

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

ARE-Seattle No 32, LLC

AGREED ORDER

No. DE 21102

TO: ARE-Seattle No 32, LLC  
c/o Christian Gunter  
400 Dexter Ave N, Suite 200  
Seattle, WA 98109

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## **I. INTRODUCTION**

The mutual objective of the State of Washington, Department of Ecology (Ecology) and ARE-Seattle No 32, LLC (ARE) under this Agreed Order (Order) is to provide for remedial action at a facility where there has been release or threatened release of hazardous substances. This Order requires ARE to implement the Scope of Work and provide the associated deliverables per the schedule detailed in Exhibit C (Scope of Work and Schedule of Deliverables). Ecology believes the actions required by this Order are in the public interest.

## **II. JURISDICTION**

This Order is issued pursuant to the Model Toxics Control Act (MTCA), RCW 70A.305.050(1).

## **III. PARTIES BOUND**

This Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of ARE 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. ARE agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter ARE's responsibility under this Order. ARE 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 RCW 70A.305 and WAC 173-340 shall control the meanings of the terms in this Order.

A. Site: The Site is referred to as the 601 Dexter Site. The Site constitutes a facility under RCW 70A.305.020(8). The Site is defined by where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located. Based upon factors currently known to Ecology, the Site is generally located at 601 Dexter Ave N, Seattle, WA 98109, as shown in the Site Location Diagram (Exhibit A).

- B. Parties: Refers to the State of Washington, Department of Ecology and ARE.
- C. Potentially Liable Person (PLP): Refers to ARE.
- D. Property: Refers to the real property located at 601 Dexter Avenue North. A legal description of the Property is attached as Exhibit B. While portions of the Property are known to be within the Site, the Site boundaries have not yet been established, and the Property boundaries do not reflect the boundaries of the Site as defined by MTCA.
- E. 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.

#### **V. FINDINGS OF FACT**

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

- A. Based upon facts currently known to Ecology, the Site is generally located at 601 Dexter Ave N, Seattle WA 98109. As of the time of this Order, the Site boundary has not been established. The Site includes King County Parcel 224900-0100 (i.e., the Property), which encompasses approximately 0.54 acres of land. The Site is located in the South Lake Union area of Seattle as shown in the Site Location Diagram (Exhibit A). The Ecology Facility Site ID is 56257757 and the Cleanup Site ID is 15113.
- B. ARE is the owner of the Property as recorded by King County, Washington, June 2019. ARE is a registered limited liability company with the Washington Secretary of State, UBI #604473510.
- C. The Property is currently developed with a commercial building with an active commercial tenant (Seattle Copies Northwest). A surface parking lot is located on the northeastern portion of the Property.
- D. The Property is bounded to the east by Dexter Avenue North, to the west by Aurora Avenue North (Highway 99), to the south by Mercer Street, and to the north by 615 Dexter Avenue North. An alley right-of-way owned by the City of Seattle separates the Property from 615 Dexter Avenue North.

E. The building currently occupying the Property was constructed in 1919, and additional offices were constructed in 1962. A boiler was installed in approximately 1928. Former commercial tenants on the Property include Modern Automobile and Tractor School, Dexter Cabinet Works, and Colotyle Corporation (which manufactured an enamel-coated hardboard to be used in place of tile).

F. Historical records indicate that a small gasoline fueling station was present on the Property in the 1940's and 1950's.

G. Historical records indicate that a laundry/cleaner business (Sanitary Laundry Co. and Sanitary Olympic Laundry) operated on the Property in the 1930's and 1940's.

H. There may be four (4) underground storage tanks (USTs) located in the alley right-of-way between the Property and the adjacent property at 615 Dexter Avenue North. Records from the Seattle Fire Department indicate that the USTs previously contained heating oil and/or bunker fuel, although it is possible that the USTs were also used for the former laundry facility. The USTs were reportedly pumped of all product, rinsed and decommissioned in 1997, though no formal closure documentation is currently available. Recent ground-penetrating radar investigation work in the alley right-of-way did not detect any signatures indicating the presence of any USTs.

I. Adjacent properties to the Property have been used historically for a variety of residential and commercial purposes. The property to the north at 615 Dexter Avenue North was previously the location of a gasoline service station in the 1920's and an auto repair facility in the 1930's. <https://apps.ecology.wa.gov/gsp/CleanupSiteDocuments.aspx?csid=14785> The property to the east at 800 Mercer Street was previously used for automobile fueling (with locations in both the northwest and southwest corners of that property) and for a variety of commercial and light industrial uses. <https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=14784> Properties to the south across Mercer Street include a laundry service facility and a gas and oil structure, none of which are currently active or present.

J. A Phase II investigation conducted on the Property in 2019 found environmental impacts associated with gasoline-related constituents (including petroleum and petroleum-related

VOCs) in soil in the southeast corner exploration of the Property, and in soil and groundwater in the alley right-of-way to the north of the Property. The Phase II investigation determined the following:

- Regional groundwater was detected at approximately 35 feet bgs.
- There was one exceedance above the MTCA Method A soil cleanup levels for gasoline (without benzene) in a soil sample at a depth of 25 feet, and an associated groundwater grab sample at the same location also exceeded the MTCA Method A cleanup level for gasoline in groundwater.

K. Several VOCs, including benzene, toluene, ethylbenzene, and xylene (BTEX), chlorinated solvents, and some non-typical VOCs (acrolein and carbon tetrachloride) were detected in the sub-slab soil vapor and/or indoor air samples, with acrolein and naphthalene detected at concentrations above MTCA Method B screening levels.

L. All sampling on the Property performed to date occurred within the northeastern portion of the Property where no structures are present, with no sampling beneath the current commercial building. Additional investigation is needed to characterize the full nature and extent of contamination at the Site.

