

State of Washington
Department of Ecology

In the Matter of Remedial Action by:
Downtown Emergency Service Center
Agreed Order
No. DE 23756

To: Daniel Malone
Executive Director
Downtown Emergency Service Center
515 3rd Avenue, Seattle WA 98104

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1. Introduction

The mutual objective of the State of Washington, Department of Ecology (Ecology) and Downtown Emergency Service Center (DESC) under this Agreed Order (Order) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires DESC to complete a Remedial Investigation (RI), a Feasibility Study (FS) and develop a draft Cleanup Action Plan (dCAP) for review and approval by Ecology. Ecology believes the actions required by this Order are in the public interest.

2. Jurisdiction

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

3. Parties Bound

This Agreed Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each Party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such Party to comply with this Order. DESC agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter DECS's responsibility under this Order. DESC 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.

4. Definitions

Unless otherwise specified herein, the definitions set forth in RCW 70A.305, WAC 173-204 and WAC 173-340 shall control the meanings of the terms in this Order.

4.1 Site

The Site is referred to as Stewart House, Facility ID # 48336, Cleanup Site ID # 14787. 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 in the vicinity of 1727, Belmont Avenue, King County Parcel No. 880490-0660, 1733 Belmont Avenue, King County Parcel No. 880490-0665, and 1737 Belmont Avenue, King County Parcel No. 880490-0670 in

Seattle, Washington Belmont Avenue in Seattle, Washington as shown in the attached Location Diagram (Exhibit A).

4.2 Parties

Refers to the State of Washington, Department of Ecology and DESC.

4.3 Potentially Liable Persons (PLP(s))

Refers to DESC.

4.4 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.

4.5 Properties

Refers to the three parcels that comprise the Site, 1727, 1733, and 1737 Belmont Avenue.

5. Findings of Fact

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

5.1

Based upon factors currently known to Ecology, the Site is generally located in the vicinity of 1727 Belmont Avenue, King County Parcel No. 880490-0660, 1733 Belmont Avenue, King County Parcel No. 880490-0665, and 1737 Belmont Avenue, King County Parcel No. 880490-0670 in Seattle, Washington as shown in the attached Location Diagram (Exhibit A). The properties at the Site are contiguous, rectangular parcels.

5.2 All three Properties at the Site were developed in the early 1900s as two or three-story residential apartment buildings. The Properties and buildings upon them appear to have been used as residential apartments since their construction.

5.3 All three of the Properties at the Site were historically heated by oil-burning furnaces served by underground storage tanks (USTs). According to a 1996 UST Closure In Place Decommissioning Report by Clayton Environmental Consultants, three heating oil USTs were closed in place on the Properties at the Site (one UST at each of the three Properties). Two other off-site heating oil USTs were mentioned in the Clayton Report, one at 1717 Belmont Avenue located approximately 50 feet south of the Site and one at

1712 Belmont Avenue located approximately 150 feet southeast of the Site. These two USTs were also documented as closed in place at that time.

- 5.4 Previous environmental reports indicate petroleum products were released from UST servicing oil-burning furnaces at the 1733 Belmont address. Petroleum hydrocarbons have been detected in soil samples at concentrations above the MTCA Method A cleanup levels on the west-central portion of the 1733 Belmont property and at or near the boundary with the west-adjointing property. Specifically, according to a 2017 UST Site Assessment conducted by PBS Environmental, diesel-range petroleum hydrocarbon concentrations exceeded the MTCA Method A cleanup level in soil samples collected at depths of 4 and 12 feet below ground surface (bgs).
- 5.5 DESC purchased the properties at the Site in July 2024 from Pioneer Human Services. DESC provides wrap-around services to people with the complex needs of homelessness, substance use disorders, and serious mental illness achieve their highest potential for health and well-being through comprehensive services, treatment, and housing. DESC purchased the 1727, 1733 and 1737 Properties to redevelop them as a single building to be known as the Belmont project, which would provide housing and other services to people experiencing homelessness.
- 5.6 As an eligible affordable housing developer, DESC applied for an Affordable Housing Cleanup Grant (AHCG) for the Site. In April 2024, Ecology provided notice that DESC's AHCG application had been funded in the amount of \$2 million, Grant No. TCPAHC-2325-DoEmSC-00019. Following execution of this Agreed Order, Ecology will develop a grant agreement with DESC for this project.

