



March 5, 2009

David South
Washington Department of Ecology
NWRO, TCP
3190 160th Ave S.E.
Bellevue, WA 98008-5452

Re: Notice of Potential Liability
Lora Lake Apartment Site
Facility/Site No. 6635198

Dear Mr. South:

The Port of Seattle (Port) has received your letter dated 2/3/09 notifying the Port of the Washington Department of Ecology's (Ecology) finding that the Port is a potentially liable person (PLP) under the Model Toxics Control Act (MTCA) at the Lora Lake Apartment site.

PLP Waiver and Next Steps

The Port has previously acknowledged that it is the current owner of the subject property, and that hazardous substances are present at the site in soil and ground water at levels that exceed MTCA cleanup standards. We therefore accept PLP status without admitting liability and waive our right to comment. The signed waiver letter is attached (Attachment #1).

As you have discussed with Port staff, the Port is amenable to entering a MTCA Agreed Order to investigate the nature and extent of the hazardous substances at the site, and to conduct a feasibility study and develop a draft cleanup action plan. At Ecology's request, the Port has prepared a draft Agreed Order for your review, which is attached to this letter as Attachment #2.

Identification of Other PLPs

The Port asserts that the source of the hazardous substances at Lora Lake Apartments is past site operations conducted by prior site owners and operators who therefore are PLPs. A list of prior owners and operators of the property is attached for Ecology's information and action (Attachment #3). We have summarized the currently-available evidence, and continue to search for additional evidence of past practices of these past owners and operators.

If you have any questions please call Paul Agid at 206-439-6604.

Sincerely,

A handwritten signature in black ink, appearing to read "Tay Yoshitani".

Tay Yoshitani
Chief Executive Officer
Port of Seattle

Cc: King County Housing Authority

Attachment #1

PLP Waiver


PLP WAIVER

Mr. Tay Yoshitani
Chief Executive Officer
Port of Seattle
P.O. Box 1209
Seattle, WA 98111

Pursuant to WAC 173-340-500 and WAC 173-340-520(1)(b)(i), I, Tay Yoshitani, a duly authorized representative of the Port of Seattle, do hereby waive the right to the thirty- (30) day notice and comment period described in WAC 173-340-500(3) and accept status of the Port of Seattle as a Potentially Liable Person at the following site:

- Site Name: Lora Lake Apartments Site
- Address: 15001 Des Moines Memorial Drive, Burien, WA 98148
- Facility/Site No.: 6635198

This waiver is solely for purposes of entering into an Agreed Order with the Washington State Department of Ecology. By waiving this right, the Post of Seattle makes no admission of liability.



Signature



Date

Relation To The Site: Owner and Operator

Attachment #2

Draft Agreed Order

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
DRAFT**

In the Matter of Remedial Action by:

Port of Seattle

AGREED ORDER

No.

TO: Mr. Paul W. Agid
Port of Seattle
P.O. Box 68727
Seattle, WA 98168

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I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology), the Port of Seattle [and others to be determined] under this Agreed Order (Order) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires the Port of Seattle [and other PLPs to be determined] to conduct a Remedial Investigation (RI), Feasibility Study (FS), and prepare a Draft Cleanup Action Plan (DCAP) under formal guidance provided by Ecology. Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

This Agreed Order is issued pursuant to the Model Toxics Control Act (MTCA), RCW 70.105D.050(1).

III. PARTIES BOUND

This Agreed Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such party to comply with this Order. The PLPs agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter responsibility under this Order. The PLPs shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Order.

IV. DEFINITIONS

Unless otherwise specified herein, the definitions set forth in Chapter 70.105D RCW and Chapter 173-340 WAC shall control the meanings of the terms in this Order.

A. Site: The Site is referred to as the Lora Lake Apartment Site and is located at 15001 Des Moines Memorial Drive, Burien, WA 98148. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site. Based upon factors currently known to Ecology, the Site is more particularly described in the Site Diagram (Exhibit

A). The Site constitutes a Facility under RCW 70.105D.020 (5). The site includes soil and groundwater affected by the release of chemicals from the site.

B. Parties: Refers to the State of Washington, Department of Ecology, the Port of Seattle [and others to be determined].

C. Potentially Liable Persons (PLPs): Refers to the Port of Seattle [and others to be determined]

D. Agreed Order or Order: Refers to this Order and each of the exhibits to this Order. All exhibits are integral and enforceable parts of this Order. The terms “Agreed Order” or “Order” shall include all exhibits to this Order.

V. FINDINGS OF FACT

Ecology makes the following findings of fact, without any express or implied admissions of such facts by the PLPs:

A. The Site is located at 15001 Des Moines Memorial Drive, Burien, WA. The Port of Seattle is the current property owner.

B. Prior to 1940, the site was both an orchard and private residence. During the 1940s and 1950s, a barrel cleaning company (Novak Barrel Cleaning Company) operated at the site. From approximately 1960 to 1981, an automobile wrecking company (Burien Auto Wrecking) operated at the site. In the 1986 to 1987 timeframe, The Mueller Group, a building developer, purchased the property, investigated and removed contaminated soil, and constructed the Lora Lake Apartments. In 1998, the Port acquired the apartment complex from Pacific Gulf Properties, Inc. for conversion to airport support (industrial) use, and vacated the Apartments. Ownership of the apartment complex was transferred to KCHA in May 2000, and new tenants were brought in. On July 20, 2007, ownership of the Lora Lake Apartments was transferred back to the Port of Seattle. KCHA initiated actions to secure ownership, but later abandoned these efforts. Following reacquisition of the site by the Port, six of the apartment buildings were demolished (see Figure 1-1) to comply with Federal Aviation Administration (FAA) flight path requirements for the Third Runway.

In April 2008, the Port of Seattle and KCHA entered the site into the Voluntary Cleanup Program (VCP). In September 2008, the VCP application was revised to name the Port of Seattle as single applicant.

C. The Site has been the subject of several environmental investigations and remediation activities. Between 1986 and 1987, investigative and cleanup work was conducted by The Mueller Group. Documents describing this work were provided to the Washington Department of Ecology (Ecology) by The Mueller Group. Ecology responded in a letter dated December 10, 1987 stating that based on the information provided no additional investigation was required at the time.

The Port of Seattle conducted additional investigations in 2007-2008 under the Voluntary Cleanup Program.

The following documents include supporting information regarding the investigation and remediation activities conducted by both The Mueller Group and the Port of Seattle.

1986-1987 Investigation and Remediation Documents:

Golder & Associates, 1986. Letter to Mr. Raul Ramos, The Mueller Group, RE: Preliminary Geotechnical Site Investigation, Laura Lake Apartments, King County, Washington. August 1, 1986.

Golder & Associates, 1986. Letter to Mr. Raul Ramos, The Mueller Group, RE: Geotechnical Site Investigation, Laura Lake Apartments, King County, Washington. September 19, 1986.

