

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

NORTH LOT DEVELOPMENT, LLC

Defendant.

NO.

PROSPECTIVE PURCHASER
CONSENT DECREE RE:
NORTH LOT DEVELOPMENT SITE
SEATTLE, WASHINGTON

TABLE OF CONTENTS

I.	INTRODUCTION	3
II.	JURISDICTION	4
III.	PARTIES BOUND	6
IV.	DEFINITIONS.....	6
V.	FINDINGS OF FACTS	7
VI.	WORK TO BE PERFORMED.....	10
VII.	DESIGNATED PROJECT COORDINATORS.....	12
VIII.	PERFORMANCE.....	13
IX.	CERTIFICATION OF DEFENDANT	13
X.	ACCESS	14
XI.	SAMPLING, DATA SUBMITTAL, AND AVAILABILITY.....	14
XII.	PROGRESS REPORTS.....	15
XIII.	RETENTION OF RECORDS	16
XIV.	TRANSFER OF INTEREST IN PROPERTY	16
XV.	RESOLUTION OF DISPUTES.....	17
XVI.	AMENDMENT OF DECREE.....	19
XVII.	EXTENSION OF SCHEDULE.....	20
XVIII.	ENDANGERMENT	22

1	XIX.	COVENANT NOT TO SUE	23
	XX.	CONTRIBUTION PROTECTION	24
2	XXI.	LAND USE RESTRICTIONS.....	24
	XXII.	INDEMNIFICATION	25
3	XXIII.	COMPLIANCE WITH APPLICABLE LAWS	25
	XXIV.	REMEDIAL ACTION COSTS	26
4	XXV.	IMPLEMENTATION OF REMEDIAL ACTION.....	27
	XXVI.	PERIODIC REVIEW	27
5	XXVII.	PUBLIC PARTICIPATION	28
	XXVIII.	DURATION OF DECREE.....	29
6	XXIX.	CLAIMS AGAINST THE STATE.....	30
	XXX.	EFFECTIVE DATE.....	30
7	XXXI.	WITHDRAWAL OF CONSENT	30
8	EXHIBIT A	Site Diagram	
	EXHIBIT B	Cleanup Action Plan	
9	EXHIBIT C	Environmental Covenant	
	EXHIBIT D	Public Participation Plan	
10	EXHIBIT E	Legal Description of Property	
	EXHIBIT F	Form Agreement of Successors in Interest and Assigns	
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			

1 **I. INTRODUCTION**

2 A. The mutual objective of the State of Washington, Department of Ecology
3 (Ecology) and North Lot Development, LLC (Defendant) under this Decree is to (1) resolve
4 the potential liability of Defendant for contamination at the North Lot Development Site (Site)
5 arising from a release or threatened release of hazardous substances, in advance of Defendant
6 purchasing an ownership interest in the Site, and (2) facilitate the cleanup of the Site for
7 redevelopment or reuse. This Decree requires Defendant to conduct a cleanup of the Site,
8 consistent with the Cleanup Action Plan (CAP) attached as Exhibit B, that includes hotspot
9 excavation of contaminated soil from a former gasoline station area, enhanced bioremediation
10 for soil and groundwater impacted in the area of hotspot excavation, construction soil
11 excavation across the Site in preparation for development, placement of a surface cap over the
12 entire Site, added measures to prevent contact with shallow contaminated soil outside the
13 footprints of the building foundations within the Site boundary, implementation of institutional
14 controls, groundwater monitoring and contingent groundwater treatment, according to the
15 schedule and other requirements identified in this Decree and all exhibits thereto. Ecology has
16 determined that these actions are necessary to protect human health and the environment.

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

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

25 D. By entering into this Decree, the Parties do not intend to discharge non-settling
26 parties from any liability they may have with respect to matters alleged in the Complaint. The

1 Parties retain the right to seek reimbursement, in whole or in part, from any liable persons for
2 sums expended under this Decree.

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

7 F. Successors in Interest and Assigns may become parties to this Decree as
8 provided in Section XVI (Amendment of Decree).

9 G. The court is fully advised of the reasons for entry of this Decree, and good
10 cause having been shown:

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

12 II. JURISDICTION

13 A. This court has jurisdiction over the subject matter and over the Parties pursuant
14 to the Model Toxics Control Act (MTCA), Chapter 70.105D RCW. Venue is proper in King
15 County pursuant to RCW 70.105D.050(5)(b).

16 B. Authority is conferred upon the Washington State Attorney General by RCW
17 70.105D.040(4)(a) to agree to a settlement with any potentially liable person (PLP) if, after
18 public notice and any required hearing, Ecology finds the proposed settlement would lead to a
19 more expeditious cleanup of hazardous substances. In addition, under RCW 70.105D.040(5),
20 the Attorney General may agree to a settlement with a person not currently liable for remedial
21 action at a facility who proposes to purchase, redevelop, or reuse the facility, provided: the
22 settlement will yield substantial new resources to facilitate cleanup; the settlement will
23 expedite remedial action consistent with the rules adopted under MTCA; and Ecology
24 determines based upon available information that the redevelopment or reuse of the facility is
25 not likely to contribute to the existing release or threatened release, interfere with remedial
26 actions that may be needed at the Site, or increase health risks to persons at or in the vicinity of

1 the Site. RCW 70.105D.040(4)(b) requires that such a settlement be entered as a consent
2 decree issued by a court of competent jurisdiction.

3 C. Ecology has determined that a release or threatened release of hazardous
4 substances has occurred at the Site that is the subject of this Decree, and that the remedial
5 actions required by this Decree are necessary to protect human health and the environment
6 based on the planned future use of the Site as contemplated by the Parties under this Decree.

