

PUBLIC REVIEW DRAFT

STATE OF WASHINGTON KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

MBTOD Phase One LLLP and MBTOD
Phase Two LLLP,

Defendants.

NO. _____

PROSPECTIVE PURCHASER
CONSENT DECREE

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EXHIBIT A	Site Location Diagram
EXHIBIT B	Property Legal Description
EXHIBIT C	Scope of Work and Schedule
EXHIBIT D	Final Cleanup Action Plan

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I. INTRODUCTION

1. The mutual objective of the State of Washington, Department of Ecology (Ecology) and MBTOD Phase One LLLP and MBTOD Phase Two LLLP (collectively, MBTOD) (collectively, the Parties) under this Prospective Purchaser Consent Decree (Decree) is to (1) resolve the potential liability of MBTOD for contamination at the UW Mount Baker Laundry Site (Site) located at 2901 27th Ave South in Seattle, Washington, arising from the release(s) or threatened release(s) of hazardous substances, in advance of MBTOD obtaining an 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 for an affordable housing development called the Mount Baker TOD Project (Project). The Project will proceed in two phases and will provide approximately 438 affordable rental units, 35,000 square feet of commercial space, and 10,000 square feet for a community hub to accommodate community commercial and cultural programming. The Project is located in the Mount Baker neighborhood adjacent to the Mt. Baker Light Rail station.

2. MBTOD is an entity formed by Mercy Housing Northwest (Mercy) and El Centro de la Raza (El Centro) for the purposes of developing the Project at the Property. Mercy is a Washington-based organization with experience developing and managing community-centered affordable housing throughout Washington. El Centro is also a Washington-based organization that provides programs and services to communities in Washington, including affordable housing.

3. Pursuant to the Grant Program Agreement No. OTGP-2025-MHNW-00084 (“Grant Agreement”), and working with Ecology, MBTOD prepared a draft Remedial Investigation and Feasibility Study (RI/FS), and a draft Cleanup Action Plan (dCAP) to document the nature and extent of contamination and outline appropriate remedial action(s) for the Site. MBTOD provided the draft RI/FS and dCAP to Ecology for its final review and for

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public comment. This Decree requires MBTOD implement the remedial actions contained in the final Cleanup Action Plan (CAP), pursuant to the Schedule in Exhibit C.

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

5. 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.

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

7. 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.

8. 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 MBTOD shall not challenge the authority of the Attorney General and Ecology to enforce this Decree.

9. 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.

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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.

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

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

5. MBTOD has not been named as a Potentially Liable Party (PLP) for the Site, and MBTOD has certified under Section IX (Certification of Defendant) that neither entity is currently liable for the Site under MTCA. MBTOD is negotiating acquisition of a property interest in the form of a ground lease at the Site with the City of Seattle, Office of Housing, and anticipates executing said ground lease for the Property on or around October 15, 2026. The Property likely comprises a portion of the Site. MBTOD will incur potential liability under RCW 70A.305.040(1) at the time it acquires a leasehold interest 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 MBTOD's liabilities as described herein for this Site upon it obtaining a leasehold interest in the parcel.

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

7. MBTOD intends to redevelop the Property at the Site for the Project, as described in this Decree.

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

9. 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.

10. Ecology finds that this Decree will lead to a more expeditious cleanup of hazardous substances at the Site in compliance with the cleanup standards established under RCW 70A.305.030(2)(e) and WAC 173-340.

11. MBTOD 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. MBTOD agrees to undertake all actions required by the terms and conditions of this Decree. No change in ownership or corporate status shall alter Defendant's responsibility under this Decree. MBTOD shall provide a copy of this Decree to all agents, contractors, and

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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 the UW Mount Baker Laundry Site, Facility Site ID 19911937, Cleanup Site ID 17017. The Site is generally located 2901 27th Avenue South, Seattle, WA. The Site is comprised of approximately two parcels King County Parcel Nos. 308500-2100, and 713880-0025 and includes all areas where contamination has come to be located from historic releases from former uses, including the use of a 4,000-gallon fuel-oil underground storage tank (UST). 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.

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

C. MBTOD: Refers to MBTOD Phase One LLLP and MBTOD Phase Two LLLP.

D. Mercy: Refers to Mercy Housing Northwest.

E. El Centro: Refers to El Centro de la Raza.

F. Parties: Refers to the State of Washington Department of Ecology, MBTOD.

G. City of Seattle, Office of Housing: Refers to the City of Seattle, Office of Housing, the current owner of the Property.

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H. Property: Refers to the Property that MBTOD will lease and redevelop, consisting of King County Parcel Nos. 308500-2100, 713830-0015, and 713880-0025.

