



Space above this line for Recorder's use.

After recording, return to:

Grantee

Oregon DEQ
700 NE Multnomah St.
Suite 600
Portland, Oregon 97232
Attention: Mark Pugh, Project Manager
mark.pugh@deq.oregon.gov

Grantor

TH & JP, LLC
C/O Tera Heintz
4300 NE Hancock Street
Portland, OR 97213

EASEMENT AND EQUITABLE SERVITUDES

This grant of Easement and acceptance of Equitable Servitudes ("EES") is made on Dec 5, 2024 between TH & JP, LLC ("**Grantor**") and the State of Oregon, acting by and through the Oregon Department of Environmental Quality ("DEQ" or "**Grantee**").

RECITALS

A. Grantor is the owner of certain real property located at 4300 NE Hancock Street, Portland, Multnomah County, Oregon, identified as State ID 1N2E30CC 4900 in Multnomah County records (the "**Property**") the location of which is more particularly described in Exhibit A to this EES. The Property is referenced under Tie's Dry Cleaning, ECSI #6478 in DEQ's Environmental Cleanup Program files. Interested parties can access site-related environmental cleanup information to review a detailed description of the potential risks from contamination remaining at the Property on the [Your DEQ Online webpage for the Property](#), or by contacting DEQ's Northwest Region office.

B. Tie's One Hour Dry Cleaning began operations in the northeastern tenant spaces in 1983. Tetrachloroethylene (PCE) was used in the dry-cleaning operation from 1983 until 1995 when a hydrocarbon-based system was installed. PCE is no longer used at the facility. A fish aquarium business operates in the adjacent space to the east, and a gym is located in the southern tenant space.

C. An investigation in 2021 found elevated sub-slab vapor PCE levels up to 230,000 micrograms per meter cubed (ug/m^3), well above DEQ's risk-based concentration of 1,600 ug/m^3 for commercial use. Trichloroethene (TCE), a breakdown product of PCE, and sometimes used as a spot cleaner in dry cleaning operations, was detected up to 3,400 ug/m^3 , compared to its risk-based concentration of 100 ug/m^3 . PCE was detected at 3.47 milligrams per

kilogram (mg/kg) in soil collected from a suspected source area at 4 feet below the dry cleaning machine. TCE was not detected in soil.

D. Vapor investigations conducted in September 2022 and March 2023 showed similarly elevated sub-slab concentrations (PCE up to 220,000 ug/m³; TCE up to 9,950 ug/m³). PCE and TCE were detected in indoor air at low levels below applicable DEQ risk-based concentrations in the 2022 sampling event. PCE was detected above its risk-based concentration of 47 ug/m³ by an order of magnitude in the 2023 event.

E. In response to these results Grantee installed a sub-slab depressurization system (SSDS) beneath the floor per a DEQ-approved plan. The SSDS consists of 9 shallow wells fitted with in-line fans that discharge through a common exhaust port. Eight wells are located in the dry cleaner space, and one is located in the fish aquarium store. The SSDS effluent is passed through a granular activated carbon filter prior to discharge to the atmosphere above the roofline. The SSDS was activated in August 2023. Monitoring events were completed in November 2023, February 2024, and May 2024 to assess system operation and seasonal variation in vapor concentrations. PCE and TCE concentrations were within acceptable risk levels in indoor air. Sub-slab vapor concentrations have decreased overall, although the highest residual concentration of PCE at 44,000 ug/m³ remains well above its risk-based concentration.

F. This EES is intended to ensure protection of human health and the environment from residual contamination that remains at the Property.

G. Nothing in this EES constitutes an admission by Grantor of any liability for the contamination described in the EES.

1. DEFINITIONS

- 1.1 "Acceptable risk level" has the meaning set forth in Oregon Revised Statute (ORS) 465.315 and Oregon Administrative Rule (OAR) 340-122-0115.
- 1.2 "DEQ" means the Oregon Department of Environmental Quality, and its employees, agents, and authorized representatives. "DEQ" also means any successor or assign of DEQ under the laws of Oregon, including but not limited to any entity or instrumentality of the State of Oregon authorized to perform any of the functions or to exercise any of the powers currently performed or exercised by DEQ.
- 1.3 "Owner" means any person or entity, including Grantor, who at any time owns, occupies, or acquires any right, title, or interest in or to any portion of the Property or a vendee's interest of record to any portion of the Property, including any successor, heir, assign or holder of title or a vendee's interest of record to any portion of the Property, but excluding any entity or person who holds such interest solely for the security for the payment of an obligation and does not possess or control use of the Property.
- 1.4 "Remedial Action" has the meaning set forth in ORS 465.200 and OAR 340-122-0115.

