

After Recording Return  
Original Signed Covenant to:

Erik Snyder  
Toxics Cleanup Program HQ  
Department of Ecology  
P.O. Box 47600  
Olympia, WA 98504-7600

## **Environmental Covenant**

**Grantor:** River's Edge WA LLLP

**Grantee:** State of Washington, Department of Ecology (hereafter "**Ecology**")

**Brief Legal Description:** LOTS 6 & 7, SEC 6 TWP 27N RGE 7E QTR SW

**Tax Parcel Nos.:** 27070600300500

**Cross Reference:** NFA Opinion

### **RECITALS**

- a.** This document is an environmental (restrictive) covenant (hereafter "**Covenant**") executed pursuant to the Model Toxics Control Act ("**MTCA**"), chapter 70A.305D RCW, and Uniform Environmental Covenants Act ("**UECA**"), chapter 64.70 RCW.
- b.** The Property that is the subject of this Covenant is part or all of a site commonly known as the River's Edge Apartments. The Property is legally described in **Exhibit A**, and illustrated in **Exhibit B**, both of which are attached (hereafter "**Property**"). If there are differences between these two Exhibits, the legal description in Exhibit A shall prevail.
- c.** The Property is the subject of remedial action conducted under MTCA. In 2000, excavation of impacted soils was completed in eight areas on the Property at depths ranging from 0.5 to 4 feet below ground surface. Approximately 2,139.48 tons of impacted soils were removed and disposed of offsite during this remedial action. In 2019, a supplemental remedial action was completed

during the redevelopment of the Property. Additional excavation was completed to remove impacted soils to the maximum extent possible. An additional 3,608 tons of contaminated soil were removed from the Property and disposed of offsite. This Covenant is required because residual impacts remain on the Property after completion of remedial actions. Specifically, the following principal contaminants remain on the Property:

Medium	Principal Contaminants Present
Soil	Cadmium and Lead; Diesel-Range Total Petroleum Hydrocarbons (TPH-D); and Oil-Range Total Petroleum Hydrocarbons (TPH-O);
Groundwater	Oil-Range Total Petroleum Hydrocarbons (TPH-O);

d. It is the purpose of this Covenant to restrict certain activities and uses of the Property to protect human health and the environment and the integrity of remedial actions conducted at the site. Records describing the extent of residual contamination and remedial actions conducted are available through Ecology. Institutional controls for the Property include: (i) containment of residual soil impacts beneath the building foundations and hardscaping; (ii) inspection and maintenance of the building foundation and hardscaping caps; and (iii) groundwater monitoring of the natural attenuation of impacts to protect human health and the environment.

This Covenant includes the following Exhibits:

- Exhibit A – Legal Description
- Exhibit B – Property Map
- Exhibit C – Area of Property Subject to Specific Prohibitions and Restrictions

Records describing the extent of residual contamination and remedial actions conducted are available through Ecology and accessible at:

<https://apps.ecology.wa.gov/cleanupsearch/site/4539>

e. This Covenant grants Ecology certain rights under UECA and as specified in this Covenant. As a Holder of this Covenant under UECA, Ecology has an interest in real property, however, this is not an ownership interest which equates to liability under MTCA or the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 *et seq.* The rights of Ecology as an “agency” under UECA, other than its’ right as a holder, are not an interest in real property.

## COVENANT

River's Edge WA LLLP, as Grantor and fee simple owner of the Property hereby grants to the Washington State Department of Ecology, and its successors and assignees, the following covenants. Furthermore, it is the intent of the Grantor that such covenants shall supersede any prior interests the GRANTOR has in the property and run with the land and be binding on all current and future owners of any portion of, or interest in, the Property.

