

EX-107

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KING COUNTY WASHINGTON

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SUPERIOR COURT CLERK

**STATE OF WASHINGTON  
KING COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

SEATTLE CHINATOWN  
INTERNATIONAL DISTRICT  
PRESERVATION AND  
DEVELOPMENT AUTHORITY,

Defendant.

NO. **20-2-05868-1 SEA**

PROSPECTIVE PURCHASER  
CONSENT DECREE

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## I. INTRODUCTION

1. The mutual objective of the State of Washington, Department of Ecology (Ecology) and the Seattle Chinatown International District Preservation and Development Authority (SCIDpda) (collectively, the Parties) under this Prospective Purchaser Consent Decree (PPCD) are to (1) resolve the potential liability of SCIDpda for contamination at the Spic & Span Site (Site) arising from a release(s) or threatened release(s) of hazardous substances, in advance of SCIDpda obtaining an ownership interest in real property at the Site; and (2) to facilitate the implementation of remedial action at the Site, so it may be redeveloped and reused as a community-focused, transit-oriented affordable housing development (the Project). The Project will provide approximately 77-120 residential units, all of which will be affordable rental housing that will serve residents at 30% to 60% of the area median income (AMI). The Project is located at 652 S. Dearborn Street, in the heart of the Chinatown International District two blocks from the International District Light Rail station. As a community developer, SCIDpda will seek to anchor the commercial space with a community-based use and/or small local business. This Decree requires SCIDpda to complete a Remedial Investigation and Feasibility Study (RI/FS), develop a draft Cleanup Action Plan (dCAP), and implement the remedial actions contained in the final Cleanup Action Plan (CAP), pursuant to the Schedule in Exhibit C.

2. Ecology has determined that these actions are necessary to protect human health and the environment.

3. The Complaint in this action is being filed simultaneously with this Decree. An Answer has not been filed, and there has not been a trial on any issue of fact or law in this case. However, the Parties wish to resolve the issues raised by Ecology's Complaint. In addition, the Parties agree that settlement of these matters without litigation is reasonable and in the public interest, and that entry of this Decree is the most appropriate means of resolving these matters.

4. By signing this Decree, the Parties agree to its entry and agree to be bound by its terms.

5. By entering into this Decree, the Parties do not intend to discharge non-settling parties from any liability they may have with respect to matters alleged in the Complaint. The Parties retain the right to seek reimbursement, in whole or in part, from any liable persons for sums expended under this Decree.

6. This Decree shall not be construed as proof of liability or responsibility for any releases of hazardous substances or cost for remedial action nor an admission of any facts; provided, however, that SCIDpda shall not challenge the authority of the Attorney General and Ecology to enforce this Decree.

7. The Court is fully advised of the reasons for entry of this Decree, and good cause having been shown:

Now, therefore, it is HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

## II. JURISDICTION

1. This Court has jurisdiction over the subject matter and over the Parties pursuant to the Model Toxics Control Act (MTCA), RCW 70A.305.

2. Authority is conferred upon the Washington State Attorney General by RCW 70A.305.040(4)(a) to agree to a settlement with any potentially liable person (PLP) if, after public notice and any required public meeting, Ecology finds the proposed settlement would lead to a more expeditious cleanup of hazardous substances. In addition, under RCW 70A.305.040(5), the Attorney General may agree to a settlement with a person not currently liable for remedial action at a facility who proposes to purchase, redevelop, or reuse the facility, provided: the settlement will yield substantial new resources to facilitate cleanup; the settlement will expedite remedial action consistent with the rules adopted under MTCA; and Ecology determines based upon available information that the redevelopment or reuse of the facility is not likely to contribute to the existing release or threatened release, interfere with remedial actions that may be needed at the Site, or increase health risks to persons at or in the vicinity of

the Site. RCW 70A.305.040(4)(b) requires that such a settlement be entered as a consent decree issued by a court of competent jurisdiction.

3. Ecology has determined that a release or threatened release of hazardous substances has occurred at the Site that is the subject of this Decree.

4. The actions to be taken pursuant to this Decree are necessary to protect public health and the environment.

5. This Decree has been subject to public notice and comment.

6. SCIDpda has not been named as a PLP for the Site, and SCIDpda has certified under Section IX (Certification of Defendant) that it is not currently liable for the Site under MTCA. SCIDpda expects to close and acquire property at the Site pursuant to a Purchase and Sale Agreement no later than March 31, 2024. The Property likely comprises a portion of the Site. SCIDpda will incur potential liability under RCW 70A.305.040(1) at the time it acquires an interest in the Property at the Site for performing remedial actions or paying remedial costs incurred by Ecology or third parties resulting from past releases or threatened releases of hazardous substances at the Site. This Decree settles SCIDpda's liability as described herein for this Site upon it obtaining an ownership interest in the parcel.

7. SCIDpda intends to redevelop the Site for the Project, as described in this Decree.

8. Ecology finds that this Decree and/or the remedial actions required by the Decree: will yield substantial new resources to facilitate cleanup of the Site; will lead to a more expeditious cleanup of hazardous substances at the Site in compliance with cleanup standards established under RCW 70A.305.030(2)(e) and WAC 173-340; will promote the public interest by facilitating the redevelopment or reuse of the Site for an affordable housing development; will not be likely to contribute to the existing release or threatened release at the Site; interfere with remedial actions that may be needed at the Site; or increase health risks to person at or in the vicinity of the Site.

9. SCIDpda has agreed to undertake the actions specified in this Decree and consents to the entry of this Decree under MTCA.

### III. PARTIES BOUND

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

### IV. DEFINITIONS

1. Unless otherwise specified herein, all definitions in RCW 70A.305.020. and WAC 173-340 shall control the meanings of the terms in this Decree.

A. Site: The Site is referred to as Spic N Span Cleaners, Facility Site ID No. 54766547 and Cleanup Site ID No. 3502. The Site is generally located at 652 S. Dearborn Street in Seattle, Washington. The Site is not fully defined but includes all areas where contamination has come to be located from historic releases during former operations, including a former dry-cleaning operation. 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. The definition of the Site will be complete after further characterization and investigation, pursuant to WAC 173-340-350.

B. Prospective Purchaser Consent Decree or Decree: Refers to this Prospective Purchaser Consent Decree and each of the exhibits to this Decree. All exhibits are integral and enforceable parts of this Prospective Purchaser Consent Decree.

