RECORDED AS RECEIVED

RECEPTION#: 2010000080148,
11/17/2010 at 04:21:53 PM,1 OF 75,
TD Pgs: 0 Doc Type COV
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.

ENVIRONMENTAL COVENANT

JFRCO, LLC grants an Environmental Covenant ("Covenant") this 15th day of November, 2010 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.

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WHEREAS, JFRCO, LLC is the owner of certain property commonly referred to as Northview Shopping Center located at 5044 West 92nd Avenue, Westminster, Colorado, more particularly described as Lot E, Block 1, Northview Shopping Center Subdivision, Adams County, Colorado, portions of which, more particularly described in Attachments A, B and C, attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as "the Property"), contain residual levels of certain contaminants; and

WHEREAS, pursuant to the Integrated Corrective Action Plan (ICAP) approved by the Department on April 13, 2006 and Amendment #1 – Integrated Corrective Action Plan (ICAP Amendment # 1) as modified by the Division on October 11, 2006, the Property is the subject of enforcement and remedial action pursuant to the Colorado Hazardous Waste Act, § 25-15-301, et. seq. ("CHWA"); and associated Colorado Hazardous Waste Regulations at 6 Colorado Code of Regulations 1007-3; and

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by placing restrictions and requirements on uses of the Property in areas that exhibit residual levels of contamination above regulatory standards; and

WHEREAS, JFRCO, 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 JFRCO, LLC and all parties now or subsequently having any right, title or interest in the Property, or any part thereof, and any persons using the land, as described herein, for the benefit of the Department.

NOW, THEREFORE, JFRCO, LLC hereby grants this Environmental Covenant to the Department, and declares that the Property as described in Attachments A, B and C shall hereinafter be bound by, held, sold, and conveyed subject to the following requirements set forth in paragraphs 1 through 11, below, which shall run with the Property in perpetuity and be binding on JFRCO, LLC and all parties having any right, title or interest in the Property, or any part thereof, and any persons using the land, as described herein. As used in this Environmental Covenant, the term OWNER means the then current record owner of the Property and, if any,

SUZANNE BURDICK
DEPT OF LAW/NRE
1525 SHERMAN ST FL 7
DENVER, CO 80203

Trans#:0

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.

1) Use restrictions

a) Within the area marked as Parcel A on Attachment A, and more particularly described in Attachment B, any activity that disturbs soil to a depth of two feet or greater, shall be performed in accordance with a Materials Management Plan approved by the Department, a copy of which is attached hereto as Attachment D. A copy also can be obtained from the Division at the address provided in Section 11 herein.

b) Within the areas marked as Parcels A, B-1 and B-2 on Attachment A, and more particularly described in Attachments B and C:

i) The uppermost groundwater (defined as groundwater occurring from the ground surface to a depth of fifty (50)-feet) shall not be withdrawn for any use. This limitation does not apply to the installation or use of any monitoring or treatment well installed on the Property for use solely to obtain samples for analysis and/or to conduct remediation.

ii) Any excavation, grading, or construction activity that has the potential to expose groundwater shall be conducted pursuant to the groundwater provisions of a Materials Management Plan approved by the Department, a copy of which is attached hereto as Attachment D and incorporated herein by reference. A copy also can be obtained from the Division at the address provided in Section 11 herein.

iii) No residential use shall be permitted.

c) OWNER shall maintain and continue to operate the sub-slab depressurization systems located in Units C-3 and C-4, 5044 West 92nd Avenue, Westminster, Colorado, within Lot E, Block 1, Northview Shopping Center Subdivision, Adams County, Colorado.

2) Modifications This Covenant runs with the land and is perpetual, unless modified or terminated pursuant to this paragraph. OWNER 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 OWNER 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 OWNER 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 OWNER 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.

7) Third Party Beneficiary The OWNER of the Property is a third party beneficiary with the right to enforce the provisions of this Covenant as provided in § 25-15-322, C.R.S.

8) No Liability The Department does not acquire any liability under State law by virtue of accepting this Covenant nor does any other named beneficiary of this Covenant acquire any liability under State law by virtue of being such a beneficiary.

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

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

11) 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

JFRCO, LLC
2000 South Colorado Blvd.
Denver, Colorado 80222

JFRCO, LLC, has caused this instrument to be executed this 30th day of August, 2010

JFRCO, LLC

By: Margot F. Zaterman

Title: Managing Member

STATE OF Colorado)
) ss:
COUNTY OF Denver)

The foregoing instrument was acknowledged before me this 30th day of August, 2010 by Margot F. Zaterman on behalf of JFRCO, LLC

Janet S. Fuller
Notary Public

2000 S. Colorado Blvd.
Address Suite 2-750
Denver, CO 80222

JANET S. FULLER NOTARY PUBLIC STATE OF COLORADO

Janet S. Fuller
NOTARY PUBLIC
State of Colorado
My Commission Expires
April 7, 2011

My commission expires: April 7, 2011

Accepted by the Colorado Department of Public Health and Environment this 18th day of October, 2010

By: Gary W. Baughman

Title: Director, HMWMD

STATE OF COLORADO)
) ss:
COUNTY OF ARAPAHOE)

The foregoing instrument was acknowledged before me this 18 day of October, 2010 by Gary W. Baughman on behalf of the Colorado Department of Public Health and Environment.