7 D. Defendant has not been named a PLP for the Site, and Defendant has certified
8 under Section IX (Certification of Defendant) that it is not currently liable for the Site under
9 MTCA. However, Defendant has entered into a purchase agreement to acquire King County
10 Parcels 7666204878, 7666206780, and 7666206790 located at 201 South King Street, Seattle,
11 Washington, from King County, the current owner of the Property. The Property comprises
12 the entire Site. Defendant will incur potential liability under RCW 70.105D.040(1)(a) at the
13 time it acquires an interest in the Site for performing remedial actions or paying remedial costs
14 incurred by Ecology or third parties resulting from past releases or threatened releases of
15 hazardous substances at the Site. This Decree settles Defendant's liability as described herein
16 for this Site upon its purchase of the Property.

17 E. Ecology finds that this Decree will yield substantial new resources to facilitate
18 cleanup of the Site; will lead to a more expeditious cleanup of hazardous substances at the Site
19 in compliance with the cleanup standards established under RCW 70.105D.030(2)(e) and
20 Chapter 173-340 WAC; will promote the public interest by facilitating the redevelopment or
21 reuse of the Site; and will not be likely to contribute to the existing release or threatened
22 release at the Site, interfere with remedial actions that may be needed at the Site, or increase
23 health risks to persons at or in the vicinity of the Site. In addition, Ecology has determined that
24 this Decree will provide a substantial public benefit through the redevelopment of a long-time,
25 underutilized, former industrial property, the provision of mixed income housing options and
26

1 employment opportunities for Seattle residents and the enhancement of economic vitality in a
2 historically economically-challenged neighborhood of the City.

3 F. Defendant has agreed to undertake the actions specified in this Decree and
4 consents to the entry of this Decree under MTCA.

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

6 III. PARTIES BOUND

7 This Decree shall apply to and be binding upon the Parties to this Decree, their
8 Successors in Interest and Assigns. The undersigned representative of each party hereby
9 certifies that he or she is fully authorized to enter into this Decree and to execute and legally
10 bind such party to comply with the Decree. Defendant agrees to undertake all actions required
11 by the terms and conditions of this Decree. No change in ownership or corporate status shall
12 alter Defendant's responsibility under this Decree. Defendant shall provide a copy of this
13 Decree to all agents, contractors, and subcontractors retained to perform work required by this
14 Decree, and shall ensure that all work undertaken by such agents, contractors, and
15 subcontractors complies with this Decree.

16 IV. DEFINITIONS

17 Unless otherwise specified herein, all definitions in RCW 70.105D.020 and WAC 173-
18 340-200 shall control the meanings of the terms in this Decree.

19 A. Site: The Site is referred to as the North Lot Development Site, and is located
20 north of CenturyLink Field and Event Center, south of King Street, east of Occidental Avenue,
21 and west of the Burlington Northern Santa Fe (BNSF) railroad tracks, in the City of Seattle,
22 Washington. The Site is more particularly described in the Site Diagram (Exhibit A). The Site
23 constitutes a Facility under RCW 70.105D.020(4).

24 B. Property: Refers to King County Parcels 7666204878, 7666206780, and
25 7666206790 located at 201 South King Street, Seattle, Washington, that Defendant intends to
26

1 purchase. A legal description of the Property is attached as Exhibit E. The Property comprises
2 the entire Site.

3 C. Parties: Refers to the State of Washington, Department of Ecology (Ecology)
4 and North Lot Development, LLC.

5 D. Defendant: Refers to North Lot Development, LLC.

6 E. Consent Decree or Decree: Refers to this Prospective Purchaser Consent
7 Decree and each of the exhibits to this Decree. All exhibits are integral and enforceable parts
8 of this Prospective Purchaser Consent Decree. The terms "Consent Decree" or "Decree" shall
9 include all exhibits to this Prospective Purchaser Consent Decree.

10 F. Successors in Interest and Assigns: Refers to any person who acquires an
11 interest in the Properties through purchase, lease, transfer, assignment or otherwise, including
12 those who become a party to this Decree pursuant to Section XVI (Amendment of Decree).

13 V. FINDINGS OF FACTS

14 Ecology makes the following findings of fact without any express or implied
15 admissions of such facts by Defendant:

16 A. The Site is located in Seattle, Washington, and consists of approximately 3.85
17 acres. The Site is located southeast of the intersection of South King Street and Occidental
18 Avenue South, north of CenturyLink Field and Event Center, south of King Street, east of
19 Occidental Avenue, and west of the Burlington Northern Santa Fe (BNSF) railroad tracks. The
20 Site currently consists of a paved parking lot, which is used for commuter parking and
21 CenturyLink Field and Event Center events. A diagram of the Site is attached as Exhibit A.

22 B. The Site was originally undeveloped tide flats of Elliott Bay. The Site was
23 filled in the late 1890s and early 1900s and was subsequently operated as a rail yard until the
24 late 1960s. The fill material underlying the Site is composed of remnants of former rail yard
25 operations and construction debris.

26 C. Several sets of railroad tracks were present on the property.

1 D. Structures associated with the rail yard included engine maintenance buildings,
2 paint shops, track switching areas, and materials storage areas.

3 E. In addition, two gasoline stations were formerly located in the northwestern
4 corner of the property at different times between the late 1930s and approximately 1966.

5 F. King County purchased the property in the 1970s to facilitate construction of
6 the Kingdome stadium to the south of the property. The Kingdome was later demolished and
7 replaced with the current CenturyLink Field and Event Center development.