C. Defendant: Refers to Seattle Chinatown International District Preservation and Development Authority.

D. Parties: Refers to the State of Washington, Department of Ecology and Seattle Chinatown International District Preservation and Development Authority.

E. Property: Refers to the parcel that SCIDpda will acquire for the Project and as described in Exhibit B (Property Legal Description). The Property consists of King County Parcel No. 524780-2485, is approximately 13,000 square feet and is associated with the 652 S. Dearborn Street address. The Property likely comprises a portion of the Site.

F. Redevelopment: Refers to construction activity that improves property for conversion to a new use. Such new uses include, but are not limited to, affordable rental housing, affordable ownership housing and mixed commercial use. "Redevelopment" does not refer to any remedial action, including building demolition necessary to conduct remedial activities or construction activity that also serves as a remedial action (e.g., soil excavation to remove or access contaminated soil).

## V. FINDINGS OF FACT

1. Ecology makes the following findings of fact without any express or implied admissions of such facts by SCIDpda. Based upon factors currently known to Ecology, the Site is generally located at 652 S. Dearborn Street as shown in the Site Location Diagram (Exhibit A). The nature and extent of the releases at the Site will be further defined by the Remedial Investigation (RI) and CAP but generally involve perchloroethene (PCE) and associated breakdown compounds in soil and groundwater and petroleum hydrocarbons as mineral spirits in the TPH-G range in soil.

A. Between approximately 1963 and 2019, the Site was used for dry-cleaning operations as Spin N Span Cleaners. Contamination at the Site is related to the dry-cleaning operations. Prior to any remedial action at the Site, previous investigations

have confirmed that: total petroleum hydrocarbons in the gasoline range (TPH-G) and chlorinated hydrocarbons as PCE, trichloroethene (TCE), and Cis-1,2-dichloroethene (cis-1,2-DCE) were present in soil at the Site; PCE, TCE, cis-1,2-DCE and vinyl chloride (VC) were present in groundwater at the Site above their respective MTCA Method A cleanup levels; and PCE, TCE, cis-1,2-DCE, VC, benzene, and 1,3-butadiene were present in soil gas at the Site above their respective MTCA Method B Soil Gas Screening Levels.

B. SCIDpda is under contract with the owner to close on the Property no later than March 31, 2024.

C. Several environmental investigations and remediation efforts have been conducted at the Site, including the removal of two underground storage tanks (USTs) in 1998 and the installation and operation of a soil vapor extraction (SVE) and air/ozone sparging (AOS) system from 2001 to 2004. The Site has been in the Voluntary Cleanup Program (VCP) from 2002 through 2008 (NW0945) and from 2012 until 2019 (NW2564). The owner completed an RI/FS and developed a CAP in the VCP in 2011. Additional sampling conducted in 2013 and 2014 refined the understanding of the extent of contamination at the Site, which was documented in a Supplemental Data Report submitted to Ecology in 2014. In 2016, the owner submitted an updated Sampling and Analysis Plan (SAP), based on the revised understanding of Site conditions. Ecology determined via a 2016 opinion letter that, based on additional data collected at the Site following issuance of the RI/FS, the 2011 RI did not fully characterize contamination at the Site. However, Ecology ultimately concurred with the compliance monitoring plan and increased treatment area proposed in the 2016 SAP.

D. In 2021, consistent with the CAP developed in the VCP, the owner installed and activated an Electrical Resistance Heating (ERH) system at the Site to address contaminants in soil. The ERH system included installation of fifty-two



electrodes and forty vapor recovery wells at the Site. The system was in operation at the Site from August 2021 through January 2022. Steam and contaminant vapors produced by the ERH system were captured by vapor extraction wells and conveyed to the surface for treatment and permitted discharge. In-situ thermal remediation via ERH is estimated to have removed approximately 800 pounds of air phase petroleum hydrocarbons and 42 pounds of PCE from the Site's subsurface. Performance monitoring conducted by the owner following shutoff of the system indicates that soil has been remediated to below the site specific cleanup levels presented to Ecology in a 2014 Supplemental Data Collection Report for the Site. Performance monitoring also indicates that concentrations of VC in groundwater remain above MTCA Method A cleanup levels beneath the Site downgradient from the Property following thermal remediation. Additionally, naphthalene and cis-1,2-DCE have been detected in groundwater at concentrations exceeding CULs during post ERH operation performance monitoring. However, detected concentrations of these constituents were below CULs in the most recent groundwater monitoring event at the Site

E. Release(s) and/or potential release(s) of hazardous substances occurred at the Site. The following hazardous substances at the Site have been detected at concentrations above MTCA cleanup levels. In soil, TPH-G, PCE, TCE, and Cis-DCE; in groundwater, PCE, TCE, cis-1,2-DCE and Vinyl Chloride; and in soil gas, PCE, TCE, cis-1,2-DCE, VC, benzene, and 1,3-butadiene. These hazardous substances have been, and may continue to be, released at the Site into the environment including soil, groundwater, and soil gas.

F. Ecology has not performed a Site Hazard Assessment (SHA) at the Site and as such an overall priority ranking pursuant to MTCA has not been assigned.

## VI. WORK TO BE PERFORMED

1. This Decree contains requirements designed to protect human health and the environment from the known release, or threatened release, of hazardous substances at, on, or from the Site. All remedial action(s) conducted by SCIDpda at the Site shall be done in accordance with WAC 173-340.

2. SCIDpda shall complete an RI and Feasibility Study (FS), a dCAP, and implement the final CAP in accordance with the Scope of Work and Schedule contained therein. The RI, FS, and dCAP must be completed in accordance with the Scope of Work and Schedule attached to this Decree (Exhibit C). Following Ecology's approval of the dCAP as a public review document, the draft CAP shall be subject to public comment. Ecology may make changes to the dCAP to reflect comments or concerns raised in the public comment period, and then Ecology will issue the final CAP.

3. Following Ecology issuance of the final CAP, SCIDpda shall implement that CAP subject to this Decree's Schedule and any additional schedule requirements in the CAP. The Decree will be amended to add the final CAP as an exhibit.