V. FINDINGS OF FACT

1. Ecology makes the following findings of fact without any express or implied admissions of such facts by MBTOD.

A. Based upon factors currently known to Ecology, the Site is generally located at 2901 27th Avenue South, in Seattle, Washington as shown in the Site Location Diagram (Exhibit A). The nature and extent of the release(s) and the Site are further defined by the Remedial Investigation (RI) and CAP.

B. According to a Phase I Environmental Site Assessment (ESA) conducted by SoundEarth Strategies (SoundEarth) in October 2019, the Site history for the property is a mix of commercial and residential uses. In 1916, the property was developed with a residence which was demolished in 1950. Between approximately 1957 and 1980, a portion of the Site where Building 1 was located was used as a bowling alley by Rainier Lanes. While occupied by the bowling alley, the necessary bowling equipment and apparatus were cleaned and degreased using chlorinated solvents and potentially other volatile organic compounds (VOCs). Later, in 1983, the bowling alley was converted to an industrial-sized laundry facility serving the University of Washington that operated until 2019. Around the same time the laundry was established in 1983, a 4,000-gallon fuel oil underground storage tank (UST) was installed on the northern portion of the property. According to the Phase I ESA, a Master Use and Construction Application and Permit indicated that approximately 5,200 cubic yards of fill would be placed on the Site for grading during conversion of the bowling alley to a laundry facility. Known contamination at the Site consists of diesel- and oil-range petroleum hydrocarbons in both soil and groundwater predominantly related to the UST, and lead in soil related to imported fill.

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C. A Phase II ESA was conducted by SoundEarth in December 2019 for the City of Seattle to assess recognized environmental conditions identified in their 2019 Phase I ESA. Elements of the investigation included a focused ground-penetrating radar (GPR) survey, completion of 18 soil borings (P01 to P18) to depths between 15 to 25 feet below ground surface, and associated soil and groundwater sampling. The RI was completed in 2025 and 2026 to further investigate the nature and extent of soil and groundwater impacts identified during the Phase II ESA, and included a focused GPR survey, completion of 11 soil borings (RI-DP1 through RI-DP11) and installation of five permanent monitoring wells (RI-MW1 through RI-MW5) to depths up to 25 feet bgs, and associated soil and groundwater sampling.

D. Oil Range Petroleum Hydrocarbons (ORPH) were detected at a concentration exceeding the MTCA Method A cleanup level in a soil sample collected from boring P13 located at the northeastern portion of the Site. Lead was detected at concentrations exceeding the MTCA Method A cleanup level in soil samples collected from RI-DP8 and RI-MW3, located in the northeastern portion of the Site. Diesel Range Petroleum Hydrocarbons (DRPH) were detected at a concentration exceeding the MTCA Method A cleanup level in a groundwater sample collected at boring P16 located in the northern portion of the Site. DRPH and ORPH were detected at concentrations greater than MTCA Method A cleanup levels in groundwater samples collected from boring P13 located in the northeastern portion of the Site. Contaminants detected at concentrations less than MTCA Method A or B cleanup levels in soil and/or groundwater samples collected as part of the Phase II ESA and/or RI included Gasoline Range Petroleum Hydrocarbons, VOCs (i.e., benzene, acetone, tetrachloroethene, trichloroethene, and cis-1,2-dichloroethene), polycyclic aromatic hydrocarbons (PAHs) and various metals (i.e., arsenic barium, cadmium, and chromium).

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E. The Phase II ESA concluded that due to the limited vertical extent of impacts to soil and the absence of DRPH and/or ORPH in soil and groundwater in other borings, the presence of DRPH and ORPH in soil and groundwater likely is associated with fill placed on site and releases from the UST.

F. Prior to closing, and pursuant to the Grant Agreement, MBTOD conducted additional remedial investigation work, which showed one detection of lead in soil at concentrations above the Method A cleanup level.

G. Release(s) and/or potential release(s) of hazardous substances occurred at the Site. The following hazardous substances at the Site have been detected and identified by Ecology as the primary contaminants of concern: diesel and oil range petroleum hydrocarbons and lead. These hazardous substances have been, and may continue to be, released at the Site into the environment including soil and groundwater.

H. In April 2024, Ecology completed the Site Hazard Assessment and Rating Process (SHARP) for the 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 “medium” rating. Additional information is provided in Ecology’s SHARP report.

I. MBTOD intends to redevelop the Site as a mixed-use, mixed-income community with affordable rental housing, indoor and outdoor community spaces and outdoor public open spaces.

J. The City of Seattle, Office of Housing is the current owner of the Property as described in Section I(1) and located at 2901 27th Avenue South, in Seattle, Washington. The City of Seattle, Office of Housing purchased the property from the University of Washington in 2020.

K. The draft RI/FS, draft CAP, and PPCD were subject to public comment from May 4, 2026 to June 17, 2026. Ecology held a public meeting on [REDACTED].