8 G. Contamination at the Site is related to former rail yard and gas station
9 operations.

10 H. Environmental investigations conducted at the Site between 2008 and 2011 are
11 summarized in the Remedial Investigation (RI) (Landau Associates 2010) and Feasibility
12 Study (FS) (Landau Associates 2011) reports. Defendant submitted a draft Cleanup Action
13 Plan (CAP), dated March 25, 2011. Ecology provided comments on the draft CAP, and
14 Defendant responded to the comments with appropriate revisions. Ecology accepted that draft
15 as final pending public comment and issued the *Proposed Cleanup Action Plan* for public
16 comment. The public comment period ran from June 17–July 18, 2011. After considering
17 public comment, the agency finalized the Cleanup Action Plan. The CAP is attached hereto as
18 Exhibit B.

19 I. As established in the RI and FS, the contaminants of concern at the Site that
20 exceed MTCA cleanup levels are TPH, BTEX, PAHs, and the metals arsenic and lead in soil in
21 three general Site areas. The identified areas are based on the operational history of the Site
22 and investigation findings, and include the northwestern portion of the Site where former
23 gasoline station operations were conducted, the northeastern portion of the Site where
24 historical, creosote-like material is present in deeper soil (greater than 15 ft. BGS) and Site-
25 wide where historical contamination is present within the fill level placed over the underlying
26

1 marine sediment layer. Ecology will rank the site pursuant to WAC 173-340-330 at a later
2 date.

3 J. The Site has been used as a parking lot since the 1970s and is zoned PSM 85-
4 120 by the City of Seattle. The City of Seattle has conducted land use planning under Chapter
5 36.70A RCW.

6 K. On June 21, 2007, Defendant entered into a purchase and sale agreement with
7 King County, the current owner of the Property. Pursuant to this contract, Defendant is
8 contractually obligated to purchase the Property by December 16, 2011.

9 L. Defendant proposes to clean up the Site and make it available for
10 redevelopment as part of a transit-oriented development, which will: 1) encompass two full
11 city blocks with approximately 1.5 million gross square feet of buildable area; 2) include more
12 than 400 units of new housing stock (including 100 affordable units directly related to the
13 development, at least 30 of which will be constructed at the Site), ground-level retail, an office
14 component, and residential parking; and 3) provide redevelopment and cleanup consistent with
15 MTCA and its implementing regulations, Chapter 173-340 WAC, and applicable City of
16 Seattle zoning provisions and comprehensive plan designations.

17 M. The Site is subject to a Master User Permit (MUP) issued by the City of Seattle
18 on April 16, 2010. MUP 3009251 was issued for 201 South King Street (Legal Description:
19 Parcels X, Y, and Z of Seattle Lot Boundary Adjustment No. 3008308 recorded under
20 recording number 20090514900009, records of King County, Washington. MUP 3009251 will
21 remain active until February 19, 2025.

22 N. As documented in the Cleanup Action Plan (CAP) (Exhibit B), the cleanup
23 action to be implemented at the Site includes hotspot excavation of contaminated soil from the
24 northwestern portion of the Property (former gasoline station area) to the elevation of the
25 groundwater table, enhanced bioremediation for soil and groundwater impacted by residual
26 gasoline and benzene near the elevation of the water table in the area of hotspot excavation,

1 placement of a surface cap over the entire Property, added measures to prevent contact with
2 shallow contaminated soil outside the footprints of the building foundations, implementation of
3 institutional controls on the Site, groundwater monitoring and contingent groundwater
4 treatment.

5 O. As discussed in the RI, FS, and CAP for the Site, based on the planned future
6 use of the Site as contemplated by the Parties under this Decree, 1) the application of MTCA
7 Method B Soil cleanup levels at the Site is appropriate for all constituents except lead and TPH
8 (both of which will be subject to MTCA Method A Soil cleanup levels), and 2) the application
9 of MTCA Method B Groundwater cleanup levels at the Site are appropriate for all constituents
10 except TPH (which will be subject to MTCA Method A Groundwater cleanup levels).

11 P. In 2009 the City of Seattle completed an EIS addendum that evaluated the
12 North Lot redevelopment and the conceptual cleanup associated with the redevelopment.
13 Based on the conceptual cleanup, the City determined that no significant unavoidable impacts
14 are anticipated. The CAP closely mirrors the conceptual cleanup evaluated by the City.
15 Pursuant to WAC 197-11-600, Ecology finds that the City's EIS addendum and determination
16 provides sufficient SEPA analysis for the Consent Decree and CAP.

17 VI. WORK TO BE PERFORMED

18 This Decree contains a program designed to protect human health and the environment
19 from the known release, or threatened release, of hazardous substances or contaminants at, on,
20 or from the Site.

21 A. The cleanup action shall include, as described in the CAP:

- 22 • Excavation of contaminated soil in the northwestern corner of the Property in the
23 vicinity of a former gas station ("hotspot excavation"). The excavation would
24 extend to the water table.

- 1 • Application of material in the base of the hotspot excavation to promote biological
- 2 degradation of residual gasoline and benzene contamination (“enhanced
- 3 bioremediation”).
- 4 • Approximately 18” of existing material will be removed throughout the Site and
- 5 replaced with clean fill material that will support the impervious protective cap.
- 6 • Construction of an impervious protective cap over the entire Property.
- 7 • In all landscaped areas outside the footprint of the building, soil shall be excavated
- 8 to a depth of five feet, a protective barrier placed at the bottom of the excavation
- 9 and clean fill installed.
- 10 • Implementation of institutional controls, including an environmental covenant, to
- 11 maintain the cap and prevent future exposure to contaminated soil or groundwater.
- 12 • Implementation of a groundwater monitoring program.
- 13 • Development of a contingency plan for controlling the migration of contaminated
- 14 groundwater, should such measures ever be necessary.

