366.99 feet to an iron pin (set);
Thence, South 12 degrees 18 minutes 35 seconds West, 4.96 feet to an iron pin (set);
Thence, North 77 degrees 41 minutes 25 seconds West, 258.38 feet to a concrete monument (found), said point being the southwest corner of said property;

Thence, North 06 degrees 02 minutes 18 seconds East, 1,762.89 feet to iron pin (set);

Thence, North 25 degrees 00 minutes 52 seconds West, 502.92 feet to a T-post (found), said point being the northwest corner of said property;

Thence, North 65 degrees 20 minutes 47 seconds East, 1,453.97 feet to an iron pin (set);
Thence, South 22 degrees 58 minutes 42 seconds East, 471.37 feet to an iron pin (set);
Thence, North 81 degrees 45 minutes 35 seconds East, 76.49 feet to an iron pin (found);
Thence, South 43 degrees 44 minutes 26 seconds West, 8.67 feet to an iron pipe (found);

Thence, North 88 degrees 45 minutes 02 seconds East, 556.17 feet to an iron pin (found);

Thence, North 89 degrees 29 minutes 32 seconds East, 163.31 feet to an iron pin (set), said point being the northeast corner of said property;

Thence, with a curve to the right, having a radius of 7,218.97 feet, an arc length of 694.39 feet, a chord bearing of South 16 degrees 31 minutes 55 seconds East, a chord length of 694.12 feet to an iron pin (set);

Thence, South 19 degrees 17 minutes 15 seconds East, 741.07 feet to an iron pin (set);

Thence, with a curve to the right, having a radius of 2,814.79 feet, an arc length of 925.46 feet, a chord bearing of South 09 degrees 52 minutes 06 seconds East, a chord length of 921.30 feet to the POINT OF BEGINNING, containing 5,542,977.6 square feet or 127.25 acres more or less, according to a survey by Jeffrey A. Leopard, dated October 10, 2011 and revised August 14, 2012.

Notice of Land Use Restrictions for:
Site # 19-524
1450 Lebanon Pike, Nashville, Tennessee

EXHIBIT B
LEGAL DESCRIPTION AND SURVEY OF LANDFILL AREA

Notice of Land Use Restrictions for:
Site # 19-524
1450 Lebanon Pike, Nashville, Tennessee