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VI. WORK TO BE PERFORMED

1. This Decree contains a program 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 MBTOD at the Site shall be done in accordance with WAC 173-340.

2. Pursuant to Grant Agreement No. OTGP-2025-MHNW-0084, MBTOD completed an RI, FS, and dCAP. The RI, FS, and dCAP have been reviewed by Ecology and the documents were submitted for public comment. MBTOD shall implement the final CAP according to the schedule contained the Scope of Work and Schedule attached to this Decree (Exhibit C), except in the instance where grant funding provided under Grant Agreement No. OTGP-2025-MHNW-0084 is insufficient for MBTOD to perform and/or complete the work, in which case such circumstances will constitute good cause for an extension of the schedule consistent with Section XVII of his Decree.

3. MBTOD 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 Site will be remediated to residential cleanup levels and redeveloped with dedicated rental units restricted for affordable housing for a minimum of 30 years, consistent with MTCA and its implementing regulations, WAC 173-340, and applicable City of Seattle zoning provisions and comprehensive plan designations.4. 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 Cleanup Action Plan (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

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action for the Site as a whole; and (b) will not exacerbate the known contamination/release or result in recontamination of the Property.

5. 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, MBTOD 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). MBTOD 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 MBTOD are 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.

6. All plans or other deliverables submitted by MBTOD for Ecology's review and approval under the CAP (Exhibit D) or Scope of Work and Schedule (Exhibit C) shall, upon Ecology's approval, become integral and enforceable parts of this Decree.

7. If MBTOD 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, MBTOD, within seven (7) days of learning of the change in condition,

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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.

6. Pursuant to WAC 173-340-440(11), and if required by the CAP, MBTOD 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 the CAP, if the CAP requires engineered and/or institutional controls that require finance assurance under WAC 173-340-440(11), MBTOD 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, MBTOD shall provide proof of financial assurances sufficient to cover those costs in a form acceptable to Ecology.

B. If financial assurance is required, MBTOD 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 Defendant'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

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

A. In consultation with MBTOD, 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 MBTOD. MBTOD shall obtain the City of Seattle, Office of Housing's approval and signature on the Environmental (Restrictive) Covenant.

B. In addition to any restrictions related to environmental conditions that may be provided for in the 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 MBTOD prior to the above-referenced Covenants being recorded.

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C. After approval by Ecology, MBTOD 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). MBTOD shall provide Ecology with the original recorded Environmental (Restrictive) Covenants within thirty (30) days of the recording date.

C. If provided for in the CAP, and as part of the remedial action for the Site, institutional controls may be required on properties not owned by MBTOD, and/or leased by the City of Seattle, Office of Housing to MBTOD. MBTOD will undertake good faith efforts to engage with the owner of each affected property so that an Ecology-approved Environmental (Restrictive) Covenant is recorded as detailed in the Schedule (Exhibit C). Upon a showing that MBTOD have made a good faith effort to secure an Environmental (Restrictive) Covenant for an affected property and failed to do so, Ecology may provide assistance to MBTOD. If required by the CAP, MBTOD shall provide Ecology with the original recorded Environmental (Restrictive) Covenant within thirty (30) days of the recording date.

8. Unless otherwise directed by Ecology, MBTOD 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.

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D. Description of all deviations from the Scope of Work and Schedule (Exhibit ___) 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.

9. Except in the case of an emergency, MBTOD agree 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, MBTOD 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
15700 Dayton Ave N, Shoreline, WA, 98133
425-758-5231
zak.wall@ecy.wa.gov

2. The project coordinator for MBTOD is:

Jonathan Smith
Project Developer
Mercy Housing Northwest
6940 Martin Luther King Jr Way S
Seattle, WA 98118
206-602-2729
Jonathan.Smith@mercyhousing.org

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 MBTOD, and all

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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. MBTOD 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.

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IX. CERTIFICATION OF DEFENDANT

1. MBTOD 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 MBTOD's right and title thereto.

2. MBTOD 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 MBTOD 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 Defendant'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 MBTOD.

2. Nothing in this Decree is intended by MBTOD 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 MBTOD 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. MBTOD shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by MBTOD where remedial activities or investigations will be performed pursuant to this Decree.

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4. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by MBTOD 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, MBTOD 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, MBTOD shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by MBTOD pursuant to the implementation of this Decree. MBTOD shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow MBTOD 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 MBTOD 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.

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XII. ACCESS TO INFORMATION

1. MBTOD 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 MBTOD 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. MBTOD 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 may have under applicable law to limit disclosure of Records protected by the attorney work-product privilege and/or the attorney-client privilege. If MBTOD withholds any requested Records based on an assertion of privilege, MBTOD 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.