15 The development will be implemented in phases. Construction on the west block will
16 be implemented first. The construction timeline for the east block will be determined later
17 based on market conditions. The cleanup actions described above will be implemented during
18 development on the west block. Meanwhile, asphalt repair, maintenance, and replacement will
19 be implemented on the east block until it is developed. In addition, a groundwater compliance
20 monitoring plan will be implemented Property-wide following cleanup and development of the
21 west block.

22 B. In order to implement the CAP, Defendant will prepare and submit for
23 Ecology’s review and approval all documents necessary to conduct the final cleanup action,
24 such as compliance monitoring plan(s), cleanup action reports, compliance monitoring reports,
25 and as-built reports in accordance with the schedule in Exhibit B or any amended schedule
26

1 pursuant to Section XVII (Extension of Schedule). Any such deliverable, once approved by
2 Ecology, becomes an integral and enforceable part of this Decree.

3 C. Defendant shall prepare a Site Safety and Health Plan in accordance with WAC
4 173-340-810 that meets all requirements under applicable law, and shall submit this Plan to
5 Ecology for review and comment prior to the commencement of the remedial action.

6 D. Institutional controls will be recorded on property within the Site as provided
7 for in Exhibit B and in accordance with the requirements specified in Exhibit C.

8 E. Defendant agrees not to perform any remedial actions outside the scope of this
9 Decree unless the Parties agree to modify the Scope of Work and Schedule identified in the
10 CAP (Exhibit B) to cover these actions. All work conducted by Defendant under this Decree
11 shall be done in accordance with Chapter 173-340 WAC unless otherwise provided herein.

12 VII. DESIGNATED PROJECT COORDINATORS

13 The project coordinator for Ecology is:

14 Russell E. Olsen
15 3190 160th Avenue SE
16 Bellevue, WA 98008-5452
(425) 649-7038

17 The project coordinator for Defendant is:

18 Alan Cornell
19 2401 Utah Avenue South, Suite 305
Seattle, WA 98134
(206) 467-0420

20 Each project coordinator shall be responsible for overseeing the implementation of this
21 Decree. Ecology's project coordinator will be Ecology's designated representative for the Site.
22 To the maximum extent possible, communications between Ecology and Defendant and all
23 documents, including reports, approvals, and other correspondence concerning the activities
24 performed pursuant to the terms and conditions of this Decree shall be directed through the
25 project coordinators. The project coordinators may designate, in writing, working level staff
26

1 contacts for all or portions of the implementation of the work to be performed required by this
2 Decree.

3 Any party may change its respective project coordinator. Written notification shall be
4 given to the other party at least ten (10) calendar days prior to the change.

5 VIII. PERFORMANCE

6 All geologic and hydrogeologic work performed pursuant to this Decree shall be under
7 the supervision and direction of a geologist licensed in the State of Washington or under the
8 direct supervision of an engineer registered in the State of Washington, except as otherwise
9 provided for by Chapters 18.220 and 18.43 RCW.

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

13 All construction work performed pursuant to this Decree shall be under the direct
14 supervision of a professional engineer or a qualified technician under the direct supervision of
15 a professional engineer. The professional engineer must be registered in the State of
16 Washington, except as otherwise provided for by RCW 18.43.130.

17 Any documents submitted containing geologic, hydrologic, or engineering work shall
18 be under the seal of an appropriately licensed professional as required by Chapter 18.220 RCW
19 or RCW 18.43.130.

20 Defendant shall notify Ecology in writing of the identity of any engineer(s) and
21 geologist(s), contractor(s) and subcontractor(s), and others to be used in carrying out the terms
22 of this Decree, in advance of their involvement at the Site.

23 IX. CERTIFICATION OF DEFENDANT

24 Defendant represents and certifies that, to the best of its knowledge and belief, it has
25 fully and accurately disclosed to Ecology the information currently in its possession or control
26

1 that relates to the environmental conditions at and in the vicinity of the Site, or to Defendant's
2 right and title thereto.

3 Defendant represents and certifies that it did not cause or contribute to a release or
4 threatened release of hazardous substances at the Site and is not otherwise currently potentially
5 liable for the Site under RCW 70.105D.040(1).

6 X. ACCESS

7 Ecology or any Ecology authorized representative shall have full authority to enter and
8 freely move about all property at the Site that Defendant either owns, controls, or has access
9 rights to at all reasonable times for the purposes of, *inter alia*: inspecting records, operation
10 logs, and contracts related to the work being performed pursuant to this Decree; reviewing
11 Defendant's progress in carrying out the terms of this Decree; conducting such tests or
12 collecting such samples as Ecology may deem necessary; using a camera, sound recording, or
13 other documentary type equipment to record work done pursuant to this Decree; and verifying
14 the data submitted to Ecology by Defendant. Defendant shall make all reasonable efforts to
15 secure access rights for those properties within the Site not owned or controlled by Defendant
16 where remedial activities or investigations will be performed pursuant to this Decree. Ecology
17 or any Ecology authorized representative shall give reasonable notice before entering any Site
18 property owned or controlled by Defendant unless an emergency prevents such notice. All
19 Parties who access the Site pursuant to this Section shall comply with any applicable Health
20 and Safety Plan(s). Ecology employees and their representatives shall not be required to sign
21 any liability release or waiver as a condition of Site property access.

22 XI. SAMPLING, DATA SUBMITTAL, AND AVAILABILITY

23 With respect to the implementation of this Decree, Defendant shall make the results of
24 all sampling, laboratory reports, and/or test results generated by it or on its behalf available to
25 Ecology. Pursuant to WAC 173-340-840(5), all sampling data shall be submitted to Ecology
26 in both printed and electronic formats in accordance with Section XII (Progress Reports),

1 Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and/or any
2 subsequent procedures specified by Ecology for data submittal. Data must be entered into
3 Ecology's EIM system.