4. SCIDpda will conduct the remedial actions throughout the Site, as described in the Scope of Work and the final CAP, once issued by Ecology. In addition to the required remediation throughout the Site, the Property will be remediated to the cleanup levels identified in the final CAP and redeveloped with dedicated rental units restricted for affordable housing for a minimum of 30 years, along with commercial space, as provided in this Decree, consistent with MTCA and its implementing regulations, WAC 173-340, and applicable King County zoning provisions and comprehensive plan designations.

5. Until the CAP is final and the Schedule requires implementation, no redevelopment of the parcels within the Property may proceed; provided, that Ecology may allow for redevelopment to occur on a property-specific basis if: (1) a final CAP for the Property has been issued by Ecology; (2) the property-specific redevelopment is accompanied by a

remedial action that implements Ecology's selected cleanup action for that portion of the Site; and (3) Ecology determines that proceeding with the property-specific redevelopment and remedial action: (a) is consistent with, and will not preclude, complicate, or render more expensive the final cleanup action for the Site as a whole; and (b) will not exacerbate the known contamination/release or result in recontamination of the Property.

6. 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. Any Party may propose an interim action under this Order. If the Parties are in agreement concerning the interim action, SCIDpda 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). SCIDpda 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 SCIDpda is required to conduct the interim action in accordance with the approved Interim Action Work Plan. If the Parties are not in agreement, Ecology reserves its authority to require interim action(s) under a separate order or other enforcement action under RCW 70A.305, or to undertake the interim action itself.

7. All plans or other deliverables submitted by SCIDpda for Ecology's review and approval under the Scope of Work and Schedule (Exhibit C) shall, upon Ecology's approval, become integral and enforceable parts of this Decree. This includes the final CAP and any

additional deliverables identified in the final CAP, according to any schedule or scope of work contained therein.

8. If SCIDpda 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 or groundwater, SCIDpda, within seven (7) days of learning of the change in condition, shall 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.

9. Pursuant to WAC 173-340-440(11) and if required by the CAP, SCIDpda shall maintain sufficient and adequate financial assurance mechanisms to cover all costs associated with the operation and maintenance of the remedial action at the Site, including institutional controls, compliance monitoring, and corrective measures.

A. Within sixty (60) days of Ecology's issuance of a final CAP, if the CAP requires engineered and/or institutional controls that require financial assistance under WAC 173-340-440(11), SCIDpda shall submit to Ecology for review and approval an estimate of the costs associated with the operation and maintenance of the remedial action at the Site that it will incur in carrying out the terms of this Decree. Within sixty (60) days after Ecology approves the aforementioned cost estimate, SCIDpda shall provide proof of financial assurances sufficient to cover those costs in a form acceptable to Ecology.

B. SCIDpda shall adjust the financial assurance coverage and provide Ecology's project coordinator with documentation of the updated financial assurance for:

i. Inflation, annually, within thirty (30) days of the anniversary date of the entry of this Decree; or if applicable, the modified anniversary date established in accordance with this section, or if applicable, ninety (90) days after the close of SCIDpda's fiscal year if the financial test or corporate guarantee is used.

ii. Changes in cost estimates, within thirty (30) days of issuance of Ecology's approval of a modification or revision to the CAP that result in increases to the cost or expected duration of remedial actions. Any adjustments for inflation since the most recent preceding anniversary date shall be made concurrent with adjustments for changes in cost estimates. The issuance of Ecology's approval of a revised or modified CAP will revise the anniversary date established under this section to become the date of issuance of such revised or modified CAP.

C. The Financial Assurance Officer for Ecology shall work with the project coordinators to review and approve financial assurance coverage pursuant to this Decree, if applicable, and make determinations on any adjustments necessary based on the annual reporting. As of the execution date of this Decree, Ecology's Financial Assurance Officer is Joanna Richards, (360) 485-5992 or [Joanna.richards@ecy.wa.gov](mailto:Joanna.richards@ecy.wa.gov).

10. Environmental (Restrictive) Covenants will be used to implement the institutional controls for the Site, if required by the final CAP, and the affordable housing requirements of this Decree.

A. In addition to any restrictions related to environmental conditions, to be further described in the final CAP, the Environmental (Restrictive) Covenant to be recorded shall require that the project will provide Affordable Housing units. By agreement of the project coordinators, subject to the requirement of any applicable grant agreement between the Parties, and prior to the recording of any Covenant required by the Decree, the Parties will further define: (1) the specific requirements for the number of Affordable Housing units that will be subject to the Covenant (a minimum of 20% percent of all housing units be Affordable Housing rental units); (2) the term of land use restriction (a minimum of 30 years); and (3) the instrument(s) required to be recorded to restrict land use to the requirements of this section. The affordable housing requirements

shall, through this Decree, attach to SCIDpda prior to the above-referenced Covenants being recorded.

B. In the event that, prior or subsequent to the above-referenced Covenants being recorded, one or more of the parcels is transferred to a successor in interest who is not a party to this Decree, compliance with this Decree's or the covenant's affordable housing requirements in this section is necessary in order for that successor in interest to enjoy the stay of enforcement provided in RCW 70A.305.040(4)(e). In the event such a successor in interest fails to comply with the affordable housing requirements, Ecology reserves authority to pursue an action for cost recovery from such successors pursuant to RCW 70A.305.050(3), to the extent funds from Ecology's Affordable Housing Cleanup Grant Program have been expended at the Site.

C. In consultation with SCIDpda, Ecology will prepare the Environmental (Restrictive) Covenants consistent with WAC 173-340-440, RCW 64.70, and any policies or procedures specified by Ecology. The Environmental (Restrictive) Covenants shall restrict future activities and uses of the Site as agreed to by Ecology and SCIDpda.

D. After approval by Ecology, SCIDpda shall record the Environmental (Restrictive) Covenant for the property it owns with the office of the King County Auditor as detailed in the final CAP. SCIDpda shall provide Ecology with the original recorded Environmental (Restrictive) Covenants within thirty (30) days of the recording date.

E. If provided for in the final CAP, and if part of the remedial action for the Site, institutional controls may be required on properties not owned by SCIDpda. SCIDpda will make good faith efforts to engage with the owners of each affected property so that an Ecology-approved Environmental (Restrictive) Covenant is recorded as detailed in the final CAP. Upon a showing that SCIDpda has made a good faith effort to secure an Environmental (Restrictive) Covenant for an affected property and has been

unable to do so, Ecology may provide assistance to SCIDpda. If required by the final CAP, SCIDpda shall provide Ecology with the original recorded Environmental (Restrictive) Covenant within thirty (30) days of the recording date.