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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), MBTOD 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, MBTOD 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 MBTOD 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 MBTOD's transfer of any interest in all or any portion of the Site, and during the effective period of this Decree, MBTOD 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, MBTOD shall notify Ecology of said transfer. Upon its transfer of any interest, MBTOD 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 MBTOD elects to invoke dispute resolution, MBTOD 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), MBTOD has fourteen (14) calendar days within which to notify Ecology's project coordinator in writing of its dispute (Informal Dispute Notice).

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B. The Parties' project coordinators shall then confer in an effort to resolve the dispute informally. The parties shall informally confer for up to fourteen (14) calendar days from receipt of the Informal Dispute Notice. If the project coordinators cannot resolve the dispute within those 14 calendar days, then within seven (7) calendar days Ecology's project coordinator shall issue a written decision (Informal Dispute Decision) stating: the nature of the dispute; the Defendant'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. MBTOD may then request regional management review of the dispute. MBTOD 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 MBTOD finds Ecology's Regional Section Manager's decision of the disputed matter unacceptable, MBTOD may then request final management review of that decision. MBTOD must submit this request (Final Review Request) in writing to the Toxics Cleanup Program Manager within seven (7) calendar days of MBTOD'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; the disputing MBTOD'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

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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 MBTOD, either 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

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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, MBTOD 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. MBTOD'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 the party requesting extension 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 MBTOD including delays caused by unrelated third parties or Ecology, such

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as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by MBTOD.

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 XVI (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 MBTOD, except as provided for in Section VI.2 regarding sufficient funding for MBTOD to perform the work.

4. Ecology shall act upon any MBTOD's written request for extension in a timely fashion. Ecology shall give MBTOD 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 MBTOD'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 XVI (Endangerment).

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

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

3. If Ecology concurs with or orders a work stoppage pursuant to this section, Defendant'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 MBTOD's compliance with the terms and conditions of this Decree, Ecology covenants not to institute legal or administrative actions against MBTOD regarding the release or threatened release of hazardous substances at the Site, as defined in Section IV.1.A. This Covenant Not to Sue does not cover any other hazardous

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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 MBTOD 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 MBTOD's failure to meet the requirements of this Decree.
- B. Failure of the remedial action to meet the cleanup standards identified in the CAP (Exhibit D).
- 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.

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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 MBTOD pursuant to this section, Ecology shall provide MBTOD with fifteen (15) calendar days' notice of such action.

XX. CONTRIBUTION PROTECTION

1. With regard to claims for contribution against MBTOD, the Parties agree that MBTOD are 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. MBTOD agree to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action (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 MBTOD, its officers, employees, agents, or contractors in entering into and implementing this Decree. However, MBTOD 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 MBTOD 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 the CAP, Exhibit D. MBTOD have a continuing obligation to identify additional applicable federal, state,

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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 MBTOD, Ecology will document in writing if they are applicable to actions carried out pursuant to this Decree, and the MBTOD must implement those requirements.

2. *Relevant and Appropriate Requirements.* All actions carried out by MBTOD 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 the CAP, Exhibit D. If additional relevant and appropriate requirements are identified by Ecology or MBTOD, Ecology will document in writing if they are applicable to actions carried out pursuant to this Decree and the MBTOD must implement those requirements.

3. Pursuant to RCW 70A.305.090(1), MBTOD 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, MBTOD 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 the CAP, Exhibit D.

4. MBTOD 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 MBTOD 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 MBTOD shall be responsible to contact the

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

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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. Ecology has accumulated \$ _____ in remedial action costs related to this Site as of _____, as provided by Ecology's Fiscal Office (Revenue and Receivables Unit). This amount will be included in the first billing statement sent after the Decree becomes effective.

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

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XXV. PERIODIC REVIEW

1. So long as remedial action continues at the Site, if required by the CAP, 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. At least ninety (90) days prior to each periodic review, MBTOD 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). 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, MBTOD 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 MBTOD 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

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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 MBTOD that do not receive prior Ecology approval, MBTOD 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:

Department Of Ecology Central Records NWRO
15700 Dayton Ave N
Shoreline WA 98133

Columbia City Branch
Seattle Public Library
4721 Rainier Ave S
Seattle, WA 98118

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 MBTOD 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

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to Sue), Section XVIII (Contribution Protection), Section XIX (Indemnification), and Section XXVI (Claims Against the State) shall survive.

XXVIII. CLAIMS AGAINST THE STATE

1. MBTOD hereby agree 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 MBTOD will make no claim against any MTCA account for any costs incurred in implementing this Decree. Except as provided above, however, MBTOD expressly reserve 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.