## **VI. ECOLOGY DETERMINATIONS**

Ecology makes the following determinations, without any express or implied admissions of such determinations (and underlying facts) by ARE.

A. ARE is an “owner” as defined in RCW 70.105D.020(22) of a “facility” as defined in RCW 70A.305.020(8).

B. Based upon all factors known to Ecology, a “release” or “threatened release” of “hazardous substance(s)” as defined in RCW 70A.305D.020(32) and (13), respectively, has occurred at the Site.

C. Based upon credible evidence, Ecology issued a PLP status letter to ARE dated January 7, 2020, pursuant to RCW 70A.305.040, .020(26), 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 a determination that ARE is a PLP under RCW 70A.305.040 and notified ARE of this determination by letter dated February 11, 2020.

D. Pursuant to RCW 70A.305.030(1) and .050(1), Ecology may require 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 plan. ARE is planning redevelopment on the Property and certain remedial actions will cost substantially more or be increasingly difficult to conduct if not conducted as interim actions in coordination with redevelopment projects. Based on these circumstances, Ecology has determined that an interim action is warranted under WAC 173-340-430.

## **VII. WORK TO BE PERFORMED**

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that ARE take the following remedial actions at the Site. These remedial actions must be conducted in accordance with WAC 173-340:

A. ARE will complete a Remedial Investigation Work Plan, a Remedial Investigation report, a detailed Interim Action Work Plan (IAWP) and a final Interim Action Report, a Feasibility Study, and a preliminary Draft Cleanup Action Plan for the Site in accordance with the Scope of Work and Schedule (Exhibit C) and all other requirements of this Order.

B. The scope of work for the interim action is set out in Exhibit D, and a more detailed description of the interim action and schedule will be included in the deliverable IAWP. Upon Ecology's review and approval of the detailed IAWP, ARE shall complete the interim action work in accordance with the schedule approved in the IAWP. ARE shall make all reasonable efforts to complete this interim action by the end of 2024.

C. The following naming conventions shall be used for documents: Agency Review Draft (designation for the first time Ecology receives a document); Public Review Draft (designates a document ready for public comment); Final (designation for a document after public comment and Ecology approval); and the preliminary Draft Cleanup Action Plan (designation for the ARE 's version of the DCAP).

D. If ARE learns of a significant change in conditions at the Site, including but not limited to a statistically significant increase in contaminant and/or chemical concentrations in soil, groundwater, and/or air, then ARE shall, within seven (7) days of learning of the change in condition, notify Ecology in writing of said change and provide Ecology with any reports or records (including laboratory analyses, sampling results) relating to the change in conditions.

E. ARE shall submit to Ecology written monthly Progress Reports that describe the actions taken during the previous month to implement the requirements of this Order. All Progress Reports shall be submitted by the tenth (10th) day of the month in which they are due after the effective date of this Order. Unless otherwise specified by Ecology, Progress Reports and any other documents submitted pursuant to this Order shall be sent by certified mail, return receipt requested, to Ecology's project coordinator. The Progress Reports shall include the following:

1. A list of on-site activities that have taken place during the month.
2. Detailed description of any deviations from required tasks not otherwise documented in project plans or amendment requests.
3. Description of all deviations from the Scope of Work and Schedule (Exhibit B) during the current month and any planned deviations in the upcoming month.

4. For any deviations in schedule, a plan for recovering lost time and maintaining compliance with the schedule.
5. All raw data (including laboratory analyses) received during the previous quarter (if not previously submitted to Ecology), together with a detailed description of the underlying samples collected.
6. A list of deliverables for the upcoming month if different from the schedule.

F. All plans or other deliverables submitted by ARE for Ecology's review and approval under Exhibit C shall, upon Ecology's approval, become integral and enforceable parts of this Order. ARE shall take any action required by such deliverable.

G. All data collected during remedial action for the Site must be entered in Ecology's Environmental Information Management (EIM) database. Validated data will be submitted to Ecology within 60 days of sample collection, unless an extension is approved by Ecology.

H. Any Party may propose an additional interim action under this Order. If the Parties are in agreement concerning the additional interim action, ARE shall prepare and submit to Ecology an Interim Action Work Plan, including a scope of work and schedule, by the date determined by Ecology. Ecology will provide public notice and opportunity to comment on the Interim Action Work Plan in accordance with WAC 173-340-600(16). ARE shall not conduct the interim action until Ecology approves the Interim Action Work Plan. Upon approval by Ecology, the Interim Action Work Plan becomes an integral and enforceable part of this Order, and ARE is required to conduct the interim action in accordance with the approved Interim Action Work Plan. Ecology reserves its authority to require additional interim action(s) under a separate order or other enforcement action under RCW 70A.305, or to undertake the interim action(s) itself.

I. If Ecology determines that ARE has failed to make sufficient progress or failed to implement the remedial action, in whole or in part, Ecology may, after notice to ARE, perform any or all portions of the remedial action or at Ecology's discretion allow the ARE opportunity to correct. In an emergency, Ecology is not required to provide notice to ARE, or an opportunity for dispute resolution. ARE shall reimburse Ecology for the costs of doing such work in accordance

with Section VIII.A (Remedial Action Costs). Ecology reserves the right to enforce requirements of this Order under Section X (Enforcement).

J. Except where necessary to abate an emergency situation or where required by law, the ARE shall not perform any remedial actions at the Site outside those remedial actions required by this Order to address the contamination that is the subject of this Order, unless Ecology concurs, in writing, with such additional remedial actions pursuant to Section VIII.J. (Amendment of Order). In the event of an emergency, or where actions are taken as required by law, ARE must notify Ecology in writing of the event and remedial action(s) planned or taken as soon as practical but no later than within twenty-four (24) hours of the discovery of the event.

