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HAZARDOUS MATERIALS
AND WASTE MANAGEMENT

RECEPTION#: 2009000072189,
09/29/2009 at 07:42:54 AM,1 OF 4
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Karen Long, Adams County, CO

This property is subject to an Environmental Covenant held by the Colorado Department of Public Health and Environment pursuant to section 25-15-321, C.R.S.

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OFFICE OF THE
ATTORNEY GENERAL
NATURAL RESOURCES &
ENVIRONMENT SECTION

ENVIRONMENTAL COVENANT

Se Vende Dos, LLC, a Colorado limited liability company grants an Environmental Covenant ("Covenant") this 8th day of September, 2009 to the Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and the Environment ("the Department") pursuant to § 25-15-321 of the Colorado Hazardous Waste Act, § 25-15-101, *et seq*. The Department's address is 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530.

WHEREAS, Se Vende Dos, LLC is the owner of certain property commonly referred to as Friendship Square Shopping Center, located at 1515 – 1595 E. Bridge Street, Brighton, CO 80601, more particularly described as Parcel Number 0156905331004 in Adams County, Colorado (hereinafter referred to as "the Property"); and

WHEREAS, pursuant to a Phased Corrective Action Plan dated November 10, 2003 and a Remediation Work Plan dated January 15, 2004, the Property is the subject of enforcement and remedial action pursuant to the Colorado Hazardous Waste Act, § 25-15-301, et. seq. ("CHWA"); and

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by restricting the use of the alluvial groundwater, located between the ground surface and bedrock underlying the Property

WHEREAS, Se Vende Dos, LLC desires to subject the Property to certain covenants and restrictions as provided in Article 15 of Title 25, Colorado Revised Statutes, which covenants and restrictions shall burden the Property and bind Se Vende Dos, LLC and all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, and any persons using the land, as described herein, for the benefit of the Department.

NOW, THEREFORE, Se Vende Dos, LLC hereby grants this Environmental Covenant to the Department, and declares that the Property known as Adams County Colorado Parcel Number 0156905331004 shall hereinafter be bound by, held, sold, and conveyed subject to the following requirements set forth in paragraphs 1 through 10, below, which shall run with the Property in perpetuity and be binding on Se Vende Dos, LLC and all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, and any persons using the land, as described herein. As used in this Environmental Covenant, the term Se Vende Dos, LLC means the record owner of the Property and, if any, any other person or entity otherwise legally authorized to make decisions regarding the transfer of the Property or placement of encumbrances on the Property, other than by the exercise of eminent domain.

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1) Use restrictions No pumping or drilling of the alluvial groundwater, located between the ground surface and bedrock underlying the Property, is allowed on the Property, except as provided in the following sentence. The preceding limitation does not apply to any pumping or drilling of groundwater for irrigation, monitoring, treatment or remedial purposes at, on, under, or arising from or relating to, the Property.

2) Modifications This Covenant runs with the land and is perpetual, unless modified or terminated pursuant to this paragraph. Se Vende Dos, LLC may request that the Department approve a modification or termination of the Covenant. The request shall contain information showing that the proposed modification or termination shall, if implemented, ensure protection of human health and the environment. The Department shall review any submitted information, and may request additional information. If the Department determines that the proposal to modify or terminate the Covenant will ensure protection of human health and the environment, it shall approve the proposal. No modification or termination of this Covenant shall be effective unless the Department has approved such modification or termination in writing. 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 residual contamination 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; and
   f) other appropriate supporting information.

3) Conveyances Se Vende Dos, LLC shall notify the Department at least fifteen (15) days in advance of any proposed grant, transfer or conveyance of any interest in any or all of the Property.

4) Notice to Lessees Se Vende Dos, LLC agrees to incorporate either in full or by reference the restrictions of this Covenant in any leases, licenses, or other instruments granting a right to use the Property.

5) Notification for proposed construction and land use Se Vende Dos, LLC shall notify the Department simultaneously when submitting any application to a local government for a building permit or change in land use.

6) Inspections The Department shall have the right of entry to the Property at reasonable times with prior notice for the purpose of determining compliance with the terms of this Covenant. Nothing in this Covenant shall impair any other authority the Department may otherwise have to enter and inspect the Property.

7) No Liability The Department does not acquire any liability under State law by virtue of accepting this Covenant

8) Enforcement The Department may enforce the terms of this Covenant pursuant to §25-15-322. C.R.S. Se Vende Dos, LLC may file suit in district court to enjoin actual or threatened violations of this Covenant.

9) Owner's Compliance Certification Se Vende Dos, LLC shall execute and return a certification form provided by the Department, on an annual basis, detailing Se Vende Dos, LLC 's compliance, and any lack of compliance, with the terms of this Covenant.

10) Notices Any document or communication required under this Covenant shall be sent or directed to:

Hazardous Waste Corrective Action Unit Leader
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and the Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Se Vende Dos, LLC, has caused this instrument to be executed this 8th day of September, 2009.

Se Vende Dos, LLC

By: _____
John V. Propp
Title: Manager

STATE OF COLORADO)
) ss:
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 8th day of SEPTEMBER 2009 by JOHN V. PROPP on behalf of Se Vende Dos, LLC.

JEAN McKEON NOTARY PUBLIC STATE OF COLORADO

Jean McKeon
Notary Public

_____
Address

My commission expires: Feb. 21, 2011

Accepted by the Colorado Department of Public Health and Environment this 17th day of September, 2009.

By: Gary W. Baughman

Title: Director, HMWMD

STATE OF COLORADO)
) ss:
COUNTY OF ARAPAHOE)

The foregoing instrument was acknowledged before me this 17 day of SEPTEMBER, 2009 by GARY BAUSHMAN on behalf of the Colorado Department of Public Health and Environment.

Claudette M. Ferris
Notary Public
4300 Cherry Creek Dr So
Denver, CO 80246
Address

My commission expires: October 21, 2011