Golder & Associates, 1987. Letter to Mr. Raul Ramos, The Mueller Group, RE: Cleanup Activities, Laura Lake Apartments. March 27, 1987.

Golder & Associates, 1987. Letter to Mr. Pat Hendley and Mr. Raul Ramos, The Mueller Group, RE: Site Investigation and Clean Up, Laura Lake Apartments. April 6, 1987.

Golder & Associates, 1987. Letter to Mr. Pat Hendley, The Mueller Group, RE: Lora Lake Apartment Development Site Investigation and Clean-up. June 30, 1987.

Golder & Associates, 1987. Letter to Mr. Douglas Barnes, The Mueller Group, RE: Lora Lakes Clean Up. December 9, 1987.

Ecology, 1987. Letter to Mr. Douglas J. Barnes, The Mueller Group, RE: Lora Lake Apartments – Site Investigation and Clean-up. December 10, 1987.

2008-2009 Investigation Documents:

GeoScience Management, 2008. Letter to Paul Agid and Don Robbins, Port of Seattle, RE: Report of Focused Subsurface Investigation at Lora Lake Apartments in Vicinity of Previous Environmental Clean-up in 1987 by Golder Associates, Tax Lot Number 2023049105, Port of Seattle Parcel Number 029R, 15001 Des Moines Memorial Way South, WA. April 7, 2008.

ENSR, 2008. *Site Investigation Work Plan – Lora Lake Apartments*, ENSR Corporation. March 24, 2008.

ENSR, 2008. *Soil, Groundwater, and Sub-slab Air Investigation, Lora Lakes Apartments*, ENSR Corporation. June 2008.

ENSR, 2008. *Supplemental Groundwater Investigation, Lora Lakes Apartments*, ENSR Corporation. November 17, 2008.

D. On the basis of the facts set forth herein, Ecology has determined that a release or threatened release of hazardous substances at the Site requires remedial actions to protect human health and the environment. This Order sets forth the measures that need to be taken to perform a RI/FS and DCAP for the Site.

VI. ECOLOGY DETERMINATIONS

A. The Port of Seattle is the current owner of the property at 15001 Des Moines Memorial Drive in Burien, Washington.

B. Based upon all factors known to Ecology, a “release” or “threatened release” of “hazardous substance(s)” as defined in RCW 70.105D.020(25) and RCW 70.105D.020(10), respectively, has occurred at the Site.

C. Based upon credible evidence, Ecology issued a PLPs status letter to the Port of Seattle dated February 3, 2009, pursuant to RCW 70.105D.040, -.020(21) and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability,

Ecology issued determinations that the Port of Seattle [and others TBD] are the PLPs under RCW 70.105D.040 and notified the Port of Seattle of this determination by letter dated _____.

D. Pursuant to RCW 70.105D.030(1) and 70.105.050(1), Ecology may require the PLPs to investigate or conduct other remedial actions with respect to any release or threatened release of hazardous substances, whenever it believes such action to be in the public interest. Based on the foregoing facts, Ecology believes the remedial actions required by this Order are in the public interest.

E. Under WAC 173-340-430, an interim action is a remedial action that is technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance, that corrects a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed, or that is needed to provide for completion of a site hazard assessment, remedial investigation/feasibility study or design of a cleanup action. Ecology will determine if interim actions are warranted and will give direction to the PLPs regarding the scope and schedule for such interim actions.

VII. WORK TO BE PERFORMED

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that the PLPs take the following remedial actions at the Site and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein:

A. The PLPs shall prepare the following deliverables in accordance with WAC 173-340-600, WAC 173-340-350 through 173-340-390 and WAC 173-204:

- Public Participation Plan
- Existing Information Summary and Data Gaps Report;
- Remedial Investigation and Feasibility (RI/S) Work Plan;
- Remedial Investigation
- Feasibility Study, and;

- Draft Cleanup Action Plan (DCAP)

A scope of work for the RI/FS and DCAP is more particularly described in Exhibit B, “Scope of Work” and is incorporated by reference as an enforceable part of this Order. To plan and manage the RI/FS/DCAP, the project tasks and management strategies shall be summarized in the RI/FS/DCAP Work Plans (Work Plan) that will be developed and submitted to Ecology for review and approval in accordance with the Scope of Work.

B. The schedule of performance and list of deliverables is described in Exhibit C, “Schedule of Deliverables” and is incorporated by reference as an enforceable part of this Order.

C. Should an interim remedial action be determined necessary under Section VI.E., the PLPs will prepare and implement Work Plans as specified in Exhibit B, Scope of Work.

D. The PLPs shall submit Quarterly Progress Reports. Progress reports shall be submitted to Ecology until satisfaction of this Order in accordance with Section IX of the Order. Progress Reports shall be submitted to the Ecology project coordinator by the 15th of the month following the end of calendar year quarter. If this day is a weekend or holiday, deliverables will be submitted to Ecology on the next business day. At a minimum, progress reports shall contain the following information regarding the preceding reporting period:

- A description of the actions which have been taken to comply with this Order.
- Summaries of sampling and testing reports and other data reports received by the PLPs;
- Summaries of deviations from approved work plans;
- Summaries of contacts with representatives of the local community, public interest groups, press, and federal, state, or tribal governments;
- Summaries of problems or anticipated problems in meeting the schedule or objectives set forth in the SOW and Work Plan;
- Summaries of solutions developed and implemented or planned to address any actual or anticipated problems or delays;
- Changes in key personnel; and

- A description of work planned for the next reporting period.

E. If, at any time after the first exchange of comments on drafts, Ecology determines that insufficient progress is being made in the preparation of any of the deliverables required by this Section, Ecology may complete and issue the final deliverable.

VIII. TERMS AND CONDITIONS OF ORDER

A. Public Notice

RCW 70.105D.030(2)(a) requires that, at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate to Ecology that this Order is inadequate or improper in any respect.

B. Remedial Action Costs

The PLPs shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under Chapter 70.105D RCW, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). The PLPs shall pay the required amount within ninety (90) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

Pursuant to RCW 70.105D.055, Ecology has authority to recover unreimbursed remedial action costs by filing a lien against real property subject to the remedial actions.

C. Implementation of Remedial Action

If Ecology determines that the PLPs have failed without good cause to implement the remedial action, in whole or in part, Ecology may, after notice to the PLPs, perform any or all portions of the remedial action that remain incomplete. If Ecology performs all or portions of the remedial action because of the PLPs failure to comply with its obligations under this Order, the PLPs shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.B (Remedial Action Costs), provided that the PLPs are not obligated under this Section to reimburse Ecology for costs incurred for work inconsistent with or beyond the scope of this Order.

Except where necessary to abate an emergency situation, the PLPs shall not perform any remedial actions at the Site outside those remedial actions required by this Order, unless Ecology concurs, in writing, with such additional remedial actions.