11. Unless otherwise directed by Ecology, SCIDpda shall submit to Ecology written monthly Progress Reports that describe the actions taken during the previous month to implement the requirements of this Decree. 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 Decree. Unless otherwise specified in writing by Ecology, Progress Reports and any other documents submitted pursuant to this Decree shall be sent by electronic mail to Ecology's project coordinator. The Progress Reports shall include the following:

- A. A list of on-site activities that have taken place during the month.
- B. Description of any sample results which deviate from the norm.
- C. Detailed description of any deviations from required tasks not otherwise documented in project plans or amendment requests.
- D. Description of all deviations from the Scope of Work and Schedule (Exhibit C) during the current month and any planned deviations in the upcoming month.
- E. For any deviations in schedule, a plan for recovering lost time and maintaining compliance with the schedule.
- F. 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.
- G. A list of planned activities for the upcoming month.

12. Except in the case of an emergency, SCIDpda agrees not to perform any remedial actions at the Site outside the scope of this Decree without prior written approval of Ecology. In the case of an emergency, SCIDpda must notify Ecology of the event and remedial action(s) as soon as practical, but no later than twenty-four (24) hours after discovery of the emergency.

## VII. DESIGNATED PROJECT COORDINATORS

1. The project coordinator for Ecology is:

Zak Wall  
PO Box 330316 Shoreline, WA 98133  
425-758-5231  
zak.wall@ecy.wa.gov

2. The project coordinator for SCIDpda is:

James Welles, LHG  
[ PBS Engineering and Environmental  
214 E Galer Street, Suite 300, Seattle, WA 98101  
(206) 766-7605  
james.welles@pbsusa.com

3. Each project coordinator shall be responsible for overseeing the implementation of this Decree. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and SCIDpda and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Decree 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 Decree.

4. 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.

## VIII. PERFORMANCE

1. Except as otherwise provided for by RCW 18.43 and 18.220, all geologic and hydrogeologic work performed pursuant to this Decree 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.



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

3. Except as otherwise provided for by RCW 18.43.130, all construction work performed pursuant to this Decree shall be under the direct supervision of a professional engineer registered by the State of Washington or a qualified technician under the direct supervision of a professional engineer registered by the State of Washington.

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

5. SCIDpda 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 Decree, in advance of their involvement at the Site.

#### **IX. CERTIFICATION OF DEFENDANT**

1. SCIDpda represents and certifies that, to the best of its knowledge and belief, it has fully and accurately disclosed to Ecology the information currently in its possession or control that relates to the environmental conditions at and in the vicinity of the Site, or to SCIDpda's right and title thereto.

2. SCIDpda represents and certifies that it did not cause or contribute to a release or threatened release of hazardous substances at the Site and is not otherwise currently potentially liable for the Site under RCW 70A.305.040(1).

#### **X. ACCESS**

1. Ecology or any Ecology authorized representative shall have access to enter and freely move about all property at the Site that SCIDpda either 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 Decree; reviewing SCIDpda's progress in carrying out the terms of this Decree; 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 Decree; and verifying the data submitted to Ecology by SCIDpda.

2. Nothing in this Decree is intended by SCIDpda to waive any right it may have under applicable law to limit disclosure of documents protected by the attorney work-product privilege and/or the attorney-client privilege. If SCIDpda withholds any requested records based on an assertion of privilege, it shall provide Ecology with a privilege log specifying the records withheld and the applicable privilege. No Site-related data collected pursuant to this Decree shall be considered privileged.

3. SCIDpda shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by SCIDpda where remedial activities or investigations will be performed pursuant to this Decree.

4. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by SCIDpda unless an emergency prevents such notice. All Parties 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.

#### **XI. SAMPLING, DATA SUBMITTAL, AND AVAILABILITY**

1. With respect to the implementation of this Decree, SCIDpda shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology by submitting data as detailed in this section. Pursuant to WAC 173-340-840(5), all sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with paragraph 8 of Section VI (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.

2. If requested by Ecology, SCIDpda shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by SCIDpda pursuant to the implementation of this Decree. SCIDpda shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow SCIDpda and/or its authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Decree, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section IX (Access), Ecology shall notify SCIDpda prior to any sample collection activity unless an emergency prevents such notice.

3. 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.

## **XII. ACCESS TO INFORMATION**

1. SCIDpda shall provide to Ecology, upon request, 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 SCIDpda's possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Decree, 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. SCIDpda 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 work.

2. Nothing in this Decree is intended to waive any right SCIDpda may have under applicable law to limit disclosure of Records protected by the attorney work-product privilege and/or the attorney-client privilege. If SCIDpda withholds any requested Records based on an assertion of privilege, SCIDpda shall provide Ecology with a privilege log specifying the Records withheld and the applicable privilege. No Site-related data collected pursuant to this Decree 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.

3. 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.

### **XIII. RETENTION OF RECORDS**

During the pendency of this Decree, and for ten (10) years from the date this Decree is no longer in effect as provided in Section XXV (Duration of Decree), SCIDpda shall preserve all records, reports, documents, and underlying data in its possession relevant to the implementation of this Decree and shall insert a similar record retention requirement into all contracts with project contractors and subcontractors. Upon request of Ecology, SCIDpda shall make all records available to Ecology and allow access for review within a reasonable time.

### **XIV. TRANSFER OF INTEREST IN PROPERTY**

1. No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by SCIDpda without provision for continued operation and maintenance of any containment system, treatment system, and/or monitoring system installed or implemented pursuant to this Decree.

2. Prior to SCIDpda's transfer of any interest in all or any portion of the Site, and during the effective period of this Decree, SCIDpda shall provide a copy of this Decree to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, SCIDpda shall notify Ecology of said transfer. Upon its transfer of any interest, SCIDpda shall notify all transferees of the restrictions on the activities and uses of the property under this Decree and incorporate any such use restrictions into the transfer documents.