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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

NICHOLAS W. BROWN
Attorney General

Nhi Irwin
Program Manager
Toxics Cleanup Program
(360) 407-7177

LeeAnne Kane, WSBA 52101
Assistant Attorney General
360-568-3589

Date: _____

Date: _____

MBTOD PHASE ONE LLLP,
a Washington limited liability limited partnership

By: MBTOD Phase One GP LLC,
a Washington limited liability company
Its: General Partner

By: El Centro de la Raza,
a Washington public benefit nonprofit corporation
Its: Manager
By: _____
Name: _____
Its: _____

Date: _____

By: Mercy Housing Northwest,
a Washington nonprofit corporation
Its: Member
By: _____
Name: _____
Its: _____

Date: _____

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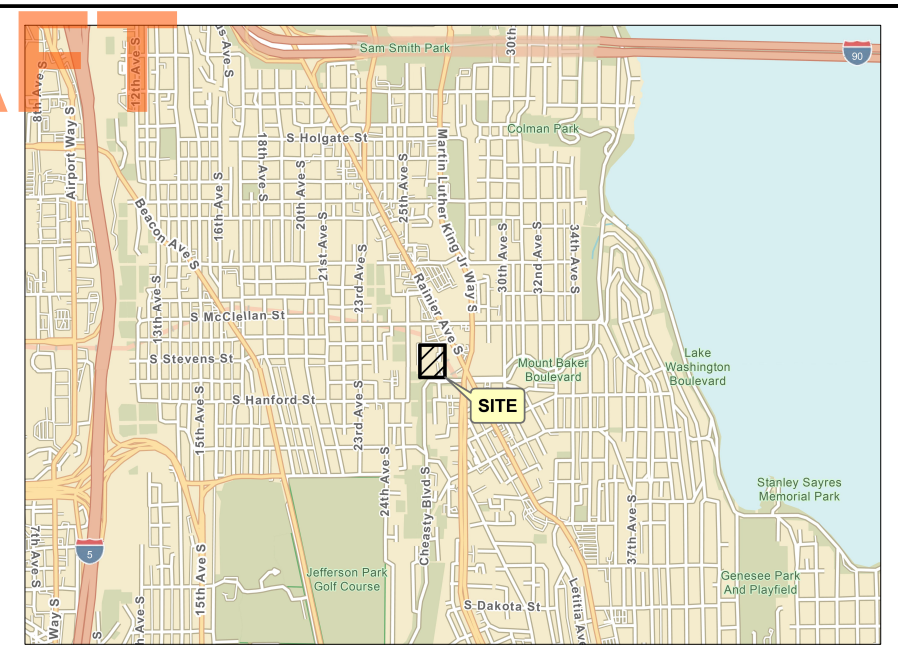
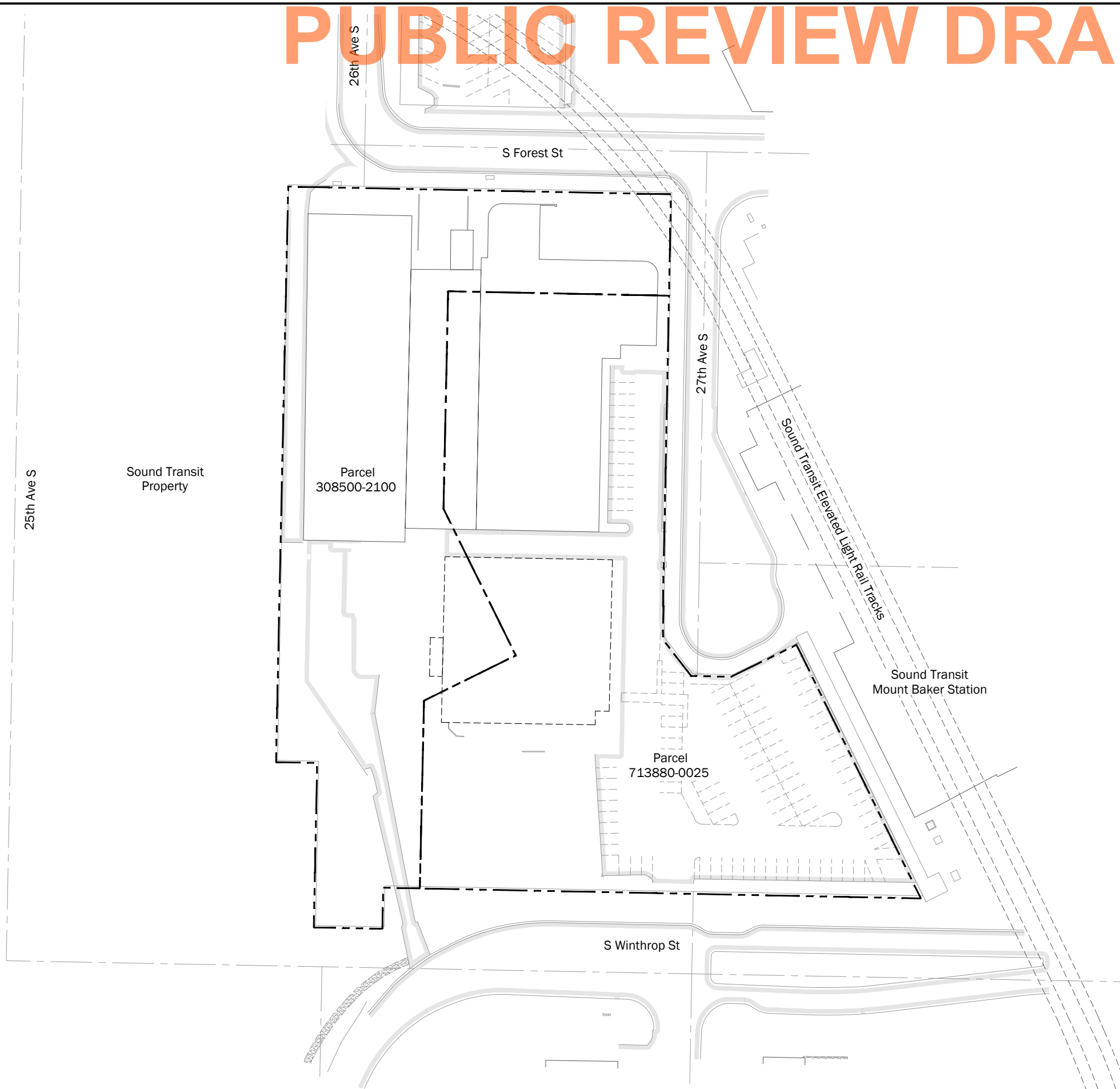
ENTERED this ____ day of _____ 20 ____.