D. Designated Project Coordinators

The project coordinator for Ecology is:

David South
Washington Department of Ecology
Northwest Regional Office
Toxics Cleanup Program
3190 160th Avenue SE
Bellevue, Washington 98008
Telephone: (425) 649-7231
FAX: (425) 649-7161
Email: dort461@ecy.wa.gov

The project coordinator for the PLPs is:

Mr. Paul W. Agid
Port of Seattle
P.O. Box 68727
Seattle, WA 98168
Telephone: (206) 439-660
FAX: (206) 439-6617
Email: Agid.P@portseattle.org

Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and the PLPs, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Order.

Any party may change its respective project coordinator. Written notification shall be given to the other party at least ten (10) calendar days prior to the change.

E. Performance

All geologic and hydrogeologic work performed pursuant to this Order shall be under the supervision and direction of a geologist licensed in the State of Washington or under the direct supervision of an engineer registered in the State of Washington, except as otherwise provided for by Chapters 18.220 and 18.43 RCW.

All engineering work performed pursuant to this Order shall be under the direct supervision of a professional engineer registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

All construction work performed pursuant to this Order shall be under the direct supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

Any documents submitted containing geologic, hydrologic or engineering work shall be under the seal of an appropriately licensed professional as required by Chapter 18.220 RCW or RCW 18.43.130.

The PLPs shall notify Ecology in writing of the identity of any engineer(s) and geologist(s), contractor(s) and subcontractor(s), and others to be used in carrying out the terms of this Order, in advance of their involvement at the Site.

F. Access

Ecology or any Ecology authorized representative shall have the full authority to enter and freely move about all property at the Site that the PLPs either own, control, or have access rights to at all reasonable times for the purposes of, *inter alia*: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the PLPs. Progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by the PLPs. The PLPs shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by the Port of Seattle where remedial activities or investigations will be performed pursuant to this Order. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by the Port of Seattle unless an emergency prevents such notice. All persons who access the Site pursuant to this Section shall comply with any applicable Health and Safety Plan(s). Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access.

G. Sampling, Data Submittal, and Availability

With respect to the implementation of this Order, the PLPs shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf, including data generated prior to the effective date of this order, available to Ecology. Pursuant to WAC 173-340-840(5), all sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with Section VII. (Work to be Performed), Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and/or any subsequent procedures specified by Ecology for data submittal.

If requested by Ecology, the PLPs shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the PLPs pursuant to implementation of this Order. The PLPs shall notify Ecology fourteen (14) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow the PLPs

and/or their authorized representatives to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII.F (Access), Ecology shall notify the PLPs prior to any sample collection activity unless an emergency prevents such notice.

In accordance with WAC 173-340-830(2)(a), all hazardous substance analyses shall be conducted by a laboratory accredited under Chapter 173-50 WAC for the specific analyses to be conducted, unless otherwise approved by Ecology.

H. Public Participation

A Public Participation Plan is required for this Site. Ecology shall review any existing Public Participation Plan to determine its continued appropriateness and whether it requires amendment, or if no plan exists, Ecology shall develop a Public Participation Plan alone or in conjunction with the PLPs.

Ecology shall maintain the responsibility for public participation at the Site. However, the PLPs shall cooperate with Ecology, and shall:

1. If agreed to by Ecology, develop appropriate mailing lists and prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering design reports. As appropriate, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings.

2. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before major meetings with the interested public and local governments. Likewise, Ecology shall notify the PLPs prior to the issuance of all press releases and fact sheets, and before major meetings with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by the PLPs that do not receive prior Ecology approval, the PLPs shall clearly indicate to their audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

3. When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions or as a presenter.

4. If agreed to by Ecology, develop and manage a website information repository specific to the Site, accessible by the public, where project documents are posted. At a minimum, copies of all public notices, fact sheets, and press releases; all quality assured monitoring data; remedial action plans and reports, supplemental remedial planning documents, and all other similar documents relating to performance of the remedial action required by this Order shall be promptly uploaded to the website repository.

I. Retention of Records

During the pendency of this Order, and for ten (10) years from the date of completion of work performed pursuant to this Order, the PLPs shall preserve all records, reports, documents, and underlying data in its possession relevant to the implementation of this Order and shall insert a similar record retention requirement into all contracts with project contractors and subcontractors. Upon request of Ecology, the PLPs shall make all records available to Ecology and allow access for review within a reasonable time.

J. Resolution of Disputes

1. In the event a dispute arises as to an approval, disapproval, proposed change, or other decision or action by Ecology's project coordinator, or an itemized billing statement under Section VIII.B (Remedial Action Costs), the Parties shall utilize the dispute resolution procedure set forth below.

a. Upon receipt of Ecology's project coordinator's written decision or the itemized billing statement, the PLPs have thirty (30) days within which to notify Ecology's project coordinator in writing of its objection to the decision or itemized statement.

i. The PLPs shall include in the written objection sufficient detail to allow Ecology to evaluate the merits of the dispute.

deadline for which the extension is requested, and good cause exists for granting the extension.

All extensions shall be requested in writing. The request shall specify:

- a. The deadline that is sought to be extended;
- b. The length of the extension sought;
- c. The reason(s) for the extension; and
- d. Any related deadline or schedule that would be affected if the extension were granted.

2. The burden shall be on the PLPs to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. Good cause may include, but may not be limited to:

- a. Circumstances beyond the reasonable control and despite the due diligence of the PLPs including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by the PLPs;
- b. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty; or
- c. Endangerment as described in Section VIII.M (Endangerment).

However, neither increased costs of performance of the terms of this Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of the PLPs.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give the PLPs written notification of any extensions granted pursuant to this Order. A requested extension shall not be effective until approved by Ecology. Unless the extension is a substantial change, it shall not be necessary to amend this Order pursuant to Section VIII.L (Amendment of Order) when a schedule extension is granted.

4. An extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety (90) days only as a result of:

- a. Delays in the issuance of a necessary permit which was applied for in a timely manner;
- b. Other circumstances deemed exceptional or extraordinary by Ecology; or
- c. Endangerment as described in Section VIII.M (Endangerment).

L. Amendment of Order

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement.

Except as provided in Section VIII.N (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and the PLPs. The PLPs shall submit a written request for amendment to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request for amendment is received. If the amendment to this Order represents a substantial change, Ecology will provide public notice and opportunity to comment. Reasons for the disapproval of a proposed amendment to this Order shall be stated in writing. If Ecology does not agree to a proposed amendment, the disagreement may be addressed through the dispute resolution procedures described in Section VIII.J (Resolution of Disputes).

M. Endangerment

In the event Ecology determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment on or surrounding the Site, Ecology may direct the PLPs to cease such activities for such period of time as it deems necessary to abate the danger. The PLPs shall immediately comply with such direction.