#### **XV. RESOLUTION OF DISPUTES**

1. In the event that SCIDpda elects to invoke dispute resolution, SCIDpda 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), SCIDpda 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; SCIDpda's position with regards to the dispute; Ecology's position with regards to the dispute; and the extent of resolution reached by informal discussion.

C. SCIDpda may then request regional management review of the dispute. SCIDpda must submit this request (Formal Dispute Notice) 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 issue a written decision regarding the dispute (Decision on Dispute) within thirty (30) calendar days of receipt of the Formal Dispute Notice.

E. If SCIDpda finds Ecology's Regional Section Manager's decision of the disputed matter unacceptable, SCIDpda may then request final management review of that decision. SCIDpda must submit this request (Final Review Request) in writing to the Toxics Cleanup Program Manager within seven (7) calendar days of SCIDpda's receipt of the Decision on Dispute. The Final Review Request shall include a written statement of dispute setting forth: the nature of the dispute; SCIDpda's position with respect to the dispute; and the information relied upon to support its position.

F. Ecology's Toxics Cleanup Program Manager shall conduct a review of the dispute and shall issue a written decision regarding the dispute (Final Decision on Dispute) within thirty (30) calendar days of receipt of the Final Review Request. The Toxics Cleanup Program Manager's decision shall be Ecology's final decision on the disputed matter.

2. If Ecology's Final Decision on Dispute is unacceptable to SCIDpda, SCIDpda has the right to submit the dispute to the Court for resolution. The Parties agree that one judge should retain jurisdiction over this case and shall, as necessary, resolve any dispute arising under this Decree. Under RCW 70A.305.070, Ecology's investigative and remedial decisions shall be upheld unless they are arbitrary and capricious.

3. 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. Where either party utilizes the dispute resolution process in bad faith or for purposes of delay, the other party may seek sanctions.

4. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Decree, unless Ecology agrees in writing to a schedule extension or the Court so orders.

5. In case of a dispute, failure to either proceed with the work required by this Decree 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 XXII (Implementation of Remedial Action).

#### **XVI. AMENDMENT OF DECREE**

1. The Parties may agree to minor changes to the work to be performed without formally amending this Decree. Minor changes will be documented in writing by Ecology.

2. Substantial changes to the work to be performed shall require formal amendment of this Decree. This Decree may only be formally amended by a written stipulation among the Parties that is entered by the Court, or by order of the Court. Ecology will provide its written consent to a formal amendment only after public notice and opportunity to comment on the formal amendment. Such amendment shall become effective upon entry by the Court. Agreement to amend the Decree shall not be unreasonably withheld by any party.

3. When requesting a change to the Decree, SCIDpda 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 Decree must be formally amended. Reasons for the disapproval of a proposed change to this Decree shall be stated in writing. If Ecology does not agree to the requested change, the disagreement may be addressed through the dispute resolution procedures described in Section XIII (Resolution of Disputes).

#### **XVII. EXTENSION OF SCHEDULE**

1. SCIDpda's 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 SCIDpda 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 SCIDpda 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 SCIDpda.
- 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, or other unavoidable casualty.
- D. Endangerment as described in Section XVIII (Endangerment).

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

4. Ecology shall act upon SCIDpda's written request for extension in a timely fashion. Ecology shall give SCIDpda written notification of any extensions granted pursuant to this Decree. A requested extension shall not be effective until approved by Ecology or, if required, by the Court. Unless the extension is a substantial change, it shall not be necessary to



amend this Decree pursuant to Section XIV (Amendment of Decree) when a schedule extension is granted.

5. At SCIDpda'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 XVIII (Endangerment).

#### **XVIII. ENDANGERMENT**

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

2. In the event SCIDpda determines that any activity being performed at the Site under this Decree is creating or has the potential to create a danger to human health or the environment, SCIDpda may cease such activities. SCIDpda 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, SCIDpda shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with SCIDpda's cessation of activities, it may direct SCIDpda to resume such activities.

3. If Ecology concurs with or orders a work stoppage pursuant to this section, SCIDpda'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 XV (Extension of Schedule), for such period of time as Ecology determines is reasonable under the circumstances.

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

#### **XIX. COVENANT NOT TO SUE**

1. Covenant Not to Sue: In consideration of SCIDpda's compliance with the terms and conditions of this Decree, Ecology covenants not to institute legal or administrative actions against Defendant(s) regarding the release or threatened release of hazardous substances at the Site, as described in Section IV.1.a (Definitions) and as depicted in Exhibit A This Covenant Not to Sue does not cover any other hazardous substance(s) or area. Ecology retains all of its authority relative to any hazardous substance(s) or area not covered by this Decree.

This Covenant Not to Sue shall have no applicability whatsoever to:

- A. Criminal liability.
- B. Liability for damages to natural resources.
- C. Any Ecology action, including cost recovery, against PLPs not a party to this Decree.

2. Pursuant to RCW 70A.305.040(4)(c), the Court shall amend this Covenant Not to Sue if factors not known at the time of entry of this Decree are discovered and present a previously unknown threat to human health or the environment.

3. Reopeners: Ecology specifically reserves the right to institute legal or administrative action against SCIDpda to require it to perform additional remedial actions at the Site and to pursue appropriate cost recovery, pursuant to RCW 70A.305.050, under any of the following circumstances:

- A. Upon SCIDpda's failure to meet the requirements of this Decree.

B. Failure of the remedial action to meet the cleanup standards identified in the CAP, which will be included as an Exhibit to this Decree when completed pursuant to the Scope of Work and Schedule (Exhibit C).

C. Upon Ecology's determination that remedial action beyond the terms of this Decree is necessary to abate an imminent and substantial endangerment to human health or the environment.

D. Upon the availability of information previously unknown to Ecology regarding Site factors including the nature, quantity, migration, pathway, or mobility of hazardous substances, and Ecology's determination, in light of this information, that further remedial action is necessary at the Site to protect human health or the environment.

E. Upon Ecology's determination that additional remedial actions are necessary to achieve cleanup standards within the reasonable restoration time frame set forth in the CAP.

4. Except in the case of an emergency, prior to instituting legal or administrative action against Defendant(s) pursuant to this section, Ecology shall provide SCIDpda with fifteen (15) calendar days' notice of such action.

## **XX. CONTRIBUTION PROTECTION**

1. With regard to claims for contribution against SCIDpda, the Parties agree that SCIDpda is entitled to protection against claims for contribution for matters addressed in this Decree as provided by RCW 70A.305.040(4)(d).

