

Recording Requested By and
When Recorded Return to:

SPACE ABOVE THIS LINE FOR RECORDERS USE ONLY

THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT IMPOSING ACTIVITY AND USE LIMITATIONS PURSUANT TO THE UNIFORM ENVIRONMENTAL COVENANTS ACT, IDAHO CODE § 55-3001, et seq.

ENVIRONMENTAL COVENANT

This instrument is an Environmental Covenant ("Environmental Covenant") executed by City of Boise; Adare Manor LLC, and the Idaho Department of Environmental Quality ("Department") pursuant to the Uniform Environmental Covenants Act, Idaho Code §§ 55-3001 through 3015. This Environmental Covenant sets forth protective provisions, covenants, restrictions and conditions (collectively referred to as "Activity and Use Limitations") on the Property described below. The Activity and Use Limitations are designed to protect natural resources, human health and the environment. Both the City of Boise and Adare Manor LLC are a "holder" as defined in Idaho Code § 55-3002(6). City of Boise, as the current property owner grants this Environmental Covenant to all signatories to this instrument.

Property. This Environmental Covenant concerns real property located at 2403 W. Fairview Avenue, City of Boise, County of Ada, State of Idaho and legally described in the attached Warrantee Deed attached hereto and marked as Attachment A (hereafter referred to as "the Property"). The Restricted Area of the Property is illustrated on the map attached hereto and marked as Attachment B.

Property Ownership. City of Boise hereby represents and warrants to the other signatories to this Environmental Covenant that it is the sole owner of the Property, holds fee simple title to the Property and City of Boise has the power and authority to enter into this Environmental Covenant.

Reason for Activity and Use Limitations. The Property described above was previously used to operate as oil distributors. After conducting a Brownfields assessment on the Property it was determined that the Restricted Area of Property has naphthalene and benzo(a)pyrene, contamination in the soil. This Environmental Covenant is required because there are residual concentrations of the above mentioned petroleum constituents in soils underlying the Restricted Area of Property, These concentrations are above allowable risk-based concentration as

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determined by the Department therefore future use of the Restricted Area of Property shall be limited to protect human health and the environment.

Name and Location of Administrative Record. A copy of the site document, including the Supplemental Phase II Environmental Summary Report for 2403 and 2419 W. Fairview Avenue Boise, Idaho can be found in the Gillingham Construction files (TRIM # 2014BBC13) at the Idaho Department of Environmental Quality, Boise Regional Office, at 1445 N Orchard, Boise ID. The site is identified with a Brownfield (BF) identification number 132.

Activity and Use Limitations. By acceptance and recordation of this Environmental Covenant, City of Boise, and any successors in interest, are hereby restricted from using the Restricted Area of Property, now or at any time in the future, as specifically set forth below:

1. Excavation or any other disturbances of soil in the Restricted Area of the Property are prohibited, except that soil may be excavated in conjunction with a soil management plan or other activities that are approved by the Department prior to conducting excavation activities.

Breach and Cure of Activity and Use Limitations. City of Boise, or its successors in interest, shall be responsible for demonstrating that use on the Restricted Area of the Property is in conformity with the Activity and Use Limitations. If any event or action occurs that constitutes or may constitute a breach of the activity and use limitations, City of Boise, or any successors in interest, shall notify the Department within thirty (30) days of becoming aware of the event or action, and shall remedy the breach of the activity and use limitations within sixty (60) days of becoming aware of the event or action, or such other time frame as may be agreed to by City of Boise or any successors in interest, and Department.

Amendment by Consent. The Environmental Covenant may be amended by consent pursuant to Idaho Code § 55-3010. Except for an assignment undertaken pursuant to a governmental reorganization, assignment of the Environmental Covenant to a new holder is an amendment.

Duration and Termination. The Activity and Use Limitations shall apply to the Restricted Area of Property, or any subdivided portion thereof, in perpetuity unless terminated by court action as provided in Idaho Code § 55-3009 or by consent pursuant to Idaho Code § 55-3010. City of Boise, or its successors in interest, may seek consent to terminate the Activity and Use Limitations that apply to the Restricted Area of the Property, or any subdivided portion thereof, pursuant to Idaho Code § 55-3010, by demonstrating with the record before the Department that:

1. Contaminated soils are at levels the Department deems in writing to be adequate for the Restricted Area of the Property to be developed for unrestricted use.