## **VIII. TERMS AND CONDITIONS**

### **A. Payment of Remedial Action Costs**

ARE 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 RCW 70A.305, 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). Ecology will send ARE an invoice and an itemized statement quarterly, along with a general statement of work performed. For all Ecology costs incurred, ARE shall pay the required amount within thirty (30) 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. 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.

In addition to other available relief, pursuant to RCW 19.16.500, Ecology may utilize a collection agency and/or, pursuant to RCW 70A.305.060, file a lien against real property subject to the remedial actions to recover unreimbursed remedial action costs.

**B. Designated Project Coordinators**

The project coordinator for Ecology is:

Tanner Bushnell  
Department of Ecology  
Toxics Cleanup Program  
Northwest Regional Office  
15700 Dayton Ave N  
Shoreline, WA 98133  
425-691-0571  
[tanner.bushnell@ecy.wa.gov](mailto:tanner.bushnell@ecy.wa.gov)

The project coordinator for ARE is:

Thomas (Thom) C. Morin, L.G.  
TRC Companies  
1180 NW Maple Street, Suite 310  
Issaquah, WA 98027  
(425) 395-0030  
[tmorin@trccompanies.com](mailto:tmorin@trccompanies.com)

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 ARE, 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.

**C. Performance**

All geologic and hydrogeologic work performed pursuant to this Order shall be under the supervision and direction of a geologist or hydrogeologist licensed by the State of Washington or

under the direct supervision of an engineer registered by the State of Washington, except as otherwise provided for by RCW 18.43 and 18.220.

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

Any documents submitted containing geologic, hydrogeologic, or engineering work shall be under the seal of an appropriately licensed professional as required by RCW 18.43 and 18.220.

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

**D. Access**

Ecology or any Ecology authorized representative shall have access to enter and freely move about all property at the Site that ARE owns, controls, or has 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 ARE 's 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 ARE. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by ARE 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.

ARE shall make best efforts to secure access rights for those properties within the Site not owned or controlled by ARE where remedial activities or investigations will be performed pursuant to this Order. As used in this Section, “best efforts” means the efforts that a reasonable person in the position of ARE would use so as to achieve the goal in a timely manner, including the cost of employing professional assistance and the payment of reasonable sums of money to secure access and/or use restriction agreements, as required by this Section. If, within 30 calendar days after the effective date of this Order, ARE is unable to accomplish what is required through “best efforts,” they shall notify Ecology, and include a description of the steps taken to comply with the requirements. If Ecology deems it appropriate, it may assist ARE, or take independent action, in obtaining such access and/or use restrictions. Ecology reserves the right to seek payment from ARE for all costs, including cost of attorneys’ time, incurred by Ecology in obtaining such access or agreements to restrict land, water, or other resource use.

**E. Sampling, Data Submittal, and Availability**

With respect to the implementation of this Order, ARE shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf 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, ARE shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by ARE pursuant to implementation of this Order. ARE shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow ARE and/or its authorized representative 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.D (Access), Ecology shall notify ARE 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 WAC 173-50 for the specific analyses to be conducted, unless otherwise approved by Ecology.

**F. Public Participation**

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

1. If requested by Ecology, develop appropriate mailing lists and/or 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 meetings related to remedial action work to be performed at the Site with the interested public and/or local governments. Likewise, Ecology shall notify ARE prior to the issuance of all press releases and fact sheets related to the Site, and before meetings related to the Site with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by ARE that do not receive prior Ecology approval, ARE shall clearly indicate to its 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. When requested by Ecology, arrange and/or continue information repositories to be located at the following locations:

- a. Seattle Public Library  
Central District  
1000 4<sup>th</sup> Avenue  
Seattle, WA 98104
  
- b. Ecology's Northwest Regional Office  
15700 Dayton Avenue North  
Shoreline, WA 98133

At a minimum, copies of all public notices, fact sheets, and documents relating to public comment periods shall be promptly placed in these repositories. A copy of all documents related to this Site shall be maintained in the repository at Ecology's Northwest Regional Office in Shoreline, Washington.

**G. Access To Information**

Upon request, ARE shall provide to Ecology copies of all records, reports, documents, and other information (including records, reports, documents, and other information in electronic form) (hereinafter referred to as "Records") within ARE's possession or control or in the possession or control of ARE's contractors or agents relating to activities at the Site or to the implementation of this Order, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information regarding the work. ARE shall also make available to Ecology, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the activities at the Site required by this Order.

Nothing in this Order is intended to waive any right ARE may have under applicable law to limit disclosure of Records protected by the attorney work-product privilege and/or the attorney-client privilege. If ARE withholds any requested Records based on an assertion of privilege, ARE shall provide Ecology with a privilege log specifying the Records withheld and the applicable privilege. No Site-related data collected pursuant to this Order shall be considered privileged, including: (1) any data regarding the Site, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, radiological, biological, or engineering data, or

the portion of any other record that evidences conditions at or around the Site; or (2) the portion of any Record that Respondents are required to create or generate pursuant to this Order.

Notwithstanding any provision of this Order, Ecology retains all of its information gathering and inspection authorities and rights, including enforcement actions related thereto, under any other applicable statutes or regulations.

#### **H. 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, ARE 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.