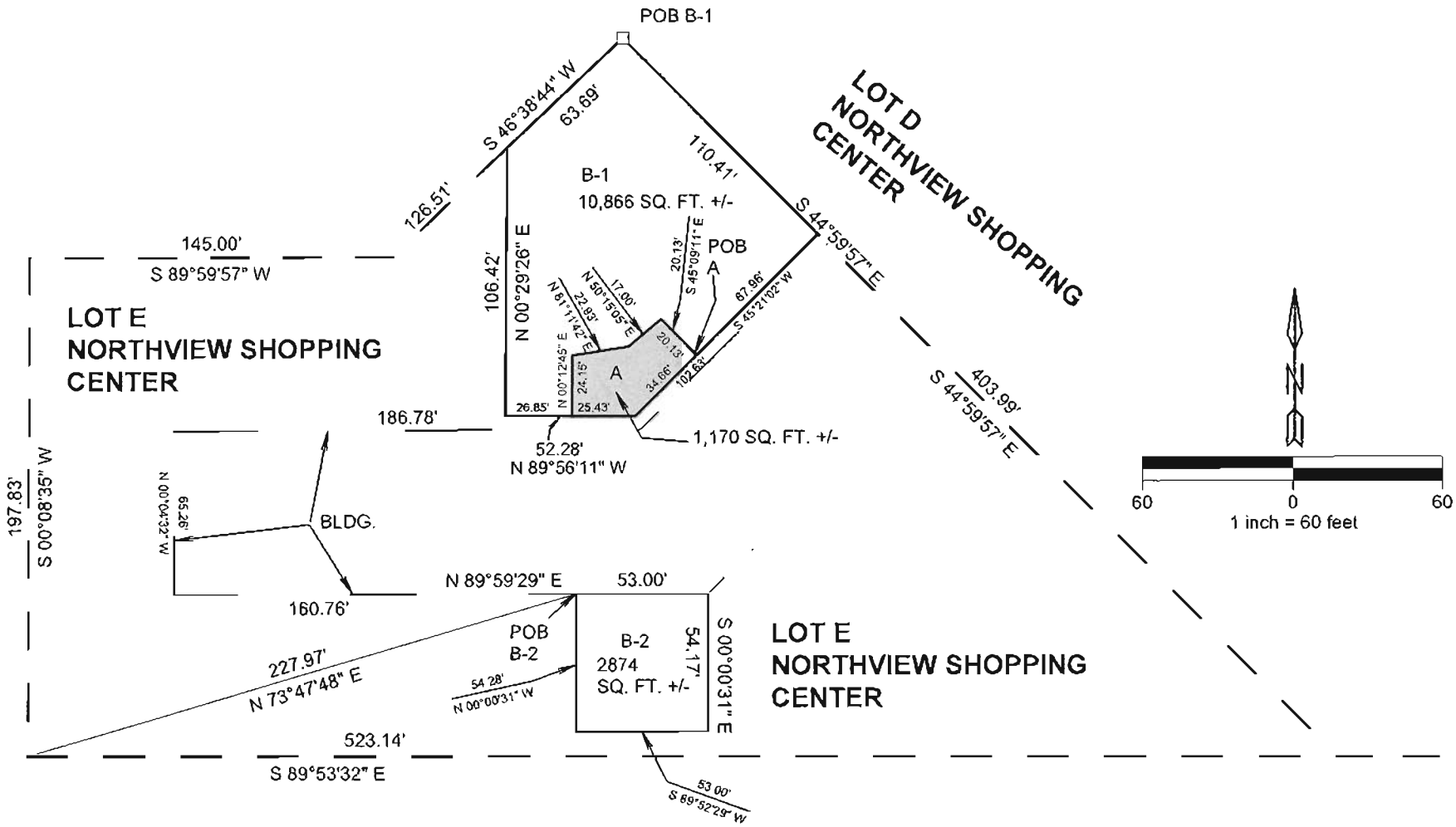
Claudette M. Ferris
Notary Public

4300 Cherry Creek Dr So
Address

Denver, CO 80246

My commission expires: October 21, 2011

ATTACHMENT A



THOMAS SURVEY SERVICES, LLC
2619 11TH STREET ROAD, SUITE 24
GREELEY, COLORADO 80634
TELEPHONE: (970) 304-0984

THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED LAND SURVEY. THE SOLE PURPOSE OF THIS EXHIBIT IS TO DEPICT THE ATTACHED LEGAL DESCRIPTIONS.