### **Section 1. General Restrictions and Requirements.**

The following general restrictions and requirements shall apply to the Property:

- a. Interference with Remedial Action.** The Grantor shall not engage in any activity on the Property that may impact or interfere with the remedial action and any operation, maintenance, inspection or monitoring of that remedial action without prior written approval from Ecology.
- b. Protection of Human Health and the Environment.** The Grantor shall not engage in any activity on the Property that may threaten continued protection of human health or the environment without prior written approval from Ecology. This includes, but is not limited to, any activity that results in the release of residual contamination that was contained as a part of the remedial action or that exacerbates or creates a new exposure to residual contamination remaining on the Property.
- c. Continued Compliance Required.** Grantor shall not convey any interest in any portion of the Property without providing for the continued adequate and complete operation, maintenance and monitoring of remedial actions and continued compliance with this Covenant.
- d. Leases.** Grantor shall restrict any lease for any portion of the Property to uses and activities consistent with this Covenant and notify all lessees of the restrictions on the use of the Property.
- e. Preservation of Reference Monuments.** Grantor shall make a good faith effort to preserve any reference monuments and boundary markers used to define the areal extent of coverage of this Covenant. Should a monument or marker be damaged or destroyed, Grantor shall have it replaced by a licensed professional surveyor within 30 days of discovery of the damage or destruction.

### **Section 2. Specific Prohibitions and Requirements.**

In addition to the general restrictions in Section 1 of this Covenant, the following additional specific restrictions and requirements shall apply to the Property.

- a. Containment of soil materials.** The remedial action for the Property is based on containing contaminated soil under caps consisting of newly constructed buildings with concrete foundations and hardscaping and located as illustrated in **Exhibit C**. The primary purpose of these caps is to prevent direct contact with remaining impacted soils beneath building and hardscaping caps. As such, the following restrictions shall apply within the area illustrated in **Exhibit C**.

Any activity on the Property that will compromise the integrity of the caps including: drilling; digging; piercing the cap with sampling device, post, stake or similar device; grading; excavation; installation of underground utilities; removal of the caps; or, application of loads in excess of the caps' load bearing capacity, is prohibited without prior written approval by Ecology. The Grantor shall report to Ecology within forty-eight (48) hours of the discovery of any damage to the cap. Unless an alternative plan has been approved by Ecology in writing, the Grantor shall promptly repair the damage and submit a report documenting this work to Ecology within thirty (30) days of completing the repairs.

The Grantor shall not alter or remove the existing structures on the Property in any manner that would expose contaminated soil, result in a release to the environment of contaminants, or create a new exposure pathway, without prior written approval of Ecology. Should the Grantor propose to remove all or a portion of the existing structures illustrated in **Exhibit C** so that access to the underlying contamination is feasible, Ecology may require treatment or removal of the underlying contaminated soil.

**b. Groundwater use.** The groundwater beneath the Property remains contaminated and shall not be extracted for any purpose other than temporary construction dewatering, investigation, monitoring or remediation. Drilling of a well for any water supply purpose is strictly prohibited. Groundwater extracted from the Property for any purpose shall be considered potentially contaminated and any discharge of this water shall be done in accordance with state and federal law.

**c. Monitoring.** Groundwater monitoring wells are located on the Property to monitor the performance of the remedial action, as indicated on **Exhibit C**. The Grantor shall maintain clear access to these devices and protect them from damage. The Grantor shall report to Ecology within forty-eight (48) hours of the discovery of any damage to any monitoring device. Unless Ecology approves of an alternative plan in writing, the Grantor shall promptly repair the damage and submit a report documenting this work to Ecology within thirty (30) days of completing the repairs.

### **Section 3. Access.**

**a.** The Grantor shall maintain clear access to all remedial action components necessary to construct, operate, inspect, monitor and maintain the remedial action.

**b.** The Grantor freely and voluntarily grants Ecology and its authorized representatives, upon reasonable notice, the right to enter the Property at reasonable times to evaluate the effectiveness of this Covenant and associated remedial actions, and enforce compliance with this Covenant and those actions, including the right to take samples, inspect any remedial actions conducted on the Property, and to inspect related records.

**c.** No right of access or use by a third party to any portion of the Property is conveyed by this instrument.

**Section 4. Notice Requirements.**

**a. Conveyance of Any Interest.** The Grantor, when conveying any interest in the Property, other than the leases of individual units within the improvements constructed on the Property including but not limited to title, easement, leases, and security or other interests, must:

- i. Provide written notice to Ecology of the intended conveyance at least thirty (30) days in advance of the conveyance.
- ii. Include in the conveying document a notice in substantially the following form, as well as a complete copy of this Covenant:

**NOTICE: THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT GRANTED TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY ON [DATE] AND RECORDED WITH THE [COUNTY] COUNTY AUDITOR UNDER RECORDING NUMBER [RECORDING NUMBER]. USES AND ACTIVITIES ON THIS PROPERTY MUST COMPLY WITH THAT COVENANT, A COMPLETE COPY OF WHICH IS ATTACHED TO THIS DOCUMENT.**

- iii. Unless otherwise agreed to in writing by Ecology, provide Ecology with a complete copy of the executed document within thirty (30) days of the date of execution of such document.