In the event the PLPs determine that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment, the PLPs may cease such activities. The PLPs shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction the PLPs shall provide Ecology with documentation of the basis for

the determination or cessation of such activities. If Ecology disagrees with the PLPs cessation of activities, it may direct the PLPs to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to Section VIII.M (Endangerment), the PLPs obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended in accordance with Section VIII.K (Extension of Schedule) for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Order shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

N. Reservation of Rights

This Order is not a settlement under Chapter 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any of Ecology's rights or authority. Ecology will not, however, bring an action against the PLPs to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against the PLPs regarding remedial actions required by this Order, provided the PLPs comply with this Order.

Ecology nevertheless reserves its rights under Chapter 70.105D RCW, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health and the environment, and to issue orders requiring such remedial actions. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances at the Site.

O. Transfer of Interest in Property

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by the PLPs without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to the PLPs transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the PLPs shall provide a copy of this Order to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, the PLPs shall notify Ecology of said transfer. Upon transfer of any interest, the PLPs shall restrict uses and activities to those consistent with this Order and notify all transferees of the restrictions on the use of the property.

P. Compliance with Applicable Laws

1. All actions carried out by the PLPs pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in RCW 70.105D.090.

2. Pursuant to RCW 70.105D.090(1), the PLPs are exempt from the procedural requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals. However, the PLPS shall comply with the substantive requirements of such permits or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this Section.

The PLPs have a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or the PLPs determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify the other parties of its determination. Ecology shall determine whether Ecology or the PLPs shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the PLPs shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by the PLPs and on how the PLPs must meet those requirements. Ecology shall inform the PLPs in writing of these requirements. Once established by Ecology,

the additional requirements shall be enforceable requirements of this Order. The PLPs shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

3. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency that is necessary for the State to administer any federal law, the exemption shall not apply and the PLPs shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

Q. Indemnification

The PLPs agree to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action for death or injuries to persons or for loss or damage to property to the extent arising from or on account of acts or omissions of the PLPs, its officers, employees, agents, or contractors in entering into and implementing this Order. However, the PLPs shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action to the extent arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in entering into or implementing this Order.

IX. SATISFACTION OF ORDER

The provisions of this Order shall be deemed satisfied upon the PLPs' receipt of written notification from Ecology that the PLPs have completed the remedial activity required by this Order, as amended by any modifications, and that the PLPs have complied with all other provisions of this Agreed Order.

X. ENFORCEMENT

Pursuant to RCW 70.105D.050, this Order may be enforced as follows:

A. The Attorney General may bring an action to enforce this Order in a state or federal court.

B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.

C. In the event the PLPs refuse, without sufficient cause, to comply with any term of this Order, the PLPs will be liable for:

a. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply; and

b. Civil penalties of up to twenty-five thousand dollars (\$25,000) per day for each day it refuses to comply.

D. This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under RCW 70.105D.060.

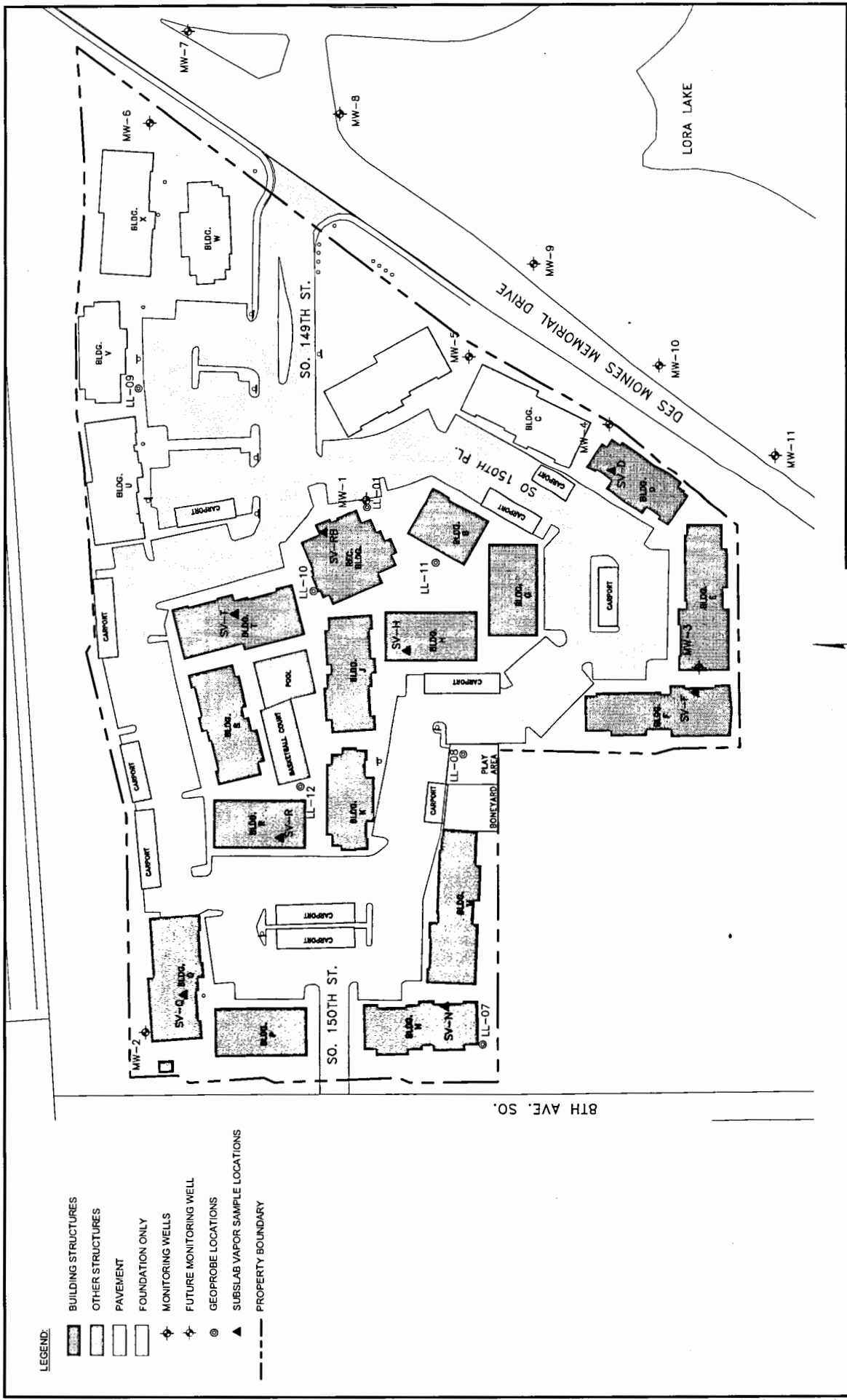
Effective date of this Order: _____

PORT OF SEATTLE

**STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY**

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Chief Executive Officer
Port of Seattle
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- LEGEND:**
- BUILDING STRUCTURES
 - OTHER STRUCTURES
 - ▭ PAVEMENT
 - ▭ FOUNDATION ONLY
 - ⊕ MONITORING WELLS
 - ⊕ FUTURE MONITORING WELL
 - ⊙ GEOPROBE LOCATIONS
 - ▲ SUBSLAB VAPOR SAMPLE LOCATIONS
 - - - PROPERTY BOUNDARY