4 If requested by Ecology, Defendant shall allow Ecology and/or its authorized
5 representative to take split or duplicate samples of any samples collected by Defendant
6 pursuant to the implementation of this Decree. Defendant shall notify Ecology seven (7) days
7 in advance of any sample collection or work activity at the Site. Ecology shall, upon request,
8 allow Defendant and/or its authorized representative to take split or duplicate samples of any
9 samples collected by Ecology pursuant to the implementation of this Decree, provided that
10 doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights
11 under Section X (Access), Ecology shall notify Defendant at least five (5) working days prior
12 to any sample collection activity unless an emergency prevents such notice.

13 In accordance with WAC 173-340-830(2)(a), all hazardous substance analyses shall be
14 conducted by a laboratory accredited under Chapter 173-50 WAC for the specific analyses to
15 be conducted, unless otherwise approved by Ecology.

16 XII. PROGRESS REPORTS

17 Defendant shall submit to Ecology written monthly Progress Reports that describe the
18 actions taken to implement the requirements of this Decree. Defendant shall submit monthly
19 Progress Reports that include the following:

20 A. A written list of on-site activities that have taken place during the previous
21 month;

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

24 C. Description of all deviations from the Scope of Work and Schedule identified in
25 the CAP (Exhibit B) during the current month and any planned deviations in the upcoming
26 month;

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

3 E. All raw data (including laboratory analyses) received by Defendant during the
4 past month and an identification of the source of the sample; and

5 F. A list of deliverables for the upcoming month if different from the schedule.

6 All Progress Reports shall be submitted by the tenth (10th) day of the month in which
7 they are due after the effective date of this Decree. Progress Reports and any other documents
8 submitted pursuant to this Decree shall be submitted in electronic format (i.e., electronic mail),
9 return receipt requested, to Ecology's project coordinator. Large documents such as laboratory
10 data reports may also be submitted by certified mail, return receipt requested, to Ecology's
11 project coordinator.

12 XIII. RETENTION OF RECORDS

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

20 XIV. TRANSFER OF INTEREST IN PROPERTY

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

25 Prior to Defendant's transfer of any interest in all or any portion of the Site, and during
26 the effective period of this Decree, Defendant shall provide a copy of this Decree to any

1 prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at
2 least thirty (30) days prior to any transfer, Defendant shall notify Ecology of said transfer.
3 Upon transfer of any interest, Defendant shall restrict uses and activities to those consistent
4 with this Consent Decree and notify all transferees of the restrictions on the use of the
5 property.

6 Successors in Interest and Assigns to a fee and/or other significant property interest
7 (such as an anchor tenant) may request to become parties to this Decree by following the
8 amendment procedures set forth in Section XVI (Amendment of Decree). In the event
9 Defendant assigns all of its fee interest to a Successor in Interest or Assign, and that Successor
10 in Interest or Assign becomes a party to this Decree as specified in Section XVI, Ecology may
11 elect, at its sole discretion, to thereafter look first to such successor for performance of the
12 requirements of this Decree, including, but not limited to, performance of the work as
13 described in Section VIII (Performance), and payments of Ecology costs described in Section
14 XXIV (Remedial Action Costs). However, all signatory PLPs remain jointly and severally
15 liable for performance under this Decree.

16 **XV. RESOLUTION OF DISPUTES**

17 A. In the event a dispute arises as to an approval, disapproval, proposed change, or
18 other decision or action by Ecology's project coordinator, or an itemized billing statement
19 under Section XXIV (Remedial Action Costs), the Parties shall utilize the dispute resolution
20 procedure set forth below.

21 1. Upon receipt of Ecology's project coordinator's written decision, or the
22 itemized billing statement, Defendant has fourteen (14) days within which to notify
23 Ecology's project coordinator in writing of its objection to the decision or itemized
24 statement.
25
26

1 2. The Parties' project coordinators shall then confer in an effort to resolve
2 the dispute. If the project coordinators cannot resolve the dispute within fourteen (14)
3 days, Ecology's project coordinator shall issue a written decision.

4 3. Defendant may then request regional management review of the
5 decision. This request shall be submitted in writing to the Northwest Region Toxics
6 Cleanup Program Section Manager within seven (7) days of receipt of Ecology's
7 project coordinator's written decision.

8 4. Ecology's Regional Section Manager shall conduct a review of the
9 dispute and shall endeavor to issue a written decision regarding the dispute within thirty
10 (30) days of Defendant's request for review.

11 5. If Defendant finds Ecology's Regional Section Manager's decision
12 unacceptable, Defendant may then request final management review of the decision.
13 This request shall be submitted in writing to the Toxics Cleanup Program Manager
14 within seven (7) days of receipt of the Regional Section Manager's decision.

15 6. Ecology's Toxics Cleanup Program Manager shall conduct a review of
16 the dispute and shall endeavor to issue a written decision regarding the dispute within
17 thirty (30) days of Defendant's request for review of the Regional Section Manager's
18 decision. The Toxics Cleanup Program Manager's decision shall be Ecology's final
19 decision on the disputed matter.

20 B. If Ecology's final written decision is unacceptable to Defendant, Defendant has
21 the right to submit the dispute to the court for resolution. The Parties agree that one judge
22 should retain jurisdiction over this case and shall, as necessary, resolve any dispute arising
23 under this Decree. In the event Defendant presents an issue to the court for review, the court
24 shall review the action or decision of Ecology on the basis of whether such action or decision
25 was arbitrary and capricious and render a decision based on such standard of review.
26

1 C. The Parties agree to only utilize the dispute resolution process in good faith and
2 agree to expedite, to the extent possible, the dispute resolution process whenever it is used.
3 Where either party utilizes the dispute resolution process in bad faith or for purposes of delay,
4 the other party may seek sanctions.