6. Ecology Determinations

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

6.1

DESC is an "owner or operator" as defined in RCW 70A.305.020(22) of a "facility" as defined in RCW 70A.305.020(8). DESC is the current owner of property at the Site.

6.2

Based upon all factors known to Ecology, a "release" or "threatened release" of "hazardous substance(s)" as defined in RCW 70A.305.020(32), (13), respectively, has occurred at the Site.

6.3

In February 2025, Ecology completed the Site Hazard Assessment and Rating Process (SHARP) for the Stewart House Site. SHARP is used to evaluate exposure severity in soil, groundwater, surface water, sediment, and indoor air at contaminated sites. Based on the findings of this process, the Site received an overall “low” rating, and the indoor-air and soil pathways were identified as having the highest potential for exposure to site contaminants. Additional information is provided in Ecology’s SHARP report.

6.4

Based upon credible evidence, Ecology issued a PLP status letter to DESC dated February 25, 2025, pursuant to RCW 70A.305.040, .020(26), and WAC 173-340-500. DESC provided its response on March 11, 2025. 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 final determination that DESC is a PLP under RCW 70A.305.040 and notified DESC of this determination by letter dated March 25, 2025.

6.5

Pursuant to RCW 70A.305.030(1), .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.

7. Work to be Performed

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

7.1

DESC will complete a Remedial Investigation/Feasibility Study and submit an Ecology Review preliminary draft Cleanup Action Plan for the Site in accordance with the schedule and terms of the Scope of Work and Schedule, Exhibit C, and all other requirements of this Agreed Order. These documents may be combined if approved by Ecology.

7.2

If DESC 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 any media, DESC, within fourteen (14) 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.

7.3

DESC shall submit to Ecology written quarterly Progress Reports that describe the actions taken during the previous quarter 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:

7.3.1

A list of on site activities that have taken place during the quarter.

7.3.2

Detailed description of any deviations from required tasks not otherwise documented in project plans or amendment requests.

7.3.3

Description of all deviations from the Scope of Work and Schedule (Exhibit C) during the current quarter and any planned deviations in the upcoming quarter.

7.3.4

For any deviations in schedule, a plan for recovering lost time and maintaining compliance with the schedule.

7.3.5

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.

7.3.6

A list of deliverables for the upcoming quarter.

7.4

Pursuant to WAC 173-340-440(11), and if required by the final Cleanup Action Plan (CAP), DESC 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.

7.4.1

Within sixty (60) days of the effective date of the final CAP, and if the final CAP requires engineered and/or institutional controls that require financial assurances, DESC shall submit to Ecology for review and approval an estimate of the costs under this Order for operation and maintenance of the remedial actions at the Site, including institutional controls, compliance monitoring and corrective measures. Within sixty (60) days after Ecology approves the aforementioned cost estimate, DESC shall provide proof of financial assurances sufficient to cover all such costs in a form acceptable to Ecology.

7.4.2

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

7.4.3

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

7.4.4

Changes in cost estimates, within thirty (30) days of issuance of Ecology's approval of a modification or revision to the cleanup action plan (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.

7.5

Institutional controls may be required at the Site. If required by the final CAP, Environmental (Restrictive) Covenants will be used to implement the institutional controls.

7.5.1

In consultation with DESC, 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 DESC.

7.5.2

After approval by Ecology, DESC shall record the Environmental (Restrictive) Covenant for affected properties it owns with the office of the King County Auditor as detailed in the Schedule (Exhibit C). DESC shall provide Ecology with the original recorded Environmental (Restrictive) Covenants within thirty (30) days of the recording date.

7.6

All plans or other deliverables submitted by DESC 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 Order. DESC shall take any action required by such deliverable.

7.7

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, DESC 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). DESC 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 DESC 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.