## **XXI. INDEMNIFICATION**

1. SCIDpda 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 SCIDpda, its officers, employees, agents, or contractors in entering into

and implementing this Decree. However, SCIDpda 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 Decree.

## XXII. COMPLIANCE WITH APPLICABLE LAWS

1. *Applicable Law.* All actions carried out by SCIDpda pursuant to this Decree shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in RCW 70A.305.090. The permits or specific federal, state, or local requirements that the agency has determined are applicable and that are known at the time of the execution of this Decree have been identified in Exhibit D. SCIDpda has a continuing obligation to identify additional applicable federal, state, and local requirements which apply to actions carried out pursuant to this Decree, and to comply with those requirements. As additional federal, state, and local requirements are identified by Ecology or SCIDpda, Ecology will document in writing if they are applicable to actions carried out pursuant to this Decree, and SCIDpda must implement those requirements.

2. *Relevant and Appropriate Requirements.* All actions carried out by SCIDpda pursuant to this Decree shall be done in accordance with relevant and appropriate requirements identified by Ecology. The relevant and appropriate requirements that Ecology has determined apply have been identified in Exhibit D. If additional relevant and appropriate requirements are identified by Ecology or SCIDpda, Ecology will document in writing if they are applicable to actions carried out pursuant to this Decree and SCIDpda must implement those requirements.

3. Pursuant to RCW 70A.305.090(1), SCIDpda may be 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, SCIDpda 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 Decree to enforce those local government permits and/or approvals. The exempt permits or approvals and the applicable substantive requirements of those permits or approvals, as they are known at the time of the execution of this Decree, have been identified in Exhibit D.

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

5. 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 SCIDpda 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.

### **XXIII. REMEDIAL ACTION COSTS**

1. SCIDpda shall pay to Ecology costs incurred by Ecology pursuant to this Decree 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 Decree preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the entry of this Decree. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). For all costs incurred, SCIDpda 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. 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.

2. 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.

### **XXIV. IMPLEMENTATION OF REMEDIAL ACTION**

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

2. Except where necessary to abate an emergency or where required by law, SCIDpda shall not perform any remedial actions at the Site outside those remedial actions

required by this Decree to address the contamination that is the subject of this Decree, unless Ecology concurs, in writing, with such additional remedial actions pursuant to Section XIV (Amendment of Decree). In the event of an emergency, or where actions are taken as required by law, SCIDpda 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.

#### **XXV. PERIODIC REVIEW**

1. If the CAP requires implementation of a cleanup action that requires a periodic review under WAC 173-340-420(2), so long as remedial action continues at the Site, the Parties agree to review the progress of remedial action at the Site, and to review the data accumulated as a result of monitoring the Site as often as is necessary and appropriate under the circumstances. Unless otherwise agreed to by Ecology, at least every five (5) years after the initiation of cleanup action at the Site the Parties shall confer regarding the status of the Site and the need, if any, for further remedial action at the Site. Under Section XVII (Covenant Not to Sue), Ecology reserves the right to require further remedial action at the Site under appropriate circumstances. This provision shall remain in effect for the duration of this Decree.

#### **XXVI. PUBLIC PARTICIPATION**

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

A. If agreed to by Ecology, develop appropriate mailing lists, 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.

B. 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 SCIDpda prior to the issuance of all press releases and fact sheets related to remedial action work to be performed at the Site, and before meetings related to remedial action work to be performed at the Site with the interested public and/or local governments. For all press releases, fact sheets, meetings, and other outreach efforts by SCIDpda that do not receive prior Ecology approval, SCIDpda shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

C. 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.

D. When requested by Ecology, arrange and/or continue information repositories at the following location:

Ecology's Northwest Regional Office  
15700 Dayton Ave N  
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.

## **XXVII. DURATION OF DECREE**

1. The remedial program required pursuant to this Decree shall be maintained and continued until SCIDpda has received written notification from Ecology that the requirements of this Decree have been satisfactorily completed. This Decree shall remain in effect until



dismissed by the Court. When dismissed, Section XI (Retention of Records), Section XVII (Covenant Not to Sue), Section XVIII (Contribution Protection), Section XIX (Indemnification), and Section XXVI (Claims Against the State) shall survive.

**XXVIII. CLAIMS AGAINST THE STATE**

1. SCIDpda hereby agrees that it will not seek to recover any costs accrued in implementing the remedial action required by this Decree from the State of Washington or any of its agencies; and further, that SCIDpda will make no claim against any MTCA account for any costs incurred in implementing this Decree. Except as provided above, however, SCIDpda expressly reserves its right to seek to recover any costs incurred in implementing this Decree from any other PLP. This section does not limit or address funding that may be provided under WAC 173-322A.

**XXIX. EFFECTIVE DATE**

1. This Decree is effective upon the date it is entered by the Court.

**XXX. WITHDRAWAL OF CONSENT**

1. If the Court withholds or withdraws its consent to this Decree, it shall be null and void at the option of any party and the accompanying Complaint shall be dismissed without costs and without prejudice. In such an event, no party shall be bound by the requirements of this Decree.

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

DocuSigned by:  
*Barry Rogowski*  
6A0C8B7ECEE0424...  
Barry Rogowski  
Program Manager  
Toxics Cleanup Program  
(360) 407-7177  
Date: 3/15/2024

ROBERT W. FERGUSON  
Attorney General

DocuSigned by:  
*Derek Threet*  
BAF256D9509D45D...  
Derek J. Threet, WSBA # 45808  
Assistant Attorney General  
(360) 586-6762  
Date: 3/13/2024

SEATTLE CHINATOWN INTERNATIONAL DISTRICT  
PRESERVATION AND DEVELOPMENT AUTHORITY

DocuSigned by:  
  
BD201DD67B854EA...

Jamie Lee  
Co-Executive Director  
(206) 838-8713

DocuSigned by:  
  
13F15E3022994C1...