JUDGE
King County Superior Court

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Exhibit A

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Vicinity Map

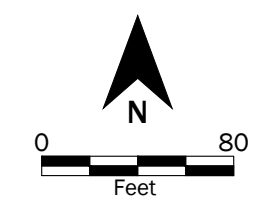
Legend


-  Parcel Boundary
-  Existing Buildings
-  Former Building

Source(s): Survey from Bush, Roed and Hitchings, Inc., dated 10/18/2024

Coordinate System: WA State Plane, North Zone, NAD83, US Foot

Disclaimer: This figure was created for a specific purpose and project. Any use of this figure for any other project or purpose shall be at the user's sole risk and without liability to GeoEngineers. The locations of features shown may be approximate. GeoEngineers makes no warranty or representation as to the accuracy, completeness, or suitability of the figure, or data contained therein. The file containing this figure is a copy of a master document, the original of which is retained by GeoEngineers and is the official document of record.



General Location Diagram	
UW Mount Baker Laundry Site Seattle, Washington	
	Exhibit A

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Exhibit B

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EXHIBIT B PROPERTY DESCRIPTION

Parcel Y (King County Parcel No. 308500-2100)

PARCEL A OF LOT BOUNDARY ADJUSTMENT NUMBER 2400996, RECORDED UNDER RECORDING NUMBER 20040331900021, IN KING COUNTY, WASHINGTON;

EXCEPT THAT PORTION CONVEYED TO CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY BY DEED RECORDED UNDER RECORDING NUMBER 20110901000445, IN KING COUNTY, WASHINGTON, BEING A RERECORDING OF 20050331002461;

AND EXCEPT THAT PORTION OF SAID PARCEL A, LYING SOUTH AND EAST OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT IN THE WEST RIGHT OF WAY MARGIN OF 27TH AVENUE SOUTH AND THE EAST LINE OF SAID PARCEL A, WHICH BEARS SOUTH 01°03'27" WEST, A DISTANCE OF 73.94 FEET FROM THE NORTHEAST CORNER OF SAID PARCEL A;

THENCE NORTH 88°54'09" WEST, A DISTANCE OF 161.05 FEET;

THENCE SOUTH 01°05'51" WEST, A DISTANCE OF 158.64 FEET;

THENCE SOUTH 26°13'50" EAST, A DISTANCE OF 119.25 FEET;

THENCE SOUTH 63°46'10" WEST, A DISTANCE OF 74.58 FEET;

THENCE SOUTH 01°05'51" WEST, A DISTANCE OF 136.88 FEET TO THE SOUTH LINE OF SAID PARCEL A AND THE TERMINUS OF THIS DESCRIBED LINE;

THE TERMINUS OF THE ABOVE-DESCRIBED LINE BEARS NORTH 88°54'09" WEST, A DISTANCE OF 197.86 FEET FROM THE SOUTHEAST CORNER OF SAID PARCEL A.