PROJECT: 1003.011
DRAWING: CASEY RESOURCES
NORTHVIEW ENV. COV.

ATTACHMENT B

DESCRIPTION OF PARCEL A

A PARCEL OF LAND LOCATED IN LOT E, BLOCK 1, NORTHVIEW SHOPPING CENTER BEING A PORTION OF THE SOUTHWEST ¼ OF SECTION 19, TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, COUNTY OF ADAMS, STATE OF COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHERN MOST CORNER OF LOT E, BLOCK 1, OF SAID NORTHVIEW SHOPPING CENTER AND CONSIDERING THE EASTERLY LINE OF SAID LOT E TO BEAR SOUTH 44°59'57" EAST WITH ALL BEARINGS HEREIN, RELATIVE THERETO;

THENCE SOUTH 44°59'57" EAST ALONG SAID EASTERLY LINE, 110.41 FEET;

THENCE SOUTH 45°21'02" WEST, 67.96 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING SOUTH 45°21'02" WEST, 34.66 FEET;

THENCE NORTH 89°56'11" WEST, 25.43 FEET;

THENCE NORTH 00°12'45" EAST, 24.15 FEET;

THENCE NORTH 81°11'42' EAST, 22.93 FEET;

THENCE NORTH 50°15'05" EAST, 17.00 FEET;

THENCE SOUTH 45°09'11" EAST, 20.13 FEET, TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 1,170 SQUARE FEET, MORE OR LESS AND IS SUBJECT TO RECORDED EASEMENTS AND RIGHTS-OF-WAY.

ROBERT D. THOMAS

COLORADO PROFFESSIONAL LAND SURVEYOR NUMBER 11399

ATTACHMENT C

DESCRIPTION OF PARCEL B-1

A PARCEL OF LAND LOCATED IN LOT E, BLOCK 1, NORTHVIEW SHOPPING CENTER BEING A PORTION OF THE SOUTHWEST ¼ OF SECTION 19, TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, COUNTY OF ADAMS, STATE OF COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHERN MOST CORNER OF LOT E, BLOCK 1, OF SAID NORTHVIEW SHOPPING CENTER AND CONSIDERING THE EASTERLY LINE OF SAID LOT E TO BEAR SOUTH 44°59'57" EAST WITH ALL BEARINGS HEREIN, RELATIVE THERETO;

THENCE SOUTH 44°59'57" EAST ALONG SAID EASTERLY LINE, 110.41 FEET;

THENCE SOUTH 45°21'02" WEST, 67.96 FEET;

THENCE NORTH 45°09'11" WEST, 20.13 FEET;

THENCE SOUTH 50°15'05" WEST, 17.00 FEET;

THENCE SOUTH 81°11'42" WEST, 22.93 FEET;

THENCE SOUTH 00° 12'45" WEST, 24.15 FEET;

THENCE NORTH 89°56'11" WEST, 26.85 FEET;

THENCE NORTH 00°29'26" EAST, 106.42 FEET TO A POINT ON THE BOUNDARY OF SAID LOT E;

THENCE NORTH 46°38'44" EAST, ALONG SAID BOUNDARY, 63.69 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 10,866 SQUARE FEET, MORE OR LESS AND IS SUBJECT TO RECORDED EASEMENTS AND RIGHTS-OF-WAY.

ROBERT D. THOMAS

COLORADO PROFFESSIONAL LAND SURVEYOR NUMBER 11399

DESCRIPTION OF PARCEL B-2

A PARCEL OF LAND LOCATED IN LOT E, BLOCK 1, NORTHVIEW SHOPPING CENTER BEING A PORTION OF THE SOUTHWEST ¼ OF SECTION 19, TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, COUNTY OF ADAMS, STATE OF COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT E, BLOCK 1, OF SAID NORTHVIEW SHOPPING CENTER AND CONSIDERING THE SOUTH LINE OF SAID LOT E TO BEAR SOUTH 89°53'32" EAST WITH ALL BEARINGS HEREIN, RELATIVE THERETO;

THENCE NORTH 73°47'48" EAST, 227.97 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 89°59'29" EAST, 53.00 FEET;

THENCE SOUTH 00°00'31" EAST, 54.17 FEET;

THENCE SOUTH 89°52'29" WEST, 53.00 FEET;

THENCE NORTH 00°00'31" WEST, 54.28 FEET TO THE POINT OF BEGINNING;

THE ABOVE DESCRIBED PARCEL CONTAINS 2,874 SQUARE FEET, MORE OR LESS AND IS SUBJECT TO RECORDED EASEMENTS AND RIGHTS-OF-WAY.

ROBERT D. THOMAS

COLORADO PROFFESSIONAL LAND SURVEYOR NUMBER 11399