**b. Reporting Violations.** Should the Grantor become aware of any violation of this Covenant, Grantor shall promptly report such violation in writing to Ecology.

**c. Emergencies.** For any emergency or significant change in site conditions due to Acts of Nature (for example, flood or fire) resulting in a violation of this Covenant, the Grantor is authorized to respond to such an event in accordance with state and federal law. The Grantor must notify Ecology in writing of the event and response actions planned or taken as soon as practical but no later than within 24 hours of the discovery of the event.

**d. Notification procedure.** Any required written notice, approval, reporting or other communication shall be personally delivered or sent by first class mail to the following persons. Any change in this contact information shall be submitted in writing to all parties to this Covenant. Upon mutual agreement of the parties to this Covenant, an alternative to personal delivery or first class mail, such as e-mail or other electronic means, may be used for these communications.

River's Edge WA LLLP Attn: Rebecca Ralston 909 5th Avenue, Suite 2401 Seattle, Washington 98164	Environmental Covenants Coordinator Washington State Department of Ecology Toxics Cleanup Program P.O. Box 47600 Olympia, WA 98504 – 7600 (360) 407-6000 <a href="mailto:ToxicsCleanupProgramHQ@ecy.wa.gov">ToxicsCleanupProgramHQ@ecy.wa.gov</a>
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## **Section 5. Modification or Termination.**

**a.** Grantor must provide written notice and obtain approval from Ecology at least sixty (60) days in advance of any proposed activity or use of the Property in a manner that is inconsistent with this Covenant. For any proposal that is inconsistent with this Covenant and permanently modifies an activity or use restriction at the site:

i. Ecology must issue a public notice and provide an opportunity for the public to comment on the proposal; and

ii. If Ecology approves of the proposal, the Covenant must be amended to reflect the change before the activity or use can proceed.

**b.** If the conditions at the site requiring a Covenant have changed or no longer exist, then the Grantor may submit a request to Ecology that this Covenant be amended or terminated. Any amendment or termination of this Covenant must follow the procedures in MTCA and UECA and any rules promulgated under these chapters.

## **Section 6. Enforcement and Construction.**

**a.** This Covenant is being freely and voluntarily granted by the Grantor.

**b.** Within ten (10) days of execution of this Covenant, Grantor shall provide Ecology with an original signed Covenant and proof of recording and a copy of the Covenant and proof of recording to others required by RCW 64.70.070.

**c.** Ecology shall be entitled to enforce the terms of this Covenant by resort to specific performance or legal process. All remedies available in this Covenant shall be in addition to any and all remedies at law or in equity, including MTCA and UECA. Enforcement of the terms of this Covenant shall be at the discretion of Ecology, and any forbearance, delay or omission to exercise its rights under this Covenant in the event of a breach of any term of this Covenant is not a waiver by Ecology of that term or of any subsequent breach of that term, or any other term in this Covenant, or of any rights of Ecology under this Covenant.

**d.** The Grantor shall be responsible for all costs associated with implementation of this Covenant. Furthermore, the Grantor, upon request by Ecology, shall be obligated to pay for Ecology's costs to process a request for any modification or termination of this Covenant and any approval required by this Covenant.

**e.** This Covenant shall be liberally construed to meet the intent of MTCA and UECA.

**f.** The provisions of this Covenant shall be severable. If any provision in this Covenant or its application to any person or circumstance is held invalid, the remainder of this Covenant or its application to any person or circumstance is not affected and shall continue in full force and effect as though such void provision had not been contained herein.

**g.** A heading used at the beginning of any section or paragraph or exhibit of this Covenant may be used to aid in the interpretation of that section or paragraph or exhibit but does not override the specific requirements in that section or paragraph.

*[Signature page follows.]*

The undersigned Grantor warrants it holds the title to the Property and has authority to execute this Covenant.

EXECUTED this 1 day of AUGUST, 2023.