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

8 **XVI. AMENDMENT OF DECREE**

9 The project coordinators may agree to minor changes to the work to be performed
10 without formally amending this Decree. Minor changes will be documented in writing by
11 Ecology with copy to the Defendant.

12 Substantial changes to the work to be performed shall require formal amendment of this
13 Decree. This Decree may only be formally amended by a written stipulation among the Parties
14 that is entered by the court, or by order of the court. Such amendment shall become effective
15 upon entry by the court. If material changes to the planned property use occur that would
16 require substantial changes to the cleanup, any amendment to the scope of the decree will be
17 handled under this section. Agreement to amend the Decree shall not be unreasonably
18 withheld by any party.

19 Defendant shall submit a written request for amendment to Ecology for approval. In
20 the event of material changes to the planned property use requiring substantial changes to the
21 cleanup, such as may be occasioned by administration of the Master Use Permit referenced in
22 Section V.M, or related City of Seattle permitting requirements, Defendant shall submit a
23 revised scope of work consisting of a MTCA-compliant cleanup action and schedule consistent
24 with Washington Administrative Code (WAC) 173-340-360 and any other applicable
25 section(s). The existing FS and CAP will be revised in accordance with WAC 173-340-350
26 and 173-340-380, respectively, and any other applicable section(s), and resubmitted to

1 Ecology. Ecology shall indicate its approval or disapproval in writing and in a timely manner
2 after the written request for amendment is received. If the amendment to the Decree is a
3 substantial change, Ecology will provide public notice and opportunity for comment. Reasons
4 for the disapproval of a proposed amendment to the Decree shall be stated in writing. If
5 Ecology does not agree to a proposed amendment, the disagreement may be addressed through
6 the dispute resolution procedures described in Section XV (Resolution of Disputes).

7 A Successor in Interest or Assign to a fee and/or other significant property interest
8 (such as an anchor tenant) may request, in writing directed to Ecology and the Attorney
9 General's office, to become a party to the Decree, which may occur upon or after conveyance
10 of the Property interest to it. Ecology and the Attorney General's office, at their sole
11 discretion, may agree to amend the Decree to incorporate a Successor in Interest or Assign to a
12 fee and/or other significant property interest (such as an anchor tenant) as a party. The
13 amendment to the Decree shall be in the form of Exhibit F, "Agreement of Successors in
14 Interests and Assigns." If the amendment merely adds the party as a signatory, and no
15 substantial changes are made to the terms of the Decree, then no public notice and comment
16 will be required. Successors in Interest and Assigns who do not become parties to this Decree
17 will be entitled to the protections, if any, afforded by RCW 70.105D.040(4)(e) and (f).

18 **XVII. EXTENSION OF SCHEDULE**

19 A. An extension of schedule shall be granted only when a request for an extension
20 is submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the
21 deadline for which the extension is requested, and good cause exists for granting the extension.

22 All extensions shall be requested in writing. The request shall specify:

- 23 1. The deadline that is sought to be extended;
- 24 2. The length of the extension sought;
- 25 3. The reason(s) for the extension; and

1 4. Any related deadline or schedule that would be affected if the extension
2 were granted.

3 B. The burden shall be on Defendant to demonstrate to the satisfaction of Ecology
4 that the request for such extension has been submitted in a timely fashion and that good cause
5 exists for granting the extension. Good cause may include, but may not be limited to:

6 1. Circumstances beyond the reasonable control and despite the due
7 diligence of Defendant including delays caused by unrelated third parties or Ecology,
8 such as (but not limited to) delays by Ecology in reviewing, approving, or modifying
9 documents submitted by Defendant; or

10 2. Acts of God, including fire, flood, blizzard, extreme temperatures,
11 storm, or other unavoidable casualty; or

12 3. Endangerment as described in Section XVIII (Endangerment).

13 However, neither increased costs of performance of the terms of this Decree nor
14 changed economic circumstances shall be considered circumstances beyond the reasonable
15 control of Defendant.

16 C. Ecology shall act upon any written request for extension in a timely fashion.
17 Ecology shall give Defendant written notification of any extensions granted pursuant to this
18 Decree. A requested extension shall not be effective until approved by Ecology or, if required,
19 by the court. Unless the extension is a substantial change, it shall not be necessary to amend
20 this Decree pursuant to Section XVI (Amendment of Decree) when a schedule extension is
21 granted.

22 D. An extension shall only be granted for such period of time as Ecology
23 determines is reasonable under the circumstances. Ecology may grant schedule extensions
24 exceeding ninety (90) days only as a result of:

25 1. Delays in the issuance of a necessary permit or permit extension which
26 was applied for in a timely manner;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

- 2. Other circumstances deemed exceptional or extraordinary by Ecology;
- or
- 3. Endangerment as described in Section XVIII (Endangerment).

XVIII. ENDANGERMENT

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

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

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 XVII (Extension of Schedule), for such period of time as Ecology determines is reasonable under the circumstances.

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.

1 **XIX. COVENANT NOT TO SUE**

2 A. Covenant Not to Sue: In consideration of Defendant's compliance with the
3 terms and conditions of this Decree, Ecology covenants not to institute legal or administrative
4 actions against Defendant regarding the release or threatened release of hazardous substances
5 covered by this Decree.