Provisions to Run With the Land. Each and all of the Activity and Use Limitations shall run with the land, and pass with each and every portion of the Restricted Area of the Property, and shall apply to and bind the respective successors in interest thereof. Each and all of the Activity and Use Limitations are imposed upon the Restricted Area of the Property unless expressly stated

as applicable to a specific portion of the Restricted Area of the Property.

Concurrence of Subsequent Owners Presumed. All purchasers, lessees, or possessors of any portion of the Property shall be deemed by their purchase, leasing, or possession of such Property, to be in accord with the foregoing and to agree for and among themselves, and their successors, that the Activity and Use Limitations as herein established must be adhered to and that their interest in the Property shall be subject to the Activity and Use Limitations contained herein.

Recording/Filing of Environmental Covenant. This Environmental Covenant and any amendment or termination of the Environmental Covenant shall be recorded in the county recorder's office of every county in which any portion of the Property subject to the Environmental Covenant is located. The Environmental Covenant or any amendment or termination shall be recorded by City of Boise, or its successors in interest, within ten (10) days of receipt of this Environmental Covenant signed by the Department. Within ten (10) days of the recording of this Environmental Covenant, or any amendment or termination, City of Boise, or its successors in interest, shall provide to the Department a copy of this recorded Environmental Covenant, or any amendment or termination of this Environmental Covenant. Upon receipt of the copy of the recorded Environmental Covenant, and any amendment or termination therein, the Department shall post the copy of the fully executed instrument in the Registry as required by Idaho Code Section 55-3012(1). In addition, a copy of the recorded Environmental Covenant, or any amendment or termination, shall be provided by City of Boise, or by its successors in interest, to the following persons: (a) each person that signed the Environmental Covenant; (b) each person holding a recorded interest in the Property; (c) each person in possession of the Property; (d) each municipality or other local government in which the Property is located; and (e) any other person the Department requires. The validity of the Environmental Covenant is not affected by failure to provide a copy of the Environmental Covenant as required under this section.

Compliance Reporting. City of Boise, or and any successors in interest, shall submit to the Department on an annual basis written documentation verifying that the activity and use limitations remain in place and their compliance with the activity and use limitations.

Enforcement. The Department and any party of the Environmental Covenant shall have authority to enforce the Activity and Use Limitations against City of Boise or its successors-in-interest, including subsequent owners of the Restricted Area of the Property and any other person using the Restricted Area of the Property. Failure of City of Boise, or its successor in interest, to comply with any of the Activity and Use Limitations set forth herein shall be grounds for the Department, or its successor, and/or any party to this Environmental Covenant to require that City of Boise correct or remove any violations of this Environmental Covenant. Violation of this Environmental Covenant shall be grounds for the Department, or its successor, and/or any persons identified in Idaho Code § 55-3011 to file civil actions against City of Boise or its successors-in-interest, as provided by law or in equity, including without limitation, the Uniform Environmental Covenants Act, Idaho Code § 55-3011.

Non-Waiver. No failure on the part of the Department or any holder at any time to require performance of any term of this Environmental Covenant shall be taken or held to be a waiver of such term or in any way affect the Department's or any holder's rights to enforce such term.

Property Access. The Department shall have a right of access to the Property at reasonable times for the purposes of evaluating compliance with this Environmental Covenant.

Notice of Conveyance of Property. Within thirty (30) days of the closing of any conveyance of the Property, or part thereof, the Conveyer of the Property, shall provide written notice to the Department and each municipality or other local government in which the Property is located, the name and address of all the then Owners and/or Occupants of the Property, or part thereof, conveyed. The Department shall not, by reason of this Environmental Covenant, have authority to approve, disapprove, or otherwise affect any conveyance of the Property except as otherwise provided by law.

Notices. All notices required or permitted to be given hereunder shall be in writing and mailed in the United States Mail, postage prepaid, by certified or registered mail, return receipt requested, to the appropriate address indicated below or at such other place or places as either City of Boise or its successors, or the Department or its successors, may, from time to time, respectively, designate in a written notice given to the other. Notices which are deposited in the United States Mail in accordance with the terms of this provision shall be deemed received three (3) days after the date of mailing thereof.