AECOM

LORA LAKE APARTMENTS
15001 DES MOINES MEMORIAL DRIVE, BURIEN, WA
05482-025

DATE: 01/25/09 DRAWN: E.M./SEA

SITE DIAGRAM

EXHIBIT A

File: L:\Lora Lake\SITE-DWG\RM.dwg Layout: ANSL-BI-CP User: Morsholle Plotted: Jan 30, 2009 - 2:33pm Met's

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EXHIBIT B – SCOPE OF WORK (SOW)

PURPOSE

The Scope of Work (SOW) under this Agreed Order (AO) involves preparing a Formal Remedial Investigation (RI), and Feasibility Study (FS) and a Draft Cleanup Action Plan (DCAP) to provide for the selection of a cleanup alternative. The purpose of the RI/FS and DCAP for the Lora Lake Apartments, 15001 Des Moines Memorial Drive, Burien, Washington (the Site) is to provide sufficient data, analysis, and evaluations to enable Ecology to select a cleanup alternative for the Site. The PLPs shall complete a Formal RI/FS that meets the requirements of Chapter 173-340 WAC.

The Potentially Liable Party (PLP) will work cooperatively with Ecology to support public participation in the scoping and implementation of the work performed under the Agreed Order in accordance with Section VIII.H of the Agreed Order. All work identified below shall be performed in accordance with the schedule in Exhibit C.

The SOW is divided into nine major tasks as follows:

- Task 1. Public Participation Plan
- Task 2. Summary of Existing Information and Data Gaps Report
- Task 3: Remedial Investigation Work Plan
- Task 4. Remedial Investigation, as appropriate
- Task 5. Interim Action Work Plan (if required)
- Task 6. Feasibility Study Work Plan
- Task 7. Feasibility Study
- Task 8. Draft Cleanup Action Plan (DCAP), as appropriate
- Task 9. Progress Reports

TASK 1: PUBLIC PARTICIPATION PLAN

The PLP will develop a public participation plan in cooperation with Ecology pursuant to the Model Toxics Control Act (MTCA) and Agreed Order No. # XXXXXXXX to promote meaningful community involvement during the investigation and cleanup of Lora Lake Apartments. This plan will outline and describe the tools that the PLP and Ecology will use to inform the public about Site activities and will identify opportunities for the community to become involved.

TASK 2: SUMMARY OF EXISTING INFORMATION AND DATA GAPS REPORT

Task 2.1 Summary of Existing Information and Data Gaps Report

Draft Scope of Work
Port of Seattle

The purpose of the Summary of Existing Information and Identification of Data Gaps (Supplemental Data Gaps Report) is to identify contaminants of concern (COCs) for the Site. The report will be comprehensive and well organized and display information from all of the past reports with new and newly reported information. The Data Gaps document shall clearly display Gaps or areas where further investigation is necessary. The Data Gaps Report will be prepared and provide the following information:

- Available information regarding site history, site operations and descriptions of hazardous substances used at the Site;
- Description of all on-site structures (including utility and storm drains) with available drawings or maps;
- Available chemical and physical data from soil sampling and groundwater monitoring not previously summarized in reports and submitted to Ecology;
- Description of previous independent remedial actions taken at the Site;
- Evaluation of the exposure pathways for their potential to serve as ongoing sources of residual impacts from operations to recontaminate soils groundwater and surface water:
 - Storm water discharges from the site
 - Preferential subsurface pathways
 - Groundwater discharges, seeps and interflow
 - Soil erosion
 - Underground storage tanks (USTs), underground piping, and similar structures;
- A Conceptual Site Model (CSM) that includes the characterization of historical and existing contaminant sources, types, concentrations and distribution of hazardous substances, potentially contaminated media, and actual and potential exposure pathways and receptors;
- Identification of data gaps
- Recommendations for the RI.

The PLP shall prepare two (2) paper copies and one electronic copy each in Word (.doc) and Adobe (.pdf) formats of the Draft Supplemental Data Gaps Report for submittal to Ecology for review and comment. After addressing Ecology's comments on the draft work plan and after Ecology approval, the PLPs shall prepare ten (10) paper copies and one electronic copy each in Word (.doc) and Adobe (.pdf) formats of the final Data Gaps documents for submittal to Ecology and the appropriate document repositories.

TASK 3: RI/FS WORK PLAN

The conclusions of the Supplemental Data Gaps Report will be used in developing the RI/FS Work Plan for the Site. To plan and manage the RI/FS, the project tasks shall be summarized in a RI/FS Work Plan (Work Plan) that will be developed by the PLPs and submitted to Ecology. The Work Plan shall include the following:

Draft Scope of Work
Port of Seattle

- Description and schedule of all RI/FS tasks, subtasks and interim and final deliverables;
- Summary of results of Supplemental Data Gaps Report;
- A project management plan which describes the project management strategy for implementing and reporting on RI activities including an outline for the responsibility and authority of all organizations and key personnel involved in conducting the RI/FS;
- The Work Plan shall describe general facility information, site history and conditions including all hazardous substances used at the Site, past field investigations including data collection and analysis of soils, groundwater, surface water and sediments, a conceptual site model, contaminant migration pathways, geology and groundwater system characteristics, land use, natural resources and ecological receptors, hazardous substances sources etc., in compliance with WAC 173-340-350 and WAC 173-204-560.
- Description of the Conceptual Site Model (CSM)) that includes the characterization of potential and existing contaminant sources, types, concentrations and spatial distribution of hazardous substances, potentially and contaminated media, and actual and potential exposure pathways and receptors and risk pathway analysis;
- Evaluation of the following pathways for their potential to re-contaminate media:
 - Storm water discharges
 - Preferential subsurface pathways
 - Groundwater discharges, seeps and interflow
 - Soil Erosion
- Proposed schedule, including a timeline for completion of all RI tasks, subtasks and interim and final deliverables;
- Sampling and analysis of soil and, groundwater at the Site and adjacent areas;
- A description of the soil and groundwater investigation technical approach;
- A description of the investigation technical approach;
- A Sampling and Analysis Plan (SAP) and Quality Assurance Project Plan (QAPP) in compliance with WAC 173-340-820 and WAC 173-204-600;
- A Health and Safety Plan (HSP) prepared in accordance with WAC-173-340-810;
- A draft outline of final RI reports, including types of data evaluation, figures, and tables that will be included; and,
- Description of the risk evaluation to be completed for selected Site COCs as part of the RI.
- Analysis of applicable or relevant and appropriate requirements (ARARS)-MTCA cleanup levels, maximum contaminant levels, Sediment Management Standards, and other regulatory limits for Site COCs;
- Interim data reports and updates;
- Remedial alternatives development, screening and detailed analysis in compliance with WAC 173-340-350(8) and WAC 173-340-357;
- Selection of a preferred remedial alternative following WAC 173-340-360;
- RI and FS reports.