By: [Signature]  
Title: MANAGER

STATE OF Washington  
COUNTY OF King

On this 31<sup>st</sup> day of July, 2023, I certify that Rebecca Ralston personally appeared before me, acknowledged that she signed this instrument, on oath stated that she was authorized to execute this instrument, and acknowledged it as the Manager of RIVER'S EDGE WA LLLP, a Washington limited liability limited partnership, to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.



Sydney Day  
Notary Public in and for the State of Washington  
Residing at Seattle, WA  
My appointment expires 3-21-25



The Department of Ecology, hereby accepts the status as GRANTEE and HOLDER of the above Environmental Covenant.

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY



by: ERIK SMIDER

Title: HQ SECTION MANAGER

Dated: 8/7/24

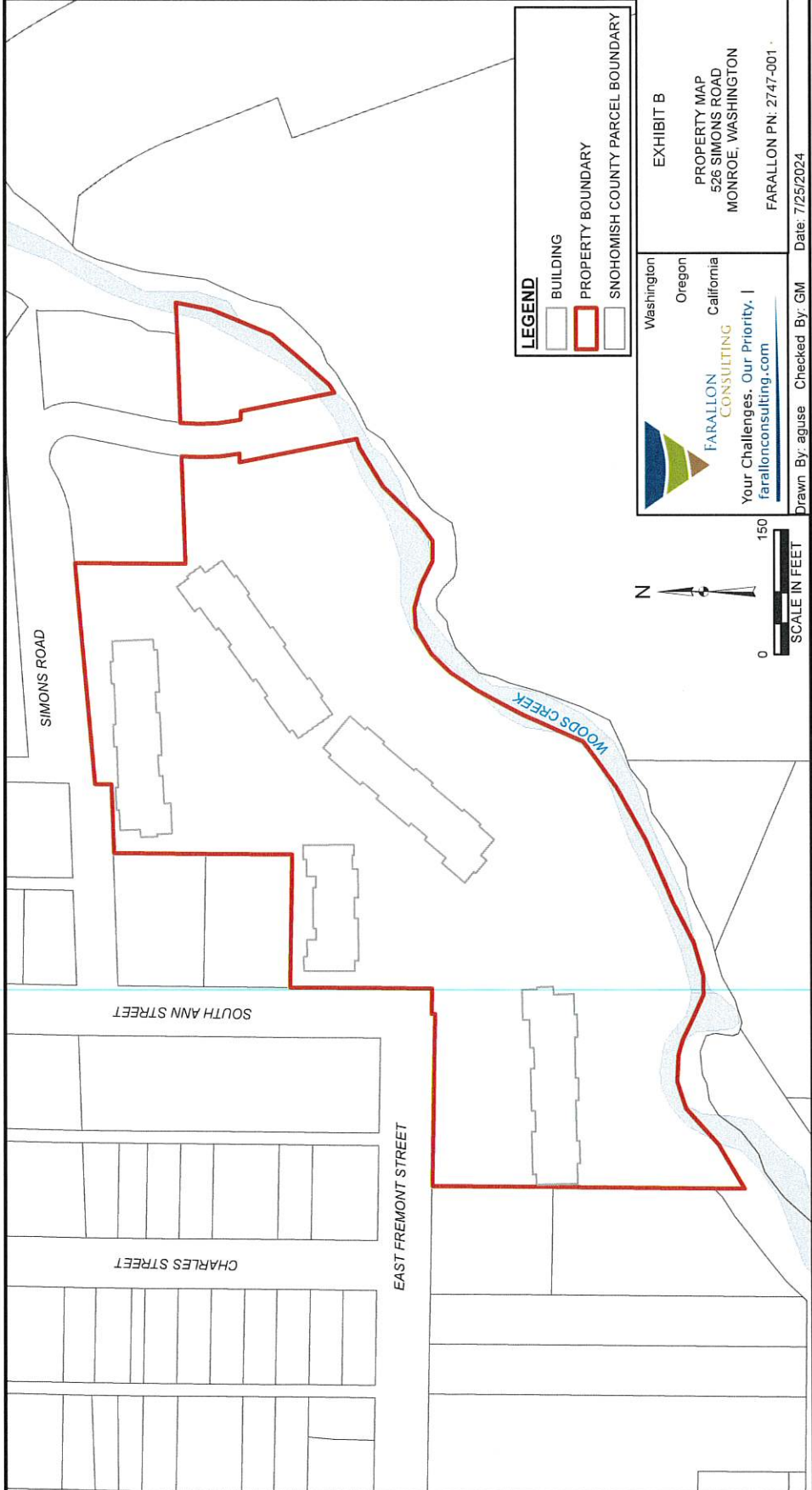
**Exhibit A**

**LEGAL DESCRIPTION**

Section 06 Township 27 Range 07 Quarter SW - ALL TH PTN GOVT LOTS 6 & 8  
SEC 6 TWP 27N RGE 7E DAF BEG AT COM PT WITH NW COR LOT 11  