Parcel Z (King County Parcel No. 713880-0025)

LOTS 3 THROUGH 14 IN BLOCK 6 OF RAINIER VALLEY SECOND ADDITION TO THE CITY OF SEATTLE, ACCORDING TO PLAT RECORDED IN VOLUME 13 OF PLATS AT PAGE 77, IN KING COUNTY, WASHINGTON;

EXCEPT THE SOUTH 30 FEET OF LOTS 3 THROUGH 8 CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 83253 FOR STREET PURPOSES, AS PROVIDED FOR BY CITY OF SEATTLE ORDINANCE NUMBER 25148;

TOGETHER WITH THAT PORTION OF VACATED EAST AND WEST ALLEY ADJOINING OF ABUTTING THEREON, WHICH UPON VACATION, ATTACHED TO SAID PREMISES BY OPERATION OF LAW, AS PROVIDED FOR CITY OF SEATTLE ORDINANCE NUMBER 82793;

AND TOGETHER WITH THAT PORTION OF VACATED 27TH AVENUE SOUTH ADJOINING OF ABUTTING THEREON, WHICH UPON VACATION, ATTACHED TO SAID PREMISES BY OPERATION OF LAW, PURSUANT TO CITY OF SEATTLE ORDINANCE NUMBER 91132, LYING SOUTHERLY OF THE SOUTH MARGIN OF SOUTH STEVENS STREET AND NORTHERLY OF THE NORTH MARGIN OF SOUTH WINTHROP STREET AS ESTABLISHED

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IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 83253, AS PROVIDED FOR BY CITY OF SEATTLE ORDINANCE NUMBER 25148;

AND TOGETHER WITH THAT PORTION OF PARCEL A, OF LOT BOUNDARY ADJUSTMENT NUMBER 2400996, RECORDED UNDER RECORDING NUMBER 20040331900021, IN KING COUNTY, WASHINGTON, LYING SOUTH AND EAST OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT IN THE WEST RIGHT OF WAY MARGIN OF 27TH AVENUE SOUTH AND THE EAST LINE OF SAID PARCEL A, WHICH BEARS SOUTH 01°03'27" WEST, A DISTANCE OF 73.94 FEET FROM THE NORTHEAST CORNER OF SAID PARCEL A;
THENCE NORTH 88°54'09" WEST. A DISTANCE OF 161.05 FEET;
THENCE SOUTH 01°05'51" WEST, A DISTANCE OF 158.64 FEET;
THENCE SOUTH 26°13'50" EAST, A DISTANCE OF 119.25 FEET;
THENCE SOUTH 63°46'10" WEST, A DISTANCE OF 74.58 FEET;
THENCE SOUTH 01°05'51" WEST, A DISTANCE OF 136.88 FEET TO THE SOUTH LINE OF SAID PARCEL A AND THE TERMINUS OF THIS DESCRIBED LINE;

THE TERMINUS OF THE ABOVE-DESCRIBED LINE BEARS NORTH 88°54'09" WEST, A DISTANCE OF 197.86 FEET FROM THE SOUTHEAST CORNER OF SAID PARCEL A.

AND EXCEPT THAT PORTION CONVEYED TO CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY BY DEED RECORDED UNDER RECORDING NUMBER 20110901000445, BEING A RERECORDING OF 20050331002461.

Parcel III - King County Parcel No. 713830-0015

LOTS 3 THROUGH 6, BLOCK 1 OF RAINIER VALLEY ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 12 OF PLATS, PAGE 97, IN KING COUNTY, WASHINGTON

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Exhibit C

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EXHIBIT C

SCOPE OF WORK AND SCHEDULE

PURPOSE

Pursuant to this Prospective Purchaser Consent Decree (PPCD or Decree), MBTOD will complete a Remedial Investigation, Feasibility Study and Cleanup Action Plan for the UW Mount Baker Laundry Site (Site as defined in this Decree) and the Property (as described in Exhibit B) in accordance with the Model Toxics Control Act (MTCA) regulations, Washington Administrative Code (WAC) 173-340, for submittal to Ecology for review and approval. The draft Remedial Investigation (RI), draft Feasibility Study (FS) and Draft Cleanup Action Plan (DCAP) have been prepared by MBTOD under a grant agreement (Grant) from Ecology and have been submitted for public comment. The final cleanup remedy for the Site will be selected by Ecology in consideration of the Draft CAP and presented in Ecology's Final Cleanup Action Plan (CAP), attached to this Decree as Exhibit D. The CAP and implementation of the selected cleanup action(s) discussed in this Scope of Work and Schedule will be based on the DCAP completed under the Grant.