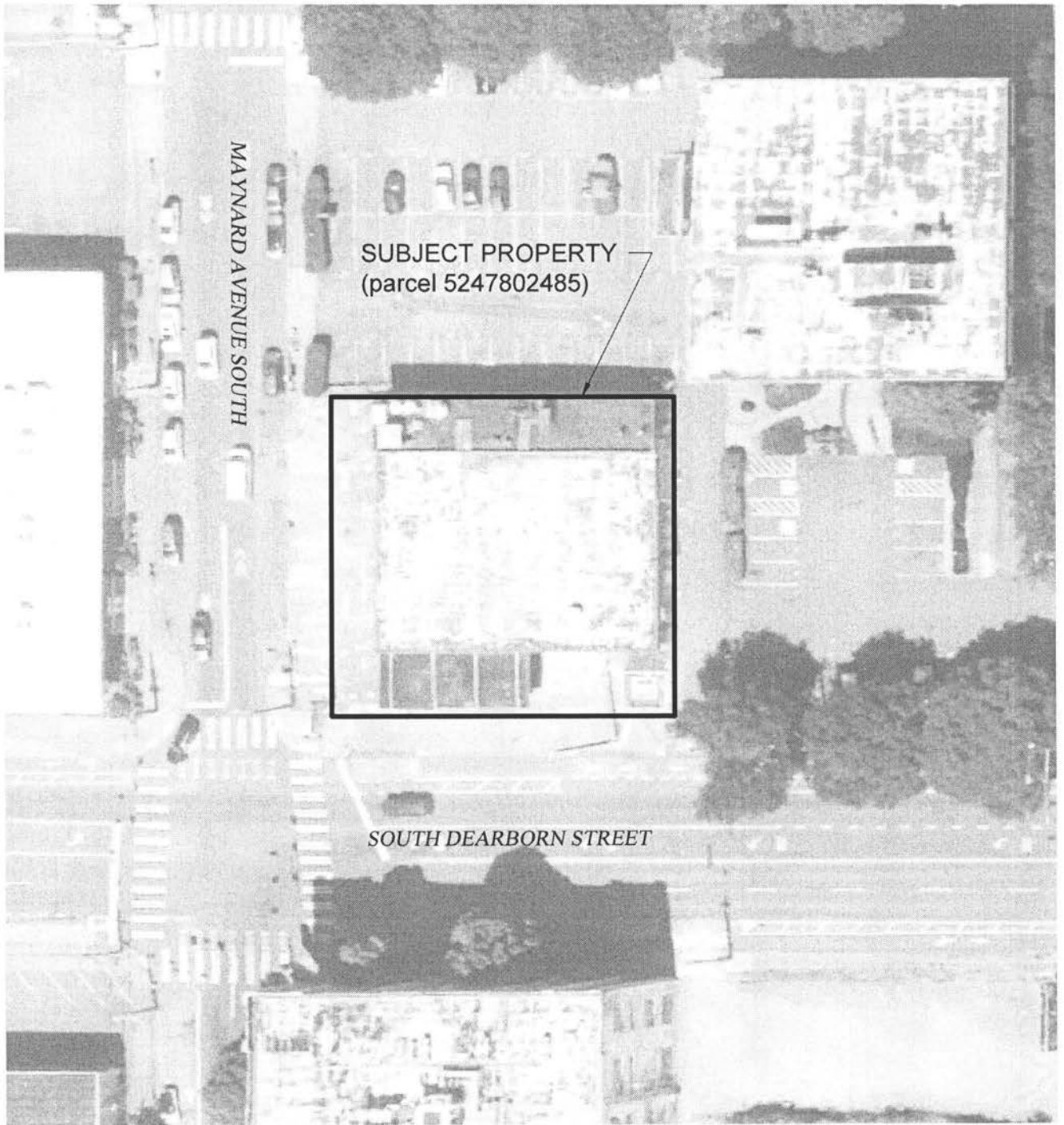
Jared Jonson  
Co-Executive Director  
(206) 550-6460

Date: 3/13/24

ENTERED this 18<sup>th</sup> day of March 2024.

  
JUDGE Michael K. Ryan  
King County Superior Court

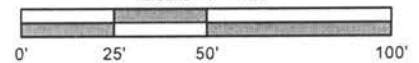
# EXHIBIT A



SOURCE: © 2021 MICROSOFT CORPORATION © 2021 MAXAR © CNES (2021) DISTRIBUTION AIRBUS DS



Scale 1" = 50'



PREPARED FOR: SCIDPDA



### SITE LOCATION DIAGRAM

652 SOUTH DEARBORN STREET  
SEATTLE, WASHINGTON

OCT 2023  
41593.006

EXHIBIT

**A**

# EXHIBIT B

**Exhibit B**  
**Property Legal Description**

The Land referred to herein below is situated in the County of King, State of Washington, and is described as follows:

LOTS 3 AND 4, BLOCK 51, TOWN OF SEATTLE, AS LAID OUT BY D.S. MAYNARD,  
COMMONLY KNOWN AS D.S.

MAYNARD'S PLAT OF SEATTLE, ACCORDING TO PLAT THEREOF RECORDED IN  
VOLUME 1 OF PLATS, PAGE 23,

RECORDS OF KING COUNTY, WASHINGTON;

EXCEPT THE SOUTH 12 FEET THEREOF CONDEMNED IN KING COUNTY SUPERIOR  
COURT CAUSE NUMBER 52652 FOR

DEARBORN STREET, AS PROVIDED BY ORDINANCE NUMBER 13320, OF THE CITY  
OF SEATTLE.

# EXHIBIT C

## EXHIBIT C: SCOPE OF WORK AND SCHEDULE

### Scope of Work

Pursuant to the Prospective Purchaser Consent Decree (PPCD), the Seattle Chinatown International District Preservation and Development Authority (SCIDpda) will engage in investigation and cleanup activities for the Site in accordance with the Model Toxics Control Act (MTCA) Regulation (Washington Administrative Code [WAC] 173-340) subject to Washington State Department of Ecology (Ecology) review and approval. Following completion of the remedial investigation and selection of a final cleanup alternative, SCIDpda will implement the remedy.