#### **I. Resolution of Disputes**

1. In the event that ARE elects to invoke dispute resolution ARE must utilize the procedure set forth below.

a. Upon the triggering event (receipt of Ecology's project coordinator's written decision or an itemized billing statement), ARE has fourteen (14) calendar days within which to notify Ecology's project coordinator in writing of its dispute (Informal Dispute Notice).

b. The Parties' project coordinators shall then confer in an effort to resolve the dispute informally. The parties shall informally confer for up to fourteen (14) calendar days from receipt of the Informal Dispute Notice. If the project coordinators cannot resolve the dispute within those 14 calendar days, then within seven (7) calendar days Ecology's project coordinator shall issue a written decision (Informal Dispute Decision) stating: the nature of the dispute; the position of ARE with regards to the dispute; Ecology's position with regards to the dispute; and the extent of resolution reached by informal discussion.

c. ARE may then request regional management review of the dispute. This request (Formal Dispute Notice) must be submitted in writing to the Northwest Region Toxics Cleanup Section Manager within seven (7) calendar days of receipt of Ecology's

Informal Dispute Decision. The Formal Dispute Notice shall include a written statement of dispute setting forth: the nature of the dispute; the disputing Party's position with respect to the dispute; and the information relied upon to support its position.

d. The Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute (Decision on Dispute) within thirty (30) calendar days of receipt of the Formal Dispute Notice. The Decision on Dispute shall be Ecology's final decision on the disputed matter.

2. The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

3. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Order, unless Ecology agrees in writing to a schedule extension.

4. In case of a dispute, failure to either proceed with the work required by this Order or timely invoke dispute resolution may result in Ecology's determination that insufficient progress is being made in preparation of a deliverable, and may result in Ecology undertaking the work under Section VII.E (Work to be Performed) or initiating enforcement under Section X (Enforcement).

**J. Extension of Schedule**

1. ARE request for an extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the 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.
- d. Any related deadline or schedule that would be affected if the extension were granted.

2. The burden shall be on ARE 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 ARE 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 ARE.

b. A shelter in place or work stoppage mandated by state or local government order due to public health and safety emergencies.

c. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, pandemic, or other unavoidable casualty.

d. Endangerment as described in Section VIII.K (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 ARE.

3. Ecology shall act upon any written request from ARE for extension in a timely fashion. Ecology shall give ARE 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.J (Amendment of Order) when a schedule extension is granted.

4. At ARE's request, 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 one of the following:

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.

c. Endangerment as described in Section VIII.L (Endangerment).

**K. 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.M (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 ARE. Ecology will provide its written consent to a formal amendment only after public notice and opportunity to comment on the formal amendment.

When requesting a change to the Order, ARE shall submit a written request to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request is received. If Ecology determines that the change is substantial, then the Order must be formally amended. Reasons for the disapproval of a proposed change to this Order shall be stated in writing. If Ecology does not agree to a proposed change, the disagreement may be addressed through the dispute resolution procedures described in Section VIII.I (Resolution of Disputes).

**L. Endangerment**

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

In the event ARE determines that any activity being performed at the Site under this Order is creating or has the potential to create a danger to human health or the environment, ARE may cease such activities. ARE 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, ARE shall provide Ecology with documentation of the basis for the

determination or cessation of such activities. If Ecology disagrees with ARE's cessation of activities, it may direct ARE to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this section, ARE's 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.J (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.

**M. Reservation of Rights**

This Order is not a settlement under RCW 70A.305. 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 ARE to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against ARE regarding remedial actions required by this Order, provided ARE complies with this Order.

Ecology nevertheless reserves its rights under RCW 70A.305, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health or 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.

By entering into this Order, ARE does not admit to any liability for the Site. Although ARE is committing to conducting the work required by this Order under the terms of this Order, ARE expressly reserves all rights available under law, including but not limited to the right to seek cost recovery or contribution against third parties, and the right to assert any defenses to liability in the event of enforcement.

**N. 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 ARE 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 ARE's transfer of any interest in all or any portion of the Site, and during the effective period of this Order, ARE shall provide a copy of this Order to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest. Additionally, ARE shall notify Ecology at least thirty (30) days prior to any transfer of any title or ownership interest in all or a portion of the Property. Upon transfer of any title or ownership interest, ARE shall notify all transferees of the restrictions on the activities and uses of the property under this Order and incorporate any such use restrictions into the transfer documents.

**O. Compliance with Applicable Laws**

1. *Applicable Laws.* All actions carried out by ARE pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits or approvals, except as provided in RCW 70A.305.090. At this time, no federal, state, or local requirements have been identified as being applicable to the actions required by this Order. ARE has a continuing obligation to identify additional applicable federal, state, and local requirements which apply to actions carried out pursuant to this Order, and to comply with those requirements. As additional federal, state, and local requirements are identified by Ecology or ARE, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order, and ARE must implement those requirements.

2. *Relevant and Appropriate Requirements.* All actions carried out by ARE pursuant to this Order shall be done in accordance with relevant and appropriate requirements identified by Ecology. At this time, no relevant and appropriate requirements have been identified as being applicable to the actions required by this Order. If additional relevant and appropriate requirements

are identified by Ecology or ARE , Ecology will document in writing if they are applicable to actions carried out pursuant to this Order and ARE must implement those requirements.

3. Pursuant to RCW 70A.305.090(1), ARE is exempt from the procedural requirements of RCW 70A.15, 70A.205, 70A.300, 77.55, 90.48, and 90.58 and of any laws requiring or authorizing local government permits or approvals. However, ARE shall comply with the substantive requirements of such permits or approvals. For permits and approvals covered under RCW 70A.305.090(1) that have been issued by local government, the Parties agree that Ecology has the non-exclusive ability under this Order to enforce those local government permits and/or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this section.

4. ARE has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70A.305.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or ARE determines that additional permits or approvals addressed in RCW 70A.305.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify the other party of its determination. Ecology shall determine whether Ecology or ARE shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, ARE 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 ARE and on how ARE must meet those requirements. Ecology shall inform ARE in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. ARE shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

Pursuant to RCW 70A.305.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70A.305.090(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 ARE shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70A.305.090(1), including any requirements to obtain permits or approvals.