MBTOD shall coordinate with Ecology throughout preparation of the CAP and implementation of the cleanup and shall keep Ecology informed of changes to any Work Plan or other project plans, and of any issues as they develop.

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

- Task 1. Final Remedial Investigation and Feasibility Study
- Task 2. State Environmental Policy Act (SEPA) Compliance
- Task 3. Public Participation
- Task 4. Final Cleanup Action Plan and Implementation of Cleanup

TASK 1. FINAL REMEDIAL INVESTIGATION AND FEASIBILITY STUDY

MBTOD shall complete a Final RI and FS following public review of the draft RI and FS. The Final RI and FS shall be based on the draft RI and FS and MBTOD shall submit the Final RI and FS to Ecology for review and approval.

TASK 2. SEPA COMPLIANCE

MBTOD shall be responsible for complying with the State Environmental Policy Act (SEPA) Rules including preparing and submitting an environmental checklist for the cleanup work to Ecology. If the result of the threshold determination is a determination of significance (DS), MBTOD shall be responsible for the preparation of Draft and Final environmental impact statements. MBTOD shall assist Ecology with coordinating SEPA public involvement requirements with MTCA public

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involvement requirements whenever possible, such that public comment periods and meetings or hearings can be held concurrently.

TASK 3. PUBLIC PARTICIPATION

MBTOD shall support Ecology in presenting the SEPA evaluations at public meeting(s) or hearing(s), as required. MBTOD will assist Ecology with presentations at any additional meetings or hearings that might be necessary for SEPA compliance or as part of the Public Participation Plan.

After the public comment periods are completed and if more than 10 comments are received, MBTOD shall prepare an Agency Review Draft Responsiveness Summary that addresses public comments and submit the summary to Ecology for review and approval.

After addressing Ecology's comments and after Ecology approval, MBTOD shall prepare the Final Responsiveness Summary and submit the summary to Ecology for distribution. The Ecology Project Coordinator will determine the number and type of document (electronic, print copy, etc.).

TASK 4. FINAL CLEANUP ACTION PLAN AND IMPLEMENTATION OF CLEANUP

As of the filing of this Decree, MBTOD has prepared a dCAP in accordance with WAC 173-340-380 presenting the Property-specific remedy approved by Ecology. The dCAP includes a description of the selected remedial actions to address the contamination present on the Site, cleanup standards and rationale regarding their selection, a schedule for implementation, description of any institutional controls planned, and a summary of applicable local, state, and federal laws pertinent to the planned cleanup actions.

Upon Ecology's issuance of the Final CAP, MBTOD shall implement the cleanup action according to WAC 173-340-400. MBTOD shall furnish all personnel, materials, and services necessary for, or incidental to, preparing plans and reports, and the implementation of the Cleanup Action. Submittals of deliverables shall be prepared in accordance with WAC 173-340-840, General Submittal Requirements.

SCHEDULE OF DELIVERABLES

The schedule for this Scope of Work is presented below. If the date for submission of any item or notification required by this Schedule of Deliverables occurs on a weekend, state or federal holiday, the date for submission of that item or notification is extended to the next business day following the weekend or holiday.

Deliverables		Due¹
<i>A. Administrative</i>		
A.1	File Prospective Purchaser Consent Decree in Court	Within 30 days of execution by MBTOD and Ecology

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A.2	PPCD approval and entry by the Court (PPCD effective date)	
A.2	Monthly Progress Reports to Ecology	Following the PPCD Effective Date through the completion of construction activities, on the 10 th of each month beginning after the effective date of the PPCD. Thereafter, annually on the CD anniversary date.
B. Cleanup Action		
B.1	Final RI and FS	Within 30 days of receipt of Ecology's comments on Draft RI/FS or within 30 days of the PPCD Effective Date, whichever occurs last (A.1).
B.2	SEPA Checklist	As appropriate
B.3	Final CAP ²	Within 30 days of the PPCD Effective Date or within 60 days of approval of the DCAP, whichever occurs last (A.1)
B.4	Implement CAP as part of construction for property redevelopment	Initiation with the start of redevelopment construction following completion of project design, as defined in the CAP schedule (B.3).
B.5	Draft Cleanup Action Report (CAR)	Submit to Ecology within 90 days of completion of construction (B.4)
B.6	Final CAR	Submit to Ecology within 30 days following Ecology approval of Draft CAR (B.5)

¹ Schedule is in calendar days. Deliverable due date may be modified with Ecology concurrence without amendment to the Prospective Purchaser Consent Decree.

² The CAP includes: Confirmation Soil Sampling Plan, Contingency Plans and an Inadvertent Discovery Plan (IDP).

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Exhibit D

Final CAP will be attached following public comment. The public review draft CAP can be accessed at the Site's webpage here:

<https://apps.ecology.wa.gov/cleanupsearch/site/17017>