Draft Scope of Work
Port of Seattle

The purpose of the SAP is to describe the sample collection handling, and analysis procedures to be used in the RI sampling program, such that the information obtained will meet the data needs identified in the Work Plan. The SAP will identify the proposed number, location and depth of soil borings, groundwater monitoring wells, soil, groundwater, stormwater, seep, catch basin and sediment samples, approximate depths, and include a quality assurance project plan. The SAP will describe the sampling objectives, the rationale for the sampling approach (based upon the identified data gaps), and plans for data use, and shall provide a detailed description of sampling tasks. The SAP shall describe specifications for sample identifiers; sampling equipment; the type, number, and location of samples to be collected; the analyses to be performed; descriptions of sampling equipment and methods to be used; sample documentation; sample containers, collection and handling; data and records management; and schedule. The SAP must not be implemented until approved by Ecology. The plan shall provide 14 days advanced notice to Ecology prior to sampling initiation whenever possible. During active sampling at the site, Ecology shall be notified at least one business day prior to sampling, including changes due to weather or other circumstances. Method of notification shall be included in the SAP. Ecology may obtain split samples.

The Quality Assurance Project Plan (QAPP) will be prepared in accordance with the Guidance for Preparation of Quality Assurance Project Plans, EPA Region 10, Quality Data Management Program, QA/R-5 and requirements of the EPA Contract Laboratory Program. The QAPP will also follow Ecology's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies (July 2004). These documents can be found at <http://www.ecy.wa.gov/pubs/wac173204.pdf> and <http://www.ecy.wa.gov/biblio/0309043.html> respectively. Examples of completed QAPPs can be found at <http://www.ecy.wa.gov/biblio/qapp.html>. Laboratories must meet the accreditation standards established in Chapter 173-50 WAC. Data quality objectives will reflect the criteria or threshold values used for the source control evaluation.

The Health and Safety Plan (HSP) for RI activities shall be prepared in accordance with WAC-173-340-810. The HSP will identify specific monitoring and management responsibilities and activities to ensure the protection of human health during the conduct of activities associated with the RI. Per WAC 173-340-810(2), Ecology will review and provide comment on the HSP.

Field sampling and analysis will be completed in accordance with the SAP and QAPP. Deviation(s) from the approved SAP and QAPP must be communicated to Ecology as provided for in the approved RI/FS Work Plan.

The Work Plan shall not be implemented until approved by Ecology. Once approved by Ecology, the PLP will implement the Work Plan according to the schedule contained in Exhibit C unless schedules contained or revised in the Work Plan are approved by Ecology, in which case the revised schedules shall govern.

Draft Scope of Work
Port of Seattle

The PLP shall coordinate with Ecology throughout the development of the RI/FS and DCAP and shall keep Ecology informed of changes to the Work Plan and other project plans and of issues and problems as they develop. Changes to the Work Plan will be addressed in accordance with Section VIII.L of the AO.

The PLP shall prepare two (2) copies of the Draft RI/FS Work Plan and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment. After addressing Ecology's comments on the draft Work Plan and after Ecology approval, the PLP shall prepare ten (10) copies of the final Work Plan and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution.

TASK 4. REMEDIAL INVESTIGATION

The PLP shall conduct a RI that meets the requirements of WAC 173-340-350(7) and WAC 173-204-560 according to the Work Plan as approved by Ecology and the schedule contained in Exhibit C. The RI will determine the nature and extent of contamination exceeding MTCA cleanup levels, maximum contaminant levels, and other regulatory requirements. The RI must provide sufficient data and information to define the nature and extent of contamination. If the data collected during this investigation is insufficient to select the final remedy for the Site, an additional phase of investigation shall be conducted to define the extent of contamination.

The RI Report will include:

- Presentation of data collected during the RI;
- An update to the Conceptual Site Model (CSM) that includes the characterization of potential and existing contaminant sources, types, concentrations and distribution of hazardous substances, potentially contaminated media, and actual and potential exposure pathways and receptors;
- An update to the description of potential contaminant migration pathways;
- Risk evaluation for selected Site COCs; and,
- Recommendations for COCs and pathways to be evaluated in the FS.

The PLP shall provide interim reports and updates of data to Ecology as new Site data and information becomes available. Laboratory analysis data shall also be provided in electronic format as it becomes available and has been validated.

The PLP or their contractors shall submit all new sampling data generated under this RI and any other data they collect for entry directly into Ecology's Environmental Information Management System (EIM) in accordance with WAC 173-340-840(5) and Ecology's Toxics Cleanup Program Policy 840: Data Submittal Requirements. Only validated data will be submitted for entry into the EIM database.

The PLP shall compile the results of the RI into a Draft RI report. The PLP shall prepare two (2) copies of the Draft RI report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment. After

addressing Ecology's comments on the draft report, the PLP shall prepare ten (10) copies of a Final RI report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment. Electronic survey data for monitoring locations, electronic lab data, and GIS maps of contaminant distribution shall also be provided for both the draft and final reports.

TASK 5. INTERIM ACTION WORK PLANS

During Site investigations, remedial actions might be identified that if taken will reduce or eliminate sources of contamination at the Lora Lake Apartment site. Ecology will determine if the remedial actions identified will be implemented prior to completion of the RI/FS. Remedial actions at the Site implemented prior to completion of the RI/FS will be considered interim actions and will be implemented in accordance with WAC 173-340-430 and Section VI.E of the Agreed Order.

When required by Ecology, or if proposed by the PLP and approved by Ecology, the PLPs will implement interim actions at the Site. Based upon information in the draft RI report, interim action(s) may be needed to expedite control of releases to sediments or other environmental media pursuant to WAC 173-340-430.

If an interim action is to be performed, the PLP will prepare and submit for Ecology review a draft Interim Action Work Plan (IAWP) with detail commensurate with the work to be performed. The draft IAWP shall include, as appropriate:

- Description of the interim action including its purpose, general requirements, and relationship to the (final) cleanup action (to the extent known);
- Summary of relevant RI/FS information, including at a minimum existing site conditions and alternative interim actions considered;
- Information regarding design and construction requirements, including a proposed schedule and personnel roles and responsibilities;
- Compliance Monitoring Plan (CMP);
- Health & Safety Plan; and,
- SAP/QAPP.

The scope of the interim actions at the Site may include, but not be limited to, typical source control or containment elements such as:

- Soil removal;
- Groundwater remediation;
- Repair, replacement or closure of storm water piping or other structures from;
- Performance and/or confirmation sampling; and,

Once approved by Ecology, the PLP will implement the interim action according to the schedule contained in the IAWP.

The PLP shall prepare two (2) copies of the draft IAWP and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and

comment. After addressing Ecology's comments on the draft Work Plan and after Ecology approval, the PLP shall prepare ten (10) copies of the final Work Plan and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

TASK 6. FEASIBILITY STUDY

Task 6.1 Feasibility Study (FS)

The PLP shall use the information obtained in the RI to prepare a FS that meets the requirements of WAC 173-340-350(8) according to the approved Work Plan and schedule (Exhibit C).