2. GENERAL DECLARATION

2.1 Grantor, in consideration of Grantee's issuance of a No Further Action determination with conditions subject to finalization and recording of this EES, grants to DEQ an

Easement for access and accepts the Equitable Servitudes described in this instrument and, in so doing, declares that the Property is now subject to and must in the future be conveyed, transferred, leased, encumbered, occupied, built upon, or otherwise used or improved, in whole or in part, subject to this EES.

2.2 Each condition and restriction set forth in this EES touches and concerns the Property and the equitable servitudes granted in Section 3 and easement granted in Section 4 below, runs with the land for all purposes, is binding upon all current and future owners of the Property as set forth in this EES, and inures to the benefit of the State of Oregon. Grantor further conveys to DEQ the perpetual right to enforce the conditions and restrictions set forth in this EES.

3. EQUITABLE SERVITUDES (REQUIRED ACTIONS AND RESTRICTIONS ON USE)

3.1. **Maintenance of the Sub-slab Depressurization System.** Except upon prior written approval from DEQ, Owner will maintain the existing sub-slab depressurization system and granular activated (GAC) exhaust filter in accordance with the DEQ-approved Operation and Maintenance (O&M) plan dated November 14, 2024.

3.2. **Maintenance of the Floor.** Owner will maintain the floor in the building. The floor provides a physical barrier to reduce vapor intrusion, and prevents direct contact with contaminated soil beneath the floor.

3.3. **Use Restriction and Vapor Assessment Requirement.** Should the Property be redeveloped, substantial remodeling planned, or be converted to residential use, a DEQ-approved vapor assessment and additional cleanup actions as warranted will be completed by Owner at their expense prior to occupancy to ensure conditions are safe for the intended use.

3.4. **Contaminated Media Management Plan.** Prior to conducting intrusive activities, Owner will prepare a DEQ-approved Contaminated Media Management Plan (CMMP) to ensure that proper controls are implemented during activities where impacted media may be contacted or generated.

3.4 **Use of the Property.** Owner may not occupy or allow other parties to occupy the Property unless the controls listed in this Section 3 are maintained.

4. EASEMENT (RIGHT OF ENTRY)

During reasonable hours and subject to reasonable security requirements, DEQ may enter upon and inspect any portion of the Property to determine whether the requirements of this EES have been or are being complied with. Except when necessary to address an imminent threat to human health or the environment, DEQ will use its best efforts to notify the Owner 72 hours before DEQ entry to the Property. DEQ may enter upon the Property at any time to abate, mitigate, or cure at the expense of the Owner the violation of any condition or restriction contained in this EES, provided DEQ first gives written notice of the violation to Owner

describing what is necessary to correct the violation and Owner fails to cure the violation within the time specified in such notice. Any such entry by DEQ to evaluate compliance or to abate, mitigate, or cure a violation may not be deemed a trespass.

5. RELEASE OF RESTRICTIONS

5.1. Owner may request release of any or all of the conditions or restrictions contained in this EES by submitting such request to the DEQ in writing with evidence that the conditions or restrictions are no longer necessary to protect human health and the environment. The decision to release any or all of the conditions or restrictions in this EES will be within the sole discretion of DEQ.

5.2. Upon a determination pursuant to Subsection 5.1, DEQ will, as appropriate, execute and deliver to Owner a release of specific conditions or restrictions, or a release of this EES in its entirety.

6. GENERAL PROVISIONS

6.1. **Notice of Transfer/Change of Use.** Owner must notify DEQ within 10 days after the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of Owner's interest in or occupancy of the Property. Such notice must include the full name and address of the Party to whom Owner has transferred an interest or right of occupancy. In addition, Owner must notify DEQ a minimum of 10 days before the effective date of any change in use of the Property that might expose human or ecological receptors to hazardous substances. Such notice must include complete details of any planned development activities or change in use. Notwithstanding the foregoing, Owner may not commence any development inconsistent with the conditions or restrictions in Section 3 without prior written approval from DEQ as provided in Subsection 3 of this EES or removal of the condition or restriction as provided in Subsection 5.1. This subsection does not apply to the grant or conveyance of a security interest in the Property.