HARRIMAN'S 2ND ADD TO TOWN OF MON THE NE COR OF PAR A BLA  
BA-200001REC AFN 200005245002 & S R/W MGN FREMONT ST TH FOLW 3  
COURSES & DIST ALG SD S MGN OF FREMONT ST TH S89\*03 29E 206.79FT  
TH N00\*29 26E 4FT TH S89\*03 29E 30.27FT TO E R/W MGN ANN ST TH  
N00\*29 28E ALG SDE MGN 170.01FT TAP 110FT N OF N R/W MGN FREMONT  
ST EXT TH S89\*03 29E ALG A LN 110FT NLY FR & PLT N MGN FREMONT  
ST EXT PER CITY OF MON SP #87-01 REC AFN 8802250257 AS CORR AFN  
8803080132 TAP 160FT EOF E MGN ANN ST TH N00\*29 28E ALG A LN PLT  
SD E MGN ANN ST 216.89FT TO SLY R/W MGN SIMONS RD SD LN BEING  
PLT N LN GOVT LOT 6 OF SD SEC & 50FT S OF SD N LN PER CITY OF MON  
SP #87-01 TH N87\*59 15E ALGSD SLY MGN & SD PLL PROL 349.34FT TAP  
570FT E OF SE COR LOT 9 BLK 1 HARRIMAN'S FIRST ADD TH S00\*29 28W  
100.10FT TH N87\*59 15E 296.37FT TO C/L OF WOODS CRK TH SWLY ALG SD  
C/L TAP WH IS S00\*29 28W OFPOB TH N00\*29 28E TO POB EXC TH PTN  
CONVYD TO CITY OF MON BY DEED REC AFN 9006130180 PER CITY OF  
MON LOT LN CONSOLIDATION REC AFN 201904235002 (EXEMPT PER ST  
OF WA REG #13844-001)