The Draft FS will evaluate remedial alternatives for Site cleanup, consistent with MTCA requirements to ensure protection of human health and the environment by eliminating, reducing, or otherwise controlling risk posed through each complete exposure pathway. Potential remedial alternatives will be evaluated in the context of the planned future use of the property and will be designed to provide suitable protections for that use.

The FS will provide a detailed analysis of each remedial alternative according to the applicable requirements of WAC 173-340-350, MTCA Remedial Investigation and Feasibility Study. The remedial alternatives will be evaluated for compliance with the applicable requirements of WAC 173-340-360. The FS shall include the following elements:

- Compliance with Cleanup Standards and Applicable Laws;
- Protection of Human Health and the Environment;
- Analysis of applicable or relevant and appropriate requirements (ARARs)-MTCA cleanup levels, maximum contaminant levels, Sediment Management Standards, and other regulatory limits for Site COCs;
- Provision for a Reasonable Restoration Time Frame;
- Use of Permanent Solutions to the Maximum Extent Practicable;
- The Degree to which Recycling, Reuse, and Waste Minimization are Employed
- Short-term Effectiveness
- Long-Term Effectiveness
- Net Environmental Benefit
- Implementability
- Provision for Compliance Monitoring;
- Consideration of public concerns; and,
- Comparative evaluation of cleanup alternatives in accordance with WAC 173-340-360.

The remedial alternative that is judged to best satisfy the evaluation criteria will be identified. Justification for the selection will be provided and the recommended remedial alternative further developed in the FS report.

The PLP shall prepare two (2) copies of the Draft FS report and submit them, including one electronic copy in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment.

After addressing Ecology's comments on the preliminary draft report and after Ecology approval, the PLP shall prepare ten (10) copies of the Draft Final FS report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment.

Task 6.2 SEPA Checklist

The PLP shall be responsible for complying with the State Environmental Policy Act (SEPA) rules including preparing and submitting an environmental checklist. If the result of the threshold determination is a determination of significance (DS), the PLP shall be responsible for the preparation of draft and final Environmental Impact Statements (EIS). The PLP shall assist Ecology with coordinating SEPA public involvement requirements with MTCA public involvement requirements whenever possible, such that public comment periods and meetings or hearings can be held concurrently.

Task 6.3 Final FS and Responsiveness Summary

The PLP shall support Ecology in presenting the Final RI and Draft Final FS reports and SEPA evaluations at one public meeting or hearing. The PLP will assist Ecology with presentations at any additional meetings or hearings that might be necessary for SEPA compliance or as part of the Public Participation Plan.

After the public comment periods are completed, the PLP shall prepare a Draft Responsiveness Summary that addresses public comments and prepare a second Draft Final FS report that addresses public comments. The PLP shall prepare two (2) copies of the Draft Responsiveness Summary and second Draft Final FS report and submit them to Ecology for review and comment, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment.

After addressing Ecology's comments, the PLP shall prepare ten (10) copies of the Final Responsiveness Summary and Final FS report and submit them to Ecology for distribution, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats.

TASK 7: PREPARE A DRAFT CLEANUP ACTION PLAN

Upon Ecology approval of the final RI and draft FS report, the PLP shall prepare a draft Cleanup Action Plan (DCAP) in accordance with WAC 173-340-380 that provides a proposed remedial action to address the contamination present on the Site.

The DCAP shall include a general description of the proposed remedial actions, cleanup standards developed from the Remedial Investigation/Feasibility Study and rationale

regarding their selection, a schedule for implementation and a summary of applicable local, state, and federal laws pertinent to the proposed cleanup actions.

The PLP will submit a DCAP for Ecology's review and approval. The DCAP will include, but not be limited to, the information listed under WAC 173-340-380. The PLP shall prepare two (2) copies of the DCAP and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment.

After receiving Ecology's comments on the DCAP, if any, the PLP shall revise the DCAP to address Ecology's comments and submit ten (10) copies including one electronic copy each in Word (.doc) and Adobe (.pdf) formats.

TASK 7. PROGRESS REPORTS

The PLP shall submit progress reports quarterly. Progress reports shall be submitted to Ecology until satisfaction of the AO in accordance with Section IX of the AO. Progress Reports shall be submitted to the Ecology project coordinator by the 15th of the month following the reporting month. If this day is a weekend or holiday, deliverables will be submitted to Ecology on the next business day. At a minimum, progress reports shall contain the following information regarding the preceding reporting period:

- A description of the actions which have been taken to comply with the AO during the previous reporting period
- Summaries of sampling and testing reports and other data reports received by the PLP
- Summaries of deviations from approved work plans
- Summaries of contacts with representatives of the local community, public interest groups, press, and federal, state, or tribal governments
- Summaries of problems or anticipated problems in meeting the schedule or objectives set forth in the SOW and Work Plan
- Summaries of solutions developed and implemented or planned to address any actual or anticipated problems or delays
- Changes in key personnel
- A description of work planned for the next reporting period

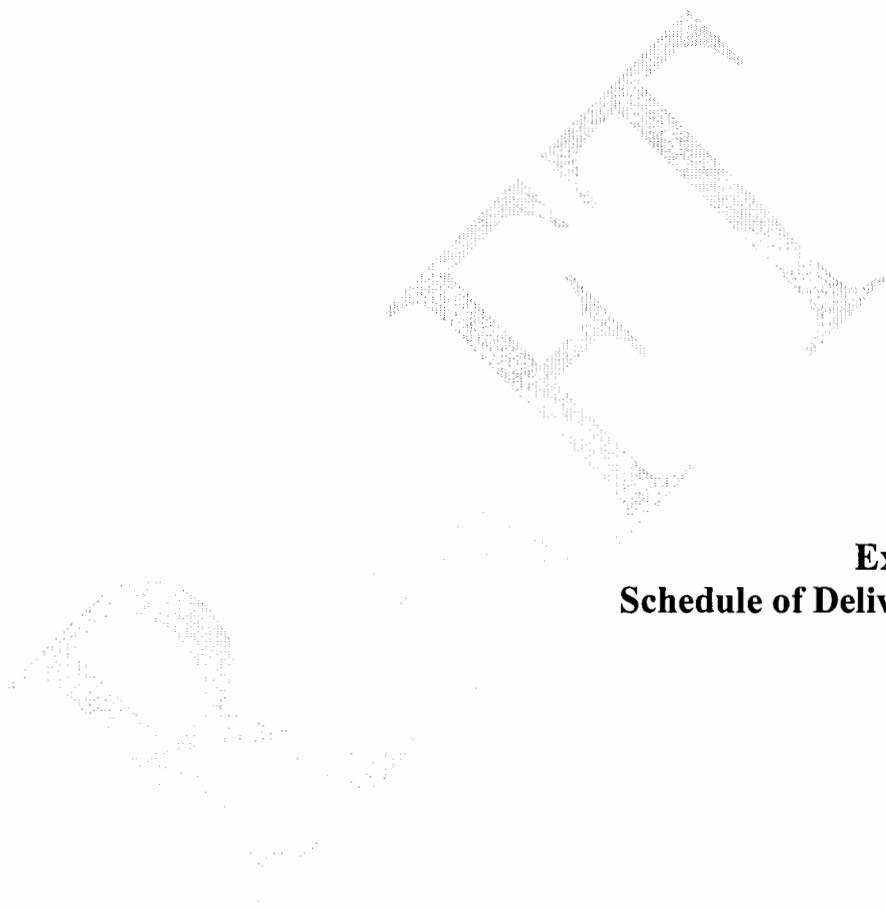


Exhibit C
Schedule of Deliverables

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EXHIBIT C – SCHEDULE OF DELIVERABLES