The RIFS work will consist of: (1) public comment and Ecology review of the Draft RIFS Report, and (2) finalizing the RIFS Report. It is noted that a RIFS report was prepared for the Site in 2011 through the Voluntary Cleanup Program prior to significant remediation efforts. Ecology has indicated that an updated RIFS report will be required for the Site. The RIFS Report will meet the substantive requirements of MTCA and shall accomplish the following objectives:

- Further evaluate nature and extent of chlorinated solvents contamination in soil, soil gas, and groundwater at the Spic N Span Cleaners Site and adjacent properties including City of Seattle's rights-of-way (S Dearborn Street and Maynard Avenue S) following completion of in situ remediation by Electrical Resistance Heating (ERH).
- Delineate the lateral and vertical extent of chlorinated solvents and mineral spirits in soil, ground water and soil gas at and in the vicinity of the former Spic N Span drycleaners facility, including the adjacent City of Seattle's rights-of-way.
- Assess potential for vapor intrusion of Site COCs to nearby buildings. Measure COC concentrations in sub-slab soil vapor and indoor air in the buildings, if necessary.
- Evaluate subsurface utilities and their role as preferential pathways for potential contamination migration.
- Determine the extent of the "Site" and develop an updated Conceptual Site Model, including the establishment of cleanup standards.
- Based on the RI data, develop cleanup options for affected media at the Site and evaluate the cleanup options through a Feasibility Study. Present the results of the RI and FS in a single RIFS Report to Ecology for review and applicable public comment.

### Additional Remedial Actions

Following completion of the Final RIFS report, SCIDpda shall prepare a draft Cleanup Action Plan (dCAP) for public comment and Ecology review. The Parties intend that Ecology will select a final Site remedy in a final CAP and that SCIDpda will conduct additional remedial actions pursuant to and consistent with the CAP.

When SCIDpda has obtained sufficient funds to complete additional remedial action(s) at the Site, the Parties shall revise this Scope of Work and Schedule to govern such additional remedial action(s). The Parties understand that the Site consists of multiple parcels and that SCIDpda is currently only evaluating purchase of one of the parcels. Ecology may authorize parcel-specific redevelopment and remedial action where such redevelopment and remedial action implements the CAP for that portion of the Site, the



redevelopment and remedial action is consistent with, will not preclude, complicate, or render more expensive the final Site-wide cleanup action in the CAP, and that the redevelopment and remedial action will not result in re-contamination at the Site.

A cleanup action completion report will be prepared following successful implementation of the CAP. Schedule for delivery of the cleanup action report will be dictated in the CAP.

Proposed RIFS Scope and Schedule

SCIDpda will begin RIFS activities prior to property acquisition and entry of the PPCD to expedite the remedial process. Following is the proposed scope and schedule following completion of the PPCD:

<b>1 RIFS Implementation and Reporting</b>	
<b>Deliverables</b>	<b>Due Date</b>
<b>Submittal of Monthly Progress Reports:</b> Progress reports will be submitted on the 10 <sup>th</sup> day of each month following completion of the PPCD.	30 days after completion of PPCD
<b>Submittal of DRAFT RIFS to Ecology.</b>	90 days after completion of PPCD
<b>Potential Additional Explorations,</b> if warranted based on RI and Ecology review.	90 days after receipt of Ecology comments to RIFS
<b>Incorporation of Ecology comments to RIFS</b>	60 days after receipt of Ecology comments to RIFS or completion of additional explorations, whichever occurs later
<b>RIFS Public review and comment</b>	30-day public comment period following Ecology acceptance of RIFS
<b>Finalize RIFS with public comments.</b>	60 days after receipt of public comments
<b>Submittal of Draft Cleanup Action Plan (DCAP)</b>	90 days after Ecology acceptance of final RIFS
<b>DCAP Public review and comment</b>	30-day public comment period for DCAP
<b>Remedy O&amp;M cost estimate,</b> if warranted	60 days after Ecology's issuance of final CAP
<b>Provide proof of financial assurances,</b> if warranted	60 days following Ecology's approval of cost estimate
<b>Implementation of CAP</b>	As defined in the CAP schedule

# EXHIBIT D

**Exhibit D. Applicable or Relevant and Appropriate Requirements**

Spic'N Spn Cleaners Site, Seattle, Washington

Standard, Requirement, Criteria, or Limitation	Citation	Description	Applicable/Relevant and Appropriate
Federal National Primary Drinking Water Regulations	40 CFR 141 and 142	Establishes health-based standards, maximum contaminant levels (MCL) and maximum contaminant level goals (MCLG), for public water systems.	Relevant and Appropriate
Federal Regional Screening Levels for soil and water	Source: epa.gov/risk/regional-screening-levels-rsls	Provides risk-based concentrations that are intended to assist risk assessor and others in initial screening-level evaluations of environmental regulations	Applicable
Washington State Model Toxics Control Act (MTCA) Cleanup Levels (CULs) for Groundwater	WAC 173-340	Requires groundwater cleanup levels be based on the estimates of the highest beneficial use and the reasonable maximum potential exposure under current and future site uses	Applicable
Washington State Water Quality Standards for Groundwater	WAC 173-200	Establishes maximum contaminant concentrations for the protection of beneficial uses of groundwater	Potentially Relevant and Appropriate
Washington State Regulation and Licensing for Well Contractors and Operators	RCW 18.104 WAC 173-162	Establishes procedures for examination, licensing, and regulation of well contractors and operators	Relevant and Appropriate
Washington State Standards for Construction and Maintenance of Water Wells	RCW 18.104 WAC 173-160	Establishes minimum standards for construction of water and monitoring wells and for the decommissioning of wells.	Relevant and Appropriate
Washington Underground Injection Control Program	WAC 173-218	Requirements for underground injection control applicable to cleanup alternatives that include injection of materials into subsurface groundwater and soil.	Relevant and Appropriate
Washington Solid Waste Management Handling Standards and Regulations	RCW 70.95WAC 173-350	Solid waste requirements are potentially applicable to the offsite disposal of solid nonhazardous wastes that may be generated as part of well installation or excavation.	Relevant and Appropriate
Guidance for Evaluating Vapor Intrusion in Washington State	Ecy Publication 09-09-047	Establishes tiered process for evaluating vapor intrusion, including relevant cleanup and screening levels for various media.	Applicable

Notes:

CFR – code of federal regulations  
CULs – cleanup levels



**Exhibit D. Applicable or Relevant and Appropriate Requirements**

Spic'N Spn Cleaners Site, Seattle, Washington

MCL – maximum contaminant level

MCLG – maximum contaminant level goals

MTCA – Model Toxics Control Act

RCW – Revised Code of Washington

WAC – Washington Administrative Code