**P. Indemnification**

ARE agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action (1) for death or injuries to persons, or (2) for loss or damage to property, to the extent arising from or on account of acts or omissions of ARE, its officers, employees, agents, or contractors in entering into and implementing this Order. However, ARE 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 ARE 's receipt of written notification from Ecology that ARE has completed the remedial activity required by this Order, as amended by any modifications, and that ARE has complied with all other provisions of this Agreed Order.

**X. ENFORCEMENT**

Pursuant to RCW 70A.305.050, 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. A liable party who refuses, without sufficient cause, to comply with any term of this Order will be liable for:

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

2. 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 70A.305.070.

Effective date of this Order: \_\_\_\_\_

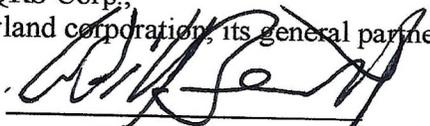
**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

\_\_\_\_\_  
Robert W. Warren  
Section Manager  
Toxics Cleanup Program  
Northwest Regional Office  
(206) 594-0093

**ARE-SEATTLE NO. 32, LLC,**  
a Delaware limited liability company

By: Alexandria Real Estate Equities, L.P.,  
a Delaware limited partnership, its managing member

By: ARE-QRS Corp.,  
a Maryland corporation, its general partner

By:   
Name: William Barrett  
Title: Vice President  
Date: Real Estate Legal Affairs  
7/22/22

Coordinate System: NAD 1983 StatePlane Washington North FIPS 4601 Feet, Map Rotation: 0  
- Saved By: S.RAY on 7/8/2022, 1:52:11 PM, File Path: T:\AR\RE-Seattle\380831\_601\_Dexter\2-A\PRX\601\_Dexter\_RIWP.aprx, Layout Name: Fig 1 - Property Representation



 SUBJECT PROPERTY BOUNDARY  
 SURROUNDING PARCEL BOUNDARY

BASE MAP: KING COUNTY AERIAL (2021).  
DATA SOURCES: ADDRESS INFORMATION OBTAINED FROM KING COUNTY GIS OPEN DATA PORTAL'S PARCEL ADDRESS AREA SHAPEFILE, PUBLISHED APRIL 4, 2019.



1:720  
1" = 60'

0 30 60 FEET

PROJECT: **ARE-SEATTLE NO. 32 HOLDING, LLC  
AGREED ORDER - EXHIBIT A  
601 DEXTER AVE N, SEATTLE, WA**

TITLE: **PROPERTY REPRESENTATION**

DRAWN BY: S. RAY PROJ. NO.: 380831.0002.0000

CHECKED BY: J. BOYD

APPROVED BY: J. BOYD

DATE: JULY 2022

**FIGURE 1**



1180 NW MAPLE STREET SUITE 310  
ISSAQUAH, WA 98027  
PHONE: 425.395.0010

FILE: 601 Dexter RIWP.aprx

**EXHIBIT B**

**LEGAL DESCRIPTION OF 601 DEXTER**

**Parcel A:**

Lots 7 and 8, and the west 25 feet of Lots 1 and 2 in Block 3 of Eden Addition to the City of Seattle, as per plat recorded in Volume 1 of Plats, page 61A, records of King County; EXCEPT that portion of said Lots 2 and 7, conveyed to the City of Seattle for alley purposes by deed recorded under recording number 330675; ALSO EXCEPT that portion of said Lots 7 and 8 condemned in King County Superior Court Cause Number 236360 for Aurora Avenue, as provided for by Ordinance Number 59719 of the City of Seattle.  
Situate in the City of Seattle, County of King, State of Washington.

**Parcel B:**

Portions of Lots 1 and 2 in Block 3 of Eden Addition to the City of Seattle, as per plat recorded in Volume 1 of Plats, page 61A, records of King County, described as follows:  
Beginning at the southeast corner of said block 3;  
Thence north along the east line of said block 112 feet, more or less, to the south line of alley conveyed to City of Seattle by deed recorded under recording number 330675, and accepted by Ordinance Number 12196 of said City;  
Thence west 103 feet;  
Thence south 112 feet, more or less, to the south line of said Block;  
Thence east 103 feet to the point of beginning;  
EXCEPT portion conveyed to the City of Seattle for street purposes by deed recorded under recording number 1178518, accepted by ordinance number 38011;  
AND EXCEPT portion lying east of the west line of Dexter Avenue as said Avenue was widened and established by condemnation decree in Cause Number 193437, pursuant to Ordinance Number 50890 of the City of Seattle;  
Situate in the City of Seattle, County of King, State of Washington.

# **EXHIBIT C – SCOPE OF WORK AND SCHEDULE**

## **SCOPE OF WORK**

### **PURPOSE**

The work under this Agreed Order (AO) involves conducting a Remedial Investigation (RI), planning and conducting an interim action, preparing a Feasibility Study (FS), and preparing a preliminary Draft Cleanup Action Plan (DCAP) to implement the selected cleanup alternative. The purpose of the RI, FS, and preliminary DCAP for the Site is to provide sufficient data, analysis, and evaluations to enable Ecology to select a cleanup alternative for the Site.

ARE-Seattle No. 32, LLC (ARE) shall coordinate with Ecology throughout the development of the deliverables, and shall keep Ecology informed of substantive or material changes to any Work Plan or other project plans, and of relevant issues or problems as they develop.