7.8

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

costs of doing such work in accordance with Section VIII.A (Payment of Remedial Action Costs). Ecology reserves the right to enforce requirements of this Order under Section 10 (Enforcement).

7.9

Except where necessary to abate an emergency situation or where required by law, DESC 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 8.11 (Amendment of Order). In the event of an emergency, or where actions are taken as required by law, DESC 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.

8. Terms and Conditions

8.1 Payment of Remedial Action Costs

DESC 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). For all Ecology costs incurred, DESC 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.

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.

8.2 Designated Project Coordinators

The project coordinator for Ecology is:

Zak Wall
15700 Dayton Avenue North, Shoreline WA 98133
425-758-5231
zak.wall@ecy.wa.gov

The project coordinator for DESC is:

Dave Cook Principal Geologist, Aspect Consulting
710 Second Avenue, Suite 550, Seattle WA 98104
(206) 838-5837
dcook@aspectconsulting.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 DESC, 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.

8.3 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.

DESC shall notify Ecology in writing of the identity of any engineer(s) and geologist(s), contractor(s), 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.

8.4 Access

Ecology or any Ecology authorized representative shall have access to enter and freely move about all property at the Site that DESC 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 Order; reviewing DESC'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 DESC. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by DESC 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.

DESC shall make best efforts to secure access rights for those properties within the Site not owned or controlled by DESC 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 DESC 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 thirty (30) days after the effective date of this Order, DESC 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 DESC, or take independent action, in obtaining such access and/or use restrictions. Ecology reserves the right to seek payment from DESC 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.

8.5 Sampling, Data Submittal, and Availability

With respect to the implementation of this Order, DESC 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, DESC shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by DESC pursuant to implementation of this Order. DESC shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow DESC 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 8.4 (Access), Ecology shall notify DESC 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.

8.6 Public Participation

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

8.6.1

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

8.6.2

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 DESC 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 DESC that do not receive prior Ecology approval, DESC shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

8.6.3

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.

8.6.4

When requested by Ecology, arrange and maintain a repository to be located at:

- a) Seattle Public Library, Capitol Hill Branch
425 Harvard Avenue East
Seattle, WA 98102
- 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.

8.7 Access to Information

DESC 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 DESC's possession or control or that of their 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. DESC 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.

Nothing in this Order is intended to waive any right DESC may have under applicable law to limit disclosure of Records protected by the attorney work-product privilege and/or the attorney-client privilege. If DESC withholds any requested Records based on an assertion of privilege, DESC 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.

8.8 Retention of Records

During the pendency of this Order, and for ten (10) years from the date of completion of the work performed pursuant to this Order, DESC 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.

8.9 Resolution of Disputes

8.9.1

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

- 8.9.1.1 Upon the triggering event (receipt of Ecology's project coordinator's written decision or an itemized billing statement), DESC has fourteen (14) calendar days within which to notify Ecology's project coordinator in writing of its dispute (Informal Dispute Notice).
- 8.9.1.2 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 fourteen (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; DESC's position with regards to the dispute; Ecology's position with regards to the dispute; and the extent of resolution reached by informal discussion.
- 8.9.1.3 DESC may then request regional management review of the dispute. DESC 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 DESC's position with respect to the dispute; and the information relied upon to support its position.

8.9.1.4 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.

8.9.2

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.

8.9.3

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.

8.9.4

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 7.1 (Work to be Performed) or initiating enforcement under Section 10 (Enforcement).

8.10 Extension of Schedule

8.10.1

DESC'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:

8.10.1.1 The deadline that is sought to be extended.

8.10.1.2 The length of the extension sought.

8.10.1.3 The reason(s) for the extension.

8.10.1.4 Any related deadline or schedule that would be affected if the extension were granted.

8.10.2

The burden shall be on DESC 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:

8.10.2.1 Circumstances beyond the reasonable control and despite the due diligence of DESC 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 DESC.

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

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

8.10.2.4 Endangerment as described in Section 8.12 (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 DESC.

8.10.3

Ecology shall act upon any DESC's written request for extension in a timely fashion. Ecology shall give DESC 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 8.11 (Amendment of Order) when a schedule extension is granted.