The schedule for deliverables described in Exhibit B of this AO is presented below. If at any time during the Formal RI/FS/DCAP process unanticipated conditions or changed circumstances are discovered which might result in a schedule delay, the PLP shall bring such information to the attention of Ecology. Ecology will determine whether a schedule extension is warranted under the AO.

Any completion times that fall on a holiday or weekend will be extended to the next working day.

RI/FS Deliverables	Completion Times
Draft Supplemental Data Gaps Report	60 calendar days following effective date of the agreed order
Final Supplemental Data Gaps Report	45 calendar days following receipt of Ecology's review comments on the draft plans
Draft Remedial Investigation Feasibility Study Work Plan (QAPP, SAP, HSP)	60 calendar days after completing Final Supplemental Data Gaps Report
Final Remedial Investigation/Feasibility Study Work Plan	45 calendar days following Ecology's approval of the Draft RI/FS Work Plan
Remedial Investigation Sampling Completed	12 months following Ecology's approval of the final RI/FS Work Plan
Draft RI Report	90 days following completion of RI work
Final RI Report	60 calendar days following receipt of Ecology's review comments on the draft report
Draft FS Report	90 days following completion of the Final RI Report
Draft Final FS Report	60 calendar days following receipt of Ecology's review comments
2 nd Draft Final FS Report	60 calendar days following completion of the public comment period
Draft Responsiveness Summary and Final Feasibility Study	45 calendar days following public comment period
Final Responsiveness Summary	30 calendar days following receipt of Ecology's review comments
Draft Cleanup Action Plan (DCAP)	90 calendar days following completion of the Final FS Report
Progress Reports	15 th of every month following the end of each calendar quarter, beginning after the completion of the first full quarter after the effective date of the AO

Attachment #3

Additional Potentially Liable Parties

Additional Potentially Liable Parties

Lora Lake Apartments – Potentially Liable Parties/ Ownership/Operations Chronology

1. **Novak family:** The earliest known likely source of hazardous substances at the Lora Lake property was operation in the 1940s and 1950s of a barrel cleaning company owned and operated by the Novaks. Given the lack of environmental regulation at the time, and that presumed activities included cleaning barrels of materials from small agricultural and military activities locally prevalent at the time, the Novaks' operations are very likely to have significantly contributed to the hazardous substances now found at the site. These substances include petroleum hydrocarbons, heavy metals, polyaromatic hydrocarbons (PAH), pentachlorophenol (PCP) and other chlorinated and non-chlorinated volatile and semi-volatile organic compounds.

Property transactions relating the Novaks to the property are as follows:

- April 5, 1940: Lottie Novak acquires property from Beulah Burrows Padden.
- November 21, 1941: Lottie D. Novak acquires property from Joseph T. Novak
- August 23, 1943: John A. and Edith P. Johnson acquire property from Joseph T. and Lottie D. Novak
- December 11, 1948: Joseph T. and Lottie D. Novak acquire property from John A. and Edith P. Johnson
- May 19 (15?), 1952: Jerome J. Novak acquires property from Joseph T. and Lottie D. Novak

2. **Benjamin and Grace Arnold:** From about 1960 – 1986, during the Arnolds' ownership, the subject property was the site of an automobile wrecking facility, the Brien Wrecking Yard. Some of the hazardous substances found at the site are known to typically be associated with auto wrecking yard operations such as petroleum hydrocarbons, heavy metals, and polyaromatic hydrocarbons.

Property transactions relating the Arnolds to the property are as follows:

- May 14 (19?), 1952: Benjamin A. Arnold and Grace Arnold acquire property from Jerome J. Novak
- September 17, 1981: Grace Arnold acquires property from Benjamin A. Arnold

3. **Mueller Development Company:** The Mueller Development Company purchased the subject property in 1986 for the purpose of developing the current apartment complex. On behalf of Mueller, Golder Associates conducted several investigation efforts, and conducted remedial activities at the site to enable construction of the apartment complex. Construction activities included a significant degree of soil reworking to allow construction and create a varied topographic landscape. Mueller Development's activities are noted below:

- August 1, 1986: Golder Associates Preliminary report on behalf of the Mueller Development Company outlines discovery of contaminated soils during test pitting conducted for a geotechnical investigation for the construction of the Lora Lake Apartments.
- September 9, 1986: Mueller Development Company acquires property from Harold Malinak and Grace G. Malinak (Grace G. Arnold)
- March 1987: Phase I of the contaminated soil removal completed by Chem Waste Management. Observation, oversight and confirmational sampling was done by Golder Associates on behalf of Mueller. Approximately 140 cubic yards of soil removed.
- April 1987: Phase II investigation and clean-up of contaminated soil completed by Golder on behalf of Mueller. Unspecified amount of contaminated soil removed.
- December 10, 1987: Department of Ecology issues review letter states that "At this time, no additional investigation is required."

4. **Successor owners:** The following transactions identify successor owners and operators of the Lora Lake Apartment complex:

- September 1, 1988: The Equitable Life Assurance Society of US acquires Lora Lake Apartments from Mueller Development Company. The Port is still investigating this owner.
- July 2, 1991: Santa Anita Realty Enterprises, Inc. acquires Lora Lake Apartments from The Equitable Life Assurance Society of US. The Port is still investigating this owner.
- November 15, 1993: Pacific Gulf Properties acquires Lora Lake Apartments from Santa Anita Realty Enterprises, Inc. The Port is still investigating this owner.
- September 20, 1998: Lora Lake apartments acquired by the Port of Seattle from Pacific Gulf Properties for airport-compatible non residential use. The apartment units were vacated over time as leases expired and as tenants accepted relocation assistance from the Port. The complex was fully vacated by October 1999.

King County Housing Authority:

- July 20, 2000: KCHA acquires property from the Port with an agreement to re-sell the property to the Port at a time when its use was required for operation of the Third Runway. KCHA re-established use of the apartment complex for tenant residency.
- July 2004: The agreement with KCHA was extended for another two years, with the apartments to be returned to the Port on July 20, 2007.
- July 20, 2007: The vacated Lora Lake Apartments were transferred back to the Port of Seattle.