The SOW is divided into seven major tasks as follows:

- |         |  |
|---------|--|
| Task 1. | Remedial Investigation Work Plan                 |
| Task 2. | Remedial Investigation                           |
| Task 3. | Interim Action                                   |
| Task 4. | Feasibility Study                                |
| Task 5. | Preliminary Draft Cleanup Action Plan            |
| Task 6. | State Environmental Policy Act (SEPA) Compliance |
| Task 7. | Public Participation                             |

### **TASK 1. RI WORK PLAN**

ARE shall prepare a Remedial Investigation Work Plan (Work Plan). The Work Plan shall include an overall description and schedule of all Remedial Investigation (RI) activities, including evaluation of data gaps for the Site. The Work Plan shall clearly describe the project management strategy for implementing and reporting on RI activities. The responsibility and authority of all organizations and key personnel involved in conducting the RI will be outlined.

A Key Project Meeting will be held prior to submittal of the Work Plan. The purpose of the meeting is to review requirements for the Work Plan and plan Remedial Investigation field work, discuss the preliminary Conceptual Site Model, and identify project data needs and possible interim actions.

The Work Plan shall describe general facility information; site history and conditions; including previous operations; past field investigations, including any data collection and

## Exhibit C - Scope of Work & Schedule

analysis of soils, indoor air (if required), soil vapor, and groundwater; a conceptual site model showing contaminants, migration pathways in all environmental media, and potential receptors; geology and groundwater system characteristics; past, current, and future land use; identification of natural resources and ecological receptors; hazardous substances and their sources, etc., in compliance with WAC 173-340-350.

The Work Plan tasks and subtasks for the Site may include, but are not limited to, the following:

- Sampling and analysis of soil gas, soil, and groundwater;
- Evaluate the potential for existing contaminants to recontaminate soil and groundwater;
- Evaluate the potential for contaminants to impact the vapor intrusion pathway;
- Evaluate the potential for off-property groundwater to impact on-property groundwater, soil gas, or the vapor intrusion pathway.
- Evaluate the potential for redevelopment of the subject property to affect the extent of contaminant(s) at off-property and nearby sources or Sites.

As part of the project background, existing environmental data on site soil, groundwater, and soil vapor (if any) will be compiled and evaluated for data gaps. The data gaps will be used as the basis for conducting additional site investigations, if necessary. The Work Plan will also identify specific data collection procedures in a Sampling and Analysis Plan (SAP) and Quality Assurance Project Plan (QAPP) as part of the Work Plan in compliance with WAC 173-340-820 for defining the nature and extent of contamination.

The SAP identifies the proposed number and location of all environmental samples and methods, including soil borings, groundwater monitoring wells, soil, groundwater, and soil gas samples, approximate depths, and includes a QAPP. 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; management of investigation-derived waste; data and records management; and schedule. The plan shall provide seven (7) day notice to Ecology prior to beginning sampling. Ecology may obtain split samples. ARE or their contractors shall enter all new sampling data generated under the SAP into the 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 entered into the EIM database within 30 days of receipt of all final laboratory results.

The 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

## Exhibit C - Scope of Work & Schedule

Studies (Revised December 2016)<sup>1</sup>. Laboratories must meet the accreditation standards established in WAC 173-50.

The Work Plan will also include a Health and Safety Plan (HASP) that addresses the known or potential health and safety risks that may be encountered during implementation of the planned work. The HASP will be prepared in general accordance with WAC 296-62.

ARE will provide Ecology with an Agency Review Draft Work Plan (including the SAP, QAPP, and HASP). Once Ecology reviews and approves the Work Plan, it will be considered the Final Work Plan. The Work Plan shall not be implemented until approved by Ecology. Once approved by Ecology, ARE will implement the Final Work Plan according to the schedule contained in this Exhibit.

ARE shall prepare two (2) copies of the Agency Review Draft 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 Agency Review Draft Work Plan and after Ecology approval, ARE shall prepare three (3) copies of the Final Work Plan and submit them to Ecology, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats.

### **TASK 2. REMEDIAL INVESTIGATION**

ARE shall conduct an RI that meets the requirements of WAC 173-340-350(7) in accordance with the Work Plan as approved by Ecology. The RI will determine the nature and extent of contamination exceeding preliminary Model Toxics Control Act (MTCA) cleanup levels and screening levels, and other regulatory requirements. The RI must provide sufficient data and information to define the nature and extent of contamination.

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 soon as possible and documented as required by Ecology.

ARE shall provide updates to Ecology upon request as new site data and information becomes available. Laboratory analysis data shall also be provided in electronic format when it is final. Raw laboratory data will be provided to Ecology upon request.

Prior to submittal of the Agency Review Draft RI Report, a Key Project Meeting will be held. During the Key Project Meeting, Ecology and ARE will review available data and an updated conceptual site model and discuss the content and organization of the Draft RI Report.

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<sup>1</sup> Found at <https://fortress.wa.gov/ecy/publications/summarypages/0403030.html>

## Exhibit C - Scope of Work & Schedule

ARE shall compile the results of the investigation into an Agency Review Draft RI Report. ARE shall prepare two (2) copies of the Agency Review 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 Agency Review Draft RI Report, ARE shall prepare three (3) copies of a Public Review Draft 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 maps of contaminant distribution shall also be provided for both the Agency Review Draft RI Report and Public Review Draft RI Reports either in the report or as attachments. The RI Report will not be considered Final until Ecology approval is provided after a public review and comment period.

If the data collected during this investigation is insufficient to define the nature and extent of contamination or to prepare for implementation of an Interim Action or select a cleanup action, an additional phase of investigation shall be conducted to further characterize the extent of contamination and address remaining data gaps. The scope and schedule of any such additional necessary assessment will be discussed with, and approved by, Ecology and may be performed contemporaneously with other remedial activities.