8.10.4

At DESC'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:

8.10.4.1 Delays in the issuance of a necessary permit which was applied for in a timely manner.

8.10.4.2 Other circumstances deemed exceptional or extraordinary by Ecology.

8.10.4.3 Endangerment as described in Section 8.12 (Endangerment).

8.11 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 8.13 (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 DESC. 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, DESC 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 8.9 (Resolution of Disputes).

8.12 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 DESC to cease such activities for such period of time as it deems necessary to abate the danger. DESC shall immediately comply with such direction.

In the event DESC 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, DESC may cease such activities. DESC 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, DESC shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with DESC's cessation of activities, it may direct DESC to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this section, DESC'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 8.10 (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.

8.13 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 DESC to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against DESC regarding remedial actions required by this Order, provided DESC complies with this Order.

Ecology nevertheless reserves its rights under RCW70A.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, DESC does not admit to any liability for the Site. Although DESC is committing to conducting the work required by this Order under the terms of this Order, DESC 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.

8.14 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 DESC 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 DESC's transfer of any interest in all or any portion of the Site, and during the effective period of this Order, DESC shall provide a copy of this Order to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, DESC shall notify Ecology of said transfer. Upon transfer of any interest, DESC 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.

8.15 Compliance with Applicable Laws

8.15.1 **Applicable Laws**

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

8.15.2 **Relevant and Appropriate Requirements.**

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

8.15.3

Pursuant to RCW 70A.305.090(1), DESC 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, DESC 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.

8.15.4

DESC 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 DESC 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 DESC shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, DESC 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 DESC and on how DESC must meet those requirements. Ecology shall inform DESC in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. DESC 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 DESC 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.

8.16 Periodic Review

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. If required, at least ninety (90) days prior to each periodic review, DESC shall submit a report to Ecology that documents whether human health and the environment are being protected based on the factors set forth in WAC 173 340 420(4).} 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 Order.

8.17 Indemnification

DESC 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 DESC, its officers, employees, agents, or contractors in entering into and implementing this Order. However, DESC 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.

9. Satisfaction of Order

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

10. Enforcement

Pursuant to RCW 70A.305.050, this Order may be enforced as follows:

10.1

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

10.2

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.

10.3

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

10.3.1

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

10.3.2

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

10.4


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: _____

May 29, 2025

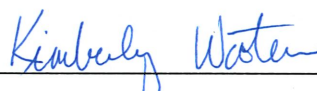


DOWNTOWN EMERGENCY SERVICE CENTER

Signed by:

279B127CBA8F422...

Daniel Malone
Executive Director
Downtown Emergency Service Center
(206) 464-1570

State of Washington
Department of Ecology



Kimberly Wooten
Section Manager
Toxics Cleanup Program
Northwest Regional Office
(206) 593-0093

EXHIBIT C

SCOPE OF WORK AND SCHEDULE

Scope of Work

Pursuant to the Agreed Order (AO), Downtown Emergency Service Center (DESC), a Washington not-for-profit corporation 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, DESC will implement the remedy.

The Scope of Work (SOW) is divided into four major tasks as follows:

- Task 1. Remedial Investigation Work Plan
- Task 2. Remedial Investigation (RI), Feasibility Study (FS), and Draft Cleanup Action Plan (DCAP)
- Task 3. Public Participation
- Task 4. Implementation of Final Cleanup Action Plan (fCAP)

Task 1. Remedial Investigation Work Plan

DESC shall utilize data already obtained prior to entry of the AO and shall prepare a Remedial Investigation Work Plan (Work Plan). The Work Plan shall include an overall description and schedule of all RI activities. 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. As part of the project background, existing environmental data on site soils, air, groundwater, and soil gas will be compiled and evaluated for data gaps. The data gaps will be used as the basis for conducting additional site investigations.

RI Work Plan tasks and subtasks may include the following:

- Drilling and sample collection at 1727, 1733, and 1737 Belmont Avenue and in City-owned rights-of-way; and
- Sampling and analysis of soil and soil gas samples at 1727, 1733, and 1737 Belmont Avenue and adjacent City of Seattle rights-of-way (Belmont Ave).
- Assessment for the presence and condition of groundwater at 1727, 1733, and 1737 Belmont Avenue and adjacent City of Seattle rights-of-way (Belmont Ave).