6.2. **Zoning Changes.** Owner must notify DEQ no less than 30 days before Owner's petitioning for or filing of any document initiating a rezoning of the Property that would change the base zone of the Property under the Multnomah County zoning code or any successor code. As of the date of this EES, the base zone of the Property is Commercial Mixed Use 2 CM2). Downtown Mixed Use (DMU).

6.3. **Cost Recovery.** Owner will pay DEQ's costs for review and oversight of implementation of and compliance with the provisions in this EES, including but not limited to periodic review and tracking of actions required by this EES. This EES constitutes the binding agreement by the Owner to reimburse DEQ for all such eligible review and oversight costs. DEQ will establish a cost recovery account for tracking and invoicing DEQ project costs. DEQ will provide the Owner with a monthly statement and direct labor summary. DEQ costs will include direct and indirect costs. Direct costs include site-specific expenses and legal costs. Indirect costs are those general management and support costs of the State of Oregon and DEQ allocable to DEQ oversight of this EES and not charged as direct site-specific costs. Indirect charges are based on actual costs and are applied as a percentage of direct personal services costs.

6.4 **Inspection and Reporting.** Owner will immediately notify DEQ of any condition or occurrence at the Property that does not conform with provisions of this EES.

6.5 **Reference in Deed.** A reference to this EES, including its location in the public records, must be recited in any deed conveying the Property or any portion of the Property. Each condition and restriction contained in this EES runs with the land so burdened until such time as the condition or restriction is removed by written certification from DEQ, recorded in the deed records of Clatsop County, certifying that the condition or restriction is no longer required to protect human health or the environment.

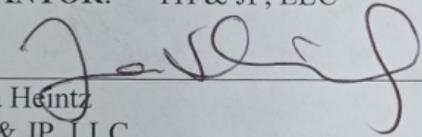
6.6 **Effect of Recording.** Upon the recording of this EES, all future Owners are conclusively deemed to have consented and agreed to every condition and restriction contained in this EES, whether or not any reference to this EES is contained in an instrument by which such person or entity occupies or acquires an interest in the Property.

6.7 **Enforcement and Remedies.** Upon any violation of any condition or restriction contained in this EES, the State of Oregon, in addition to the remedies described in Section 4, may enforce this EES as provided in the Order or seek available legal or equitable remedies to enforce this EES, including civil penalties as set forth in ORS 465.900.

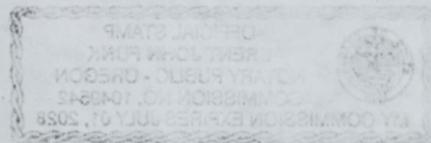
6.8 IN WITNESS WHEREOF Grantor and Grantee have executed this Easement and Equitable Servitude as of the date and year first set forth above.

BY SIGNATURE BELOW, THE STATE OF OREGON APPROVES AND ACCEPTS THIS CONVEYANCE PURSUANT TO ORS 93.808.

GRANTOR: TH & JP, LLC

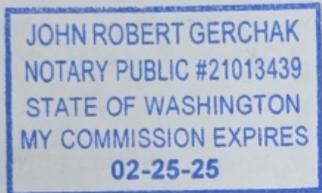
By: 
Tera Heintz
TH & JP, LLC

Date: 1/25/25



Washington
STATE OF OREGON)
County of Thurston) ss.

The foregoing instrument is acknowledged before me this 25th day of January, 2024, by Tera Heintz of TH & JP, LLC, on its behalf.



[Signature]

NOTARY PUBLIC FOR OREGON Washington
My commission expires: 02/25/25

GRANTEE: State of Oregon, Department of Environmental Quality

By: *[Signature]* Date: 12/5/24
Kevin Parrett, Cleanup and Emergency Response Manager, Northwest Region

STATE OF OREGON)
County of Multnomah) ss.

The foregoing instrument is acknowledged before me this 5th day of December, 2024, by Kevin Parrett of the Oregon Department of Environmental Quality, on its behalf.



[Signature]

NOTARY PUBLIC FOR OREGON
My commission expires: 7/1/2028

EXHIBIT A

Legal Description of the Property

MENEFEE ADD, BLOCK 5, LOT 16, W 1/2 OF LOT 17&18, E 1/2 OF LOT 17&18