**Exhibit B**

**PROPERTY MAP**



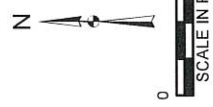
**LEGEND**

- BUILDING
- PROPERTY BOUNDARY
- SNOHOMISH COUNTY PARCEL BOUNDARY


  
**FARALLON CONSULTING**  
 Your Challenges. Our Priority. I  
[farallonconsulting.com](http://farallonconsulting.com)

Washington  
 Oregon  
 California

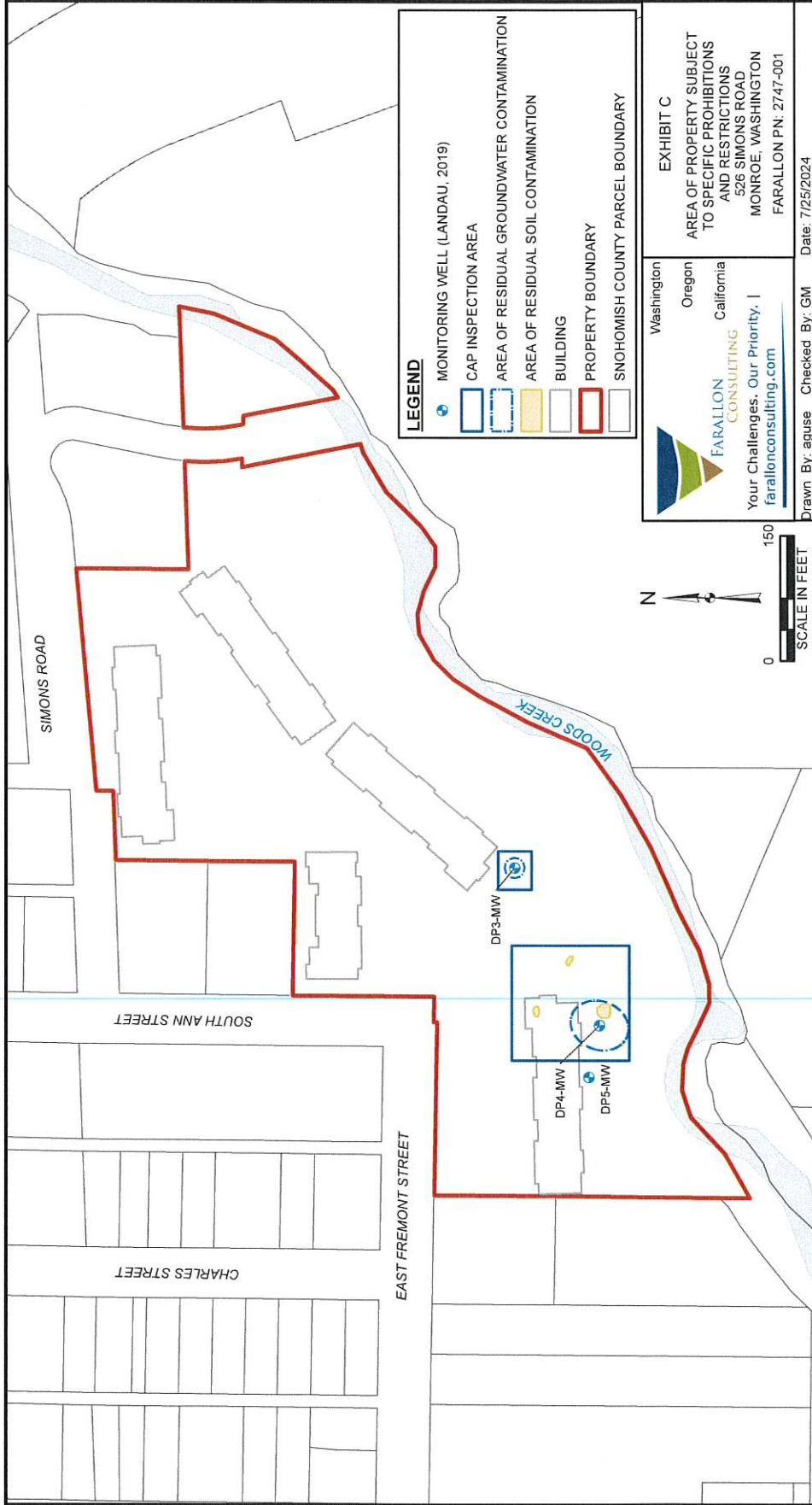
**EXHIBIT B**  
 PROPERTY MAP  
 526 SIMONS ROAD  
 MONROE, WASHINGTON  
 FARALLON PN: 2747-001  
 Date: 7/25/2024



Drawn By: aguse Checked By: GM

**Exhibit C**

**MAP ILLUSTRATING LOCATION OF RESTRICTIONS**





**Snohomish County Recording**  
A Division of the Auditor's Office

**Garth Fell**  
County Auditor

**Clifton Harty**  
Licensing and Recording Manager

<b>Transaction #</b> 2547224	<b>Agent Code:</b> PUB	<b>Source:</b> _Counter
<b>Receipt #</b> 561478	<b>Attention:</b>	<b>Returned:</b> _Counter
<b>Cashier Date:</b> 08/13/2024	<b>Name:</b> PUBLIC	
<b>Cashier:</b> NBOHLING	<b>Address:</b>	

COVENANTS

**Inst. #:** 202408130125

**From:** RIVER'S EDGE WA LLLP

**To:** STATE OF WASHINGTON DEPARTMENT OF ECOL

GENERAL RECORDING FEE V4 01012024

\$316.50

Pages: 14

<b>PAYMENT:</b> CREDIT CARD	161024214	<b>AMOUNT:</b>	\$316.50
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<b>Subtotal</b>	<b>\$316.50</b>
<b>Credit Card Amount Charged</b>	<b>\$316.50</b>

<b>Total Payments:</b>	<b>Total Fees:</b>
<b>\$ 316.50</b>	<b>\$ 316.50</b>