DESC will provide Ecology with an Agency Review Draft Work Plan. 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, DESC will implement the Final Work Plan according to the schedule contained in this Exhibit.

Task 2. Remedial Investigation, Feasibility Study, and Draft Cleanup Action Plan

DESC shall complete an RI/FS and DCAP that meets the requirements of WAC 173-340-350, WAC 173-204-550, WAC 173-340-351, and WAC 173-340-380 according to the Work Plan as approved by Ecology. The RI/FS will determine the nature and extent of contamination exceeding preliminary Model Toxics Control Act (MTCA) cleanup levels and other regulatory requirements and develop and evaluate cleanup options for affected media at the Site. The 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.

The RI/FS must meet the substantive requirements of MTCA and shall accomplish the following objectives:

- Determine the nature and extent of contamination at the Site and develop an updated Conceptual Site Model, including the establishment of cleanup standards.
- Identify cleanup options (including potential interim actions) for affected media at the Site and evaluate the cleanup options through a Feasibility Study.
- Develop a draft Cleanup Action Plan to present the preferred cleanup alternative.
- Present the results to Ecology for review and applicable public comment.

Task 3. Public Participation

DESC shall support Ecology in presenting the Public Review Draft RI/FS/DCAP Report and SEPA evaluations at public meetings or hearing. DESC 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.

Task. 4 Implementation of Final Cleanup Action Plan

The Parties intend that Ecology will select a final Site remedy in a final CAP (fCAP) and that DESC will conduct additional remedial actions pursuant to and consistent with the fCAP.

When DESC has obtained sufficient funds to implement the final CAP at the Site, the Parties shall revise this Scope of Work and Schedule as necessary to govern such additional remedial action(s).

A cleanup action report (CAR) will be prepared following successful implementation of the fCAP. Schedule for delivery of the cleanup action report will be dictated in the fCAP.

Scope and Schedule of Deliverables*

Following is the scope and schedule for deliverables described in the AO and Scope of Work. If the date for submission of any item or notification required by this Schedule of Deliverables occurs on a weekend or a state / federal holiday, then the date for submission of that item or notification shall be extended to the next business day. Where a deliverable due date is triggered by Ecology notification, comments or approval, the starting date for the period shown is the date DESC 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 in the form requested by Ecology.

Note that documents are considered to be Agency Review Drafts until Ecology has approved them as Final.

Deliverables	Target Completion Timelines
Quarterly Progress Reports	Due the 10th of every quarter, beginning after the first full quarter following the effective date of the AO but no sooner than 30 days after the effective date of a grant agreement
Agency Review Draft RI Work Plan	90 days after completion of AO
Revised Agency Review RI Work Plan	45 calendar days following receipt of Ecology comments on the Agency Review Draft RI Work Plan. The document will be considered “Final” upon Ecology’s approval.
Completion of RI Field Work	12 months following Ecology approval of the RI Work Plan
Agency Review Draft RI/FS/DCAP Report	90 calendar days following receipt of all validated laboratory data
Public Review Draft RI/FS/DCAP Report	45 calendar days following receipt of Ecology comments on Agency Review Draft RI/FS/DCAP Report. The document will be considered completed for public review upon Ecology’s approval.
Final RI/FS/DCAP Report	30 calendar days following the end of the public comment period. This document will incorporate any changes resulting from public comments.
Agency Review Responsiveness Summary	30 days following completion of public comment period
Final Responsiveness Summary	30 days following Ecology approval of Agency Review Responsiveness Summary

Final CAP	60 days following submittal of Final Responsiveness Summary
Draft Engineering Design Report (if needed) as outlined in the Final CAP	As defined in the Final CAP Schedule
Implementation of Final CAP	As defined in the Final CAP Schedule
Cleanup Action Report	As defined in the Final CAP Schedule

**Ecology and DESC may request revisions or amendments to the schedule of work based on the availability of grant funding for the performance of remedial activities for the Site.*