### **TASK 3. INTERIM ACTION**

Remedial actions implemented prior to completion of the RI and/or FS, including those that:

- are 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;
- correct a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed;
- are needed to provide for completion of the remedial investigation/feasibility study or design of the cleanup action;

will be considered interim actions.

As detailed in the AO, ARE will provide Ecology with an Interim Action Work Plan (IAWP) for approval, and then implementing the interim action in accordance with the schedule included in the IAWP. The IAWP will be written in accordance with WAC 173-340-430 and the AO, and will be designed in a manner that will not foreclose reasonable alternatives for any final cleanup action that may be required.

ARE will prepare and submit for Ecology approval an Agency Review Draft Interim Action Work Plan (IAWP) with detail commensurate with the work to be performed. The Agency Review Draft IAWP shall include, as appropriate:

## Exhibit C - Scope of Work & Schedule

- 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 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 (based on information available at the time of the Interim Action);
- SAP/QAPP/HASP;
- Necessary permits, to the extent such permits are not already addressed through redevelopment of the Site.

ARE shall prepare two (2) copies of the Agency Review Draft Interim Action Work Plan and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review. Ecology will approve the IAWP (if appropriate) and the documents will be considered Final. ARE shall prepare three (3) copies of the Final IAWP, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats. Once approved by Ecology, ARE will implement the IAWP according with the approved schedule.

Upon successful completion of the work, an Agency Review Draft Interim Action Report will be prepared as a separate deliverable. ARE shall prepare two (2) copies of the Agency Review Draft Interim Action Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and approval. After incorporating Ecology's comments on the Agency Review Draft Interim Action Report and after Ecology approval, ARE shall prepare three (3) copies of the Final Interim Action Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

### **TASK 4. FEASIBILITY STUDY**

ARE shall use the information obtained in the RI to prepare an Agency Review Draft Feasibility Study (FS) that meets the applicable requirements of WAC 173-340-350(8) according to the Schedule in this exhibit. The Agency Review 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 exposure pathway and migration route.

Prior to beginning the FS, a Key Project Meeting will be held to review applicable state and federal laws, potential remedial alternatives, and establish points of compliance and potentially applicable cleanup levels.

The Agency Review Draft FS will provide a detailed analysis of each remedial alternative evaluated according to the applicable requirements of WAC 173-340-350. The remedial alternatives will be evaluated for compliance with the applicable requirements of

## Exhibit C - Scope of Work & Schedule

WAC 173-340-360, Selection of Cleanup Actions, including a detailed evaluation of remedial alternatives relative to the following criteria (if applicable):

- Compliance with Cleanup Standards and Applicable Laws
- Protection of Human Health
- Protection of the Environment
- 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
- Cost-Effectiveness
- Prospective Community Acceptance

The FS may include a Disproportionate Cost Analysis (DCA) as necessary to evaluate the available alternatives. 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.

ARE shall prepare one copy of the Agency Review Draft FS and submit it, including one electronic copy in Word (.doc) and Adobe (.pdf) formats, to Ecology for review. After addressing Ecology's comments on the Agency Review Draft FS, ARE shall prepare three (3) copies of the Public Review Draft FS and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment. The FS will not be considered Final until after Ecology approval is given after a public review and comment period.

### **TASK 5. PRELIMINARY DRAFT CLEANUP ACTION PLAN**

Upon Ecology approval of the Public Review Draft Remedial Investigation Report and Public Review Draft Feasibility Study, a Key Project Meeting will be held regarding the Cleanup Action Plan. This Cleanup Action Plan Meeting will be used to review plans for developing the preliminary Draft Cleanup Action Plan (DCAP).

ARE shall prepare a preliminary DCAP in accordance with WAC 173-340-380 that provides a proposed remedial action to address the contamination present on the Site. The preliminary DCAP shall include a general description of the proposed remedial actions, cleanup standards developed from the RI/FS and rationale regarding their selection, a schedule for implementation, description of any institutional controls proposed, and a summary of applicable local, state, and federal laws pertinent to the proposed cleanup actions.

## Exhibit C - Scope of Work & Schedule

ARE will submit the Agency Review preliminary DCAP for Ecology's review. ARE shall prepare two (2) copies of the Agency Review preliminary DCAP and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review. After receiving Ecology's comments on the Agency Review preliminary DCAP, if any, ARE shall revise the preliminary DCAP to address Ecology's comments. ARE shall submit five (5) copies of the Public Review DCAP including one electronic copy each in Word (.doc) and Adobe (.pdf) formats to Ecology.

### **TASK 6. SEPA COMPLIANCE**

ARE shall be responsible for complying with the State Environmental Policy Act (SEPA) Rules, including preparing and submitting an environmental checklist for either an Interim Action or for the selected remedial alternative that will be implemented through the Cleanup Action Plan. If the result of the threshold determination is a determination of significance (DS), ARE shall be responsible for the preparation of draft and final environmental impact statements. ARE 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.

It is acknowledged that ARE has participated, and continues to participate, in the City of Seattle's SEPA process for the planned redevelopment of the Site, and that this separate SEPA process includes disclosure of the Interim Action that will be implemented during the redevelopment of the Property. Ecology's SEPA review required under the AO shall be performed concurrently with City of Seattle's ongoing SEPA review and will focus on review and analysis of the Interim Action or the selected remedial actions for the Site under MTCA. Ecology's SEPA review will, as appropriate, adopt or incorporate the City of Seattle's SEPA analysis associated with the planned redevelopment of the Property.