OWNER: City of Boise
P.O. Box 500
Boise, Idaho 83701

THE DEPARTMENT:
Idaho Department of Environmental Quality
ATTN: State Response Program Manager
1410 N. Hilton
Boise, ID 83706

HOLDER: Adare Manor, LLC
ATTN: Thomas C Mannschreck
413 W Idaho Suite 200
Boise, ID 83702

Costs and Expenses. All costs of terminating this Environmental Covenant, including the cost of any remediation or abatement of any environmental condition related to Activity and Use Limitations pertaining to the Restricted Area of the Property, shall be borne by the party seeking such termination.

Partial Invalidity. If any portion of the Environmental Covenant or terms set forth herein is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such invalidated portion had not been included herein.

Headings. Headings at the beginning of each section of this Environmental Covenant are solely for the convenience of the parties and are not a part of the Environmental Covenant.

Idaho Code References. All references to the Idaho Code sections include successor provisions.

Reservation of Rights. Notwithstanding any provision of this Environmental Covenant, the Department retains all of its access and enforcement authorities under any applicable statute or

rule. Nothing in this Environmental Covenant shall affect the Department's ability to enforce the terms of any voluntary consent order or other agreement relating to remediation of the Property entered into between the Department and City of Boise or any other responsible party. Nothing in this Environmental Covenant shall affect the obligations of City of Boise or any other responsible party under such voluntary consent order or other agreement. The Department's acceptance hereunder is based upon the information presently known or available to the Department with respect to the environmental condition of the Property, and the Department reserves the right to take appropriate action under applicable authorities in the event the Department determines new information warrants such action.

Effective Date. The effective date of this instrument shall be the date the fully executed Environmental Covenant is recorded at the county recorder's office.



Attachment A

1A

2



ADA COUNTY RECORDER J. DAVID NAVARRO
 BOISE IDAHO 01/18/08 01:41 PM
 DEPUTY Bonnie Oberbillig
 RECORDED - REQUEST OF
 Title One

AMOUNT 6.00 2



Order No.: A0770526 ST/LSO

WARRANTY DEED

For Value Received,

Surgical Hospital, LLC, an Idaho limited liability company, the Grantor, does hereby grant, bargain sell and convey unto, City of Boise, an Idaho Municipal corporation, whose current address is 150 N. Capitol Blvd, Boise, Idaho 83706-9276, the Grantee, the following described premises, in Ada County, Idaho, To Wit:

Parcel I:

Lots 1, 2 and the North 12 feet of Lots 11 and 12 and the vacated alley contiguous to said lots all in Block 43 of FAIRVIEW ADDITION, according to the official plat thereof, filed in Book 2 of Plats at Page 73, records of Ada County, Idaho.

Parcel II:

Lots 11 and 12 in Block 43 and the North half of Park Street (now vacated) lying immediately South and adjacent to said Lots 11 and 12 of said Block 43 of FAIRVIEW ADDITION, according to the official plat thereof, filed in Book 2 of Plats at Page 73, records of Ada County, Idaho.

EXCEPT the North 12 feet of said Lots 11 and 12.

Parcel III:

Lots 1, 2, 3 and 4 in Block 45 of SUBDIVISION AND RE-SUBDIVISION OF CERTAIN BLOCKS IN FAIRVIEW ADDITION, according to the official plat thereof, filed in Book 5 of Plats at Page 221, records of Ada County, Idaho.




TOGETHER WITH the Southerly 30 feet of vacated Park Street lying Northerly and adjacent to said lots.

EXCEPT that portion thereof, conveyed to the State of Idaho by Deeds recorded as Instrument Nos. 8932623 and 8932624, which are re-recordings of Instrument Nos. 8929173 and 8929172, of official Records.

Attachment B



Legend

-  2403 W Fairview Ave
-  Property Boundary
-  Restricted Area 1

W Fairview Ave

S 25th St

S 24th St

S 23rd St

2403 W Fairview Ave



Google earth

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400 ft