6 This Decree covers only the Site specifically identified in the Site Diagram (Exhibit A)
7 and those hazardous substances that Ecology knows are located at the Site as of the date of
8 entry of this Decree. This Decree does not cover any other hazardous substance or area.
9 Ecology retains all of its authority relative to any substance or area not covered by this Decree.
10 In addition, this Decree does not settle any potential liability Defendant may incur for
11 acquiring any further interest in the Site not addressed under this Decree.

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

- 13 1. Criminal liability;
14 2. Liability for damages to natural resources;
15 3. Any Ecology action, including cost recovery, against PLPs not a party to
16 this Decree.

17 If factors not known at the time of entry of the settlement agreement are discovered and
18 present a previously unknown threat to human health or the environment, the court shall amend
19 this Covenant Not to Sue.

20 B. Reopeners: Ecology specifically reserves the right to institute legal or
21 administrative action against Defendant to require it to perform additional remedial actions at
22 the Site and to pursue appropriate cost recovery, pursuant to RCW 70.105D.050 under the
23 following circumstances:

- 24 1. Upon Defendant's failure to meet the requirements of this Decree,
25 including, but not limited to, failure of the remedial action to meet the cleanup
26 standards identified in the Cleanup Action Plan (Exhibit B);

1 2. Upon Ecology’s determination that remedial action beyond the terms of
2 this Decree is necessary to abate an imminent and substantial endangerment to human
3 health or the environment;

4 3. Upon the availability of new information regarding factors previously
5 unknown to Ecology, including the nature or quantity of hazardous substances at the
6 Site, and Ecology’s determination, in light of this information, that further remedial
7 action is necessary at the Site to protect human health or the environment; or

8 4. Upon Ecology’s determination that additional remedial actions are
9 necessary to achieve cleanup standards within the reasonable restoration time frame set
10 forth in the CAP.

11 C. Except in the case of an emergency, prior to instituting legal or administrative
12 action against Defendant pursuant to this Section, Ecology shall provide Defendant with fifteen
13 (15) calendar days notice of such action.

14 **XX. CONTRIBUTION PROTECTION**

15 With regard to claims for contribution against Defendant, the Parties agree that
16 Defendant is entitled to protection against claims for contribution for matters addressed in this
17 Decree as provided by RCW 70.105D.040(4)(d).

18 For the purposes of this Section, “matters addressed” include all remedial actions taken
19 or to be taken and all remedial action costs (including Ecology’s oversight costs) incurred or to
20 be incurred by Ecology or any other person with respect to the Site.

21 **XXI. LAND USE RESTRICTIONS**

22 Defendant shall record an Environmental Covenant (Exhibit C) with the office of the
23 King County Auditor within ten (10) days of the completion of the remedial action. The
24 Environmental Covenant shall restrict future uses of the Site, as specified in the CAP
25 (Exhibit B). Defendant shall provide Ecology with a copy of the recorded Environmental
26 Covenant within thirty (30) days of the recording date.

1 **XXII. INDEMNIFICATION**

2 Defendant agrees to indemnify and save and hold the State of Washington, its
3 employees, and agents harmless from any and all claims or causes of action for death or
4 injuries to persons or for loss or damage to property to the extent arising from or on account of
5 acts or omissions of Defendant, its officers, employees, agents, or contractors in entering into
6 and implementing this Decree. However, Defendant shall not indemnify the State of
7 Washington nor save nor hold its employees and agents harmless from any claims or causes of
8 action to the extent arising out of the negligent acts or omissions of the State of Washington, or
9 the employees or agents of the State, in entering into or implementing this Decree.

10 **XXIII. COMPLIANCE WITH APPLICABLE LAWS**

11 A. All actions carried out by Defendant pursuant to this Decree shall be done in
12 accordance with all applicable federal, state, and local requirements, including requirements to
13 obtain necessary permits, except as provided in RCW 70.105D.090. The permits or other
14 federal, state, or local requirements that the agency has determined are applicable and that are
15 known at the time of entry of this Decree have been identified in the CAP (Exhibit B).

16 B. Pursuant to RCW 70.105D.090(1), Defendant is exempt from the procedural
17 requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws
18 requiring or authorizing local government permits or approvals. However, Defendant shall
19 comply with the substantive requirements of such permits or approvals. The exempt permits or
20 approvals and the applicable substantive requirements of those permits or approvals, as they
21 are known at the time of entry of this Decree, have been identified in the CAP (Exhibit B).

22 Defendant has a continuing obligation to determine whether additional permits or
23 approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial
24 action under this Decree. In the event either Ecology or Defendant determines that additional
25 permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the
26 remedial action under this Decree, it shall promptly notify the other party of this determination.

1 Ecology shall determine whether Ecology or Defendant shall be responsible to contact the
2 appropriate state and/or local agencies. If Ecology so requires, Defendant shall promptly
3 consult with the appropriate state and/or local agencies and provide Ecology with written
4 documentation from those agencies of the substantive requirements those agencies believe are
5 applicable to the remedial action. Ecology shall make the final determination on the additional
6 substantive requirements that must be met by Defendant and on how Defendant must meet
7 those requirements. Ecology shall inform Defendant in writing of these requirements. Once
8 established by Ecology, the additional requirements shall be enforceable requirements of this
9 Decree. Defendant shall not begin or continue the remedial action potentially subject to the
10 additional requirements until Ecology makes its final determination.

11 C. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the
12 exemption from complying with the procedural requirements of the laws referenced in RCW
13 70.105D.090(1) would result in the loss of approval from a federal agency that is necessary for
14 the State to administer any federal law, the exemption shall not apply and Defendant shall
15 comply with both the procedural and substantive requirements of the laws referenced in RCW
16 70.105D.090(1), including any requirements to obtain permits.