### **TASK 7. PUBLIC PARTICIPATION**

As requested, ARE shall support Ecology in presenting the Public Review Draft RI Report, Public Review Draft FS, and Public Review Draft Cleanup Action Plan (including SEPA for dCAP implementation) environmental determination(s) at public meeting(s) or hearing(s) as required. ARE 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, ARE shall prepare an Agency Review Draft Responsiveness Summary that addresses public comments. ARE shall prepare two (2) copies of the Agency Review Draft Responsiveness Summary and submit them to Ecology for review, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats. After addressing Ecology's comments and after Ecology approval, ARE shall prepare five (5) copies of the Final Responsiveness Summary and submit them to Ecology for distribution, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats.

## SCHEDULE OF DELIVERABLES

The schedule for deliverables described in the Agreed Order and the Scope of Work is presented below. If the date for submission of any item or notification required by this Schedule of Deliverables occurs on a weekend, state or federal holiday, the date for submission of that item or notification is extended to the next business day following the weekend or holiday. Where a deliverable due date is triggered by Ecology notification, comments or approval, the starting date for the period shown is the date the Designated Project Coordinator received such notification, comments, or approval. Where triggered by Ecology receipt of a deliverable, the starting date for the period shown is the date Ecology receives the deliverable.

<b>AO Milestones and Deliverables</b>	<b>Completion Times (Calendar Days)</b>
Monthly Progress Reports	Due on the 10 <sup>th</sup> of each month, beginning after the first full month following the effective date of the Agreed Order
Agency Review Draft RI Work Plan	Within 90 days following effective date of the Agreed Order
Final RI Work Plan	Within 30 days following receipt of Ecology comments to the Agency Review Draft RI Work Plan with SAP, QAPP, and HASP.
Completion of RI Field Work	Within 120 days following Ecology approval of the Final RI Work Plan
Submittal of validated RI data	Within 30 days following receipt of all final laboratory data
Agency Review Draft RI Report	Within 90 days following submittal of validated RI data
Public Review Draft RI Report	Within 45 days following receipt of Ecology comments to Agency Review Draft RI Report
Agency Review Draft IA Work Plan	Within 90 days following receipt of Ecology request to prepare Agency Review Draft IA Work Plan
Final IA Work Plan	Within 30 days following receipt of Ecology comments on the Agency Review Draft IA Work Plan
Completion of IA Field Work	Within 365 days following Ecology approval of the Final IA Work Plan
Submittal of validated IA data	Within 30 days following receipt of all final laboratory data
Draft IA Completion Report	Within 90 days following submittal of validated IA data
Agency Review Draft FS	Within 120 days following submittal of validated IA data

Exhibit C - Scope of Work & Schedule

Public Review Draft FS	Within 45 days following receipt of Ecology comments to Agency Review Draft FS
Agency Review preliminary Draft Cleanup Action Plan (DCAP)	Within 90 days following approval of the Public Review Draft FS
Public Review Draft Cleanup Action Plan (DCAP)	Within 45 days following receipt of Ecology comments on the Agency Review preliminary DCAP

## Exhibit D – Preliminary Scope for Interim Actions

This Preliminary Scope for Interim Actions provides details on the type of interim action that will occur under Agreed Order No. DE 21102(AO) for the 601 Dexter Avenue Site (Site). This preliminary scope provides sufficient information to complete public comment on the interim action and for a SEPA determination to be made on the interim action. A full interim action work plan (IAWP) will be completed and approved by Ecology before being implemented in accordance with the AO and the Scope of Work & Schedule (Exhibit C to the AO).

The interim action will consist of excavation and disposal of contaminated soil, dewatering and disposal of contaminated perched groundwater, performance and verification sampling during excavation, and post-excavation sampling as needed. This interim action will take place within the Site but is limited to the parcel located at 601 Dexter Avenue, Seattle, Washington (Property).

The Property will be redeveloped for new commercial uses. As part of the redevelopment, the Property will be excavated from property line to property line to at least 35 feet bgs at Dexter Avenue, which corresponds to an elevation of about 25 feet above mean sea level (amsl). The excavation is necessary for the construction of a multi-level subgrade parking structure, and the soil excavation is estimated to be over 50,000 tons in total (i.e., non-impacted and contaminated soil). Final excavation depths and soil volumes have not yet been determined or finalized.

The Interim Action (excavation of contaminated soil, dewatering and removal of contaminated groundwater) will be completed simultaneously with the redevelopment excavation. Soil and perched groundwater that has been identified as contaminated will be disposed of in accordance with state and federal requirements. The interim action is limited to the Property boundary unless otherwise approved by Ecology.

The Interim Action will include the following elements:

- Proper handling, management, transport and disposal of contaminated soil and perched groundwater (if present or encountered) in accordance with applicable regulations.
- Compliance with appropriate health and safety protocols as set forth in an Ecology-approved Health and Safety Plan (HASP).
- Collection and analysis of performance and confirmation samples at the terminal limits of excavation in accordance with the final IAWP, Sampling and Analysis Plan (SAP), and Quality Assurance Project Plan (QAPP).
- Analysis of RI data and performance & confirmation sample results to evaluate the need for a chemical vapor barrier to minimize potential soil vapor intrusion and commercial worker exposure to post-interim action residual concentrations of chemicals of concern. If it is determined that a chemical vapor barrier is necessary, the RI and IA data will be used to determine the specifications for the system.
- Documentation and appropriate reporting of all remedial activities relating to the handling, management, transport, disposal, sampling, and analysis of any contamination at the Site, including any excavation beyond the redevelopment limits as approved by Ecology.

A draft IAWP and final IAWP will be prepared by the PLP for Ecology review and approval as set forth under the AO. The final IAWP will be implemented to the fullest extent possible as written, with only appropriate and necessary adjustments or modifications based on actual field conditions or modifications necessary to meet the project objectives. All modifications must be approved by Ecology.