17 **XXIV. REMEDIAL ACTION COSTS**

18 Defendant shall pay to Ecology costs incurred by Ecology pursuant to this Decree and
19 consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology
20 or its contractors for, or on, the Site under Chapter 70.105D RCW, including remedial actions
21 and Decree preparation, negotiation, oversight, and administration. These costs shall include
22 work performed both prior to and subsequent to the entry of this Decree. Ecology's costs shall
23 include costs of direct activities and support costs of direct activities as defined in WAC 173-
24 340-550(2). Ecology has accumulated \$3,572.06 in remedial action costs related to this facility
25 as of June 30, 2011. Payment for this amount shall be submitted within thirty (30) days of the
26 effective date of this Decree. For all costs incurred subsequent to June 30, 2011, defendant

1 shall pay the required amount within thirty (30) days of receiving from Ecology an itemized
2 statement of costs that includes a summary of costs incurred, an identification of involved staff,
3 and the amount of time spent by involved staff members on the project. A general statement of
4 work performed will be provided upon request. Itemized statements shall be prepared
5 quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90)
6 days of receipt of the itemized statement of costs will result in interest charges at the rate of
7 twelve percent (12%) per annum, compounded monthly.

8 In addition to other available relief, pursuant to RCW 70.105D.055, Ecology has
9 authority to recover unreimbursed remedial action costs by filing a lien against real property
10 subject to the remedial actions.

11 **XXV. IMPLEMENTATION OF REMEDIAL ACTION**

12 If Ecology determines that Defendant has failed without good cause to implement the
13 remedial action, in whole or in part, Ecology may, after notice to Defendant, perform any or all
14 portions of the remedial action that remain incomplete. If Ecology performs all or portions of
15 the remedial action because of Defendant's failure to comply with its obligations under this
16 Decree, Defendant shall reimburse Ecology for the costs of doing such work in accordance
17 with Section XXIV (Remedial Action Costs), provided that Defendant is not obligated under
18 this Section to reimburse Ecology for costs incurred for work inconsistent with or beyond the
19 scope of this Decree.

20 Except where necessary to abate an emergency situation, Defendant shall not perform
21 any remedial actions at the Site outside those remedial actions required by this Decree, unless
22 Ecology concurs, in writing, with such additional remedial actions pursuant to Section XVI
23 (Amendment of Decree).

24 **XXVI. PERIODIC REVIEW**

25 As remedial action, including groundwater monitoring, continues at the Site, the Parties
26 agree to review the progress of remedial action at the Site, and to review the data accumulated

1 as a result of monitoring the Site as often as is necessary and appropriate under the
2 circumstances. At least every five (5) years after the initiation of cleanup action at the Site the
3 Parties shall meet to discuss the status of the Site and the need, if any, for further remedial
4 action at the Site. At least ninety (90) days prior to each periodic review, Defendant shall
5 submit a report to Ecology that documents whether human health and the environment are
6 being protected based on the factors set forth in WAC 173-340-420(4). Ecology reserves the
7 right to require further remedial action at the Site under appropriate circumstances. This
8 provision shall remain in effect for the duration of this Decree.

9 **XXVII. PUBLIC PARTICIPATION**

10 A Public Participation Plan (Exhibit D) is required for this Site. Ecology shall review
11 any existing Public Participation Plan to determine its continued appropriateness and whether it
12 requires amendment, or if no plan exists, Ecology shall develop a Public Participation Plan
13 alone or in conjunction with Defendant.

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

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

21 B. Notify Ecology's project coordinator prior to the preparation of all press
22 releases and fact sheets, and before major meetings with the interested public and local
23 governments. Likewise, Ecology shall notify Defendant prior to the issuance of all press
24 releases and fact sheets, and before major meetings with the interested public and local
25 governments. For all press releases, fact sheets, meetings, and other outreach efforts by
26 Defendant that do not receive prior Ecology approval, Defendant shall clearly indicate to its

1 audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored
2 or endorsed by Ecology.

3 C. When requested by Ecology, participate in public presentations on the progress
4 of the remedial action at the Site. Participation may be through attendance at public meetings
5 to assist in answering questions, or as a presenter.

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

- 8 1. Seattle Public Library – Downtown Library
9 1000 4th Avenue
10 Seattle, WA 98104
11 (206) 386-4636
- 12 2. Seattle Public Library – International District/Chinatown
13 713 8th Avenue South
14 Seattle, WA 98104
15 (206) 386-1300
- 16 3. Northwest Regional Office
17 Department of Ecology
18 3190 160th Avenue SE
19 Bellevue, WA 98008
20 (425) 649-7190

21 At a minimum, copies of all public notices, fact sheets, and press releases; all quality assured
22 monitoring data; remedial actions plans and reports; supplemental remedial planning
23 documents, and all other similar documents relating to performance of the remedial action
24 required by this Decree shall be promptly placed in these repositories.

25 **XXVIII. DURATION OF DECREE AND CERTIFICATIONS BY ECOLOGY**

26 The remedial program required pursuant to this Decree shall be maintained and
continued until Defendant has received written notification from Ecology, in a Certificate of
Completion, that the requirements of this Decree have been satisfactorily completed.
Defendant may then request to have the Site removed from the Hazardous Sites List, pursuant
to WAC 173-340-330(7). This Decree shall remain in effect until dismissed by the court.

1 When dismissed, Section XIX (Covenant Not to Sue) and Section XX (Contribution
2 Protection) shall survive.

3 **XXIX. CLAIMS AGAINST THE STATE**

4 Defendant hereby agrees that it will not seek to recover any costs accrued in
5 implementing the remedial action required by this Decree from the State of Washington or any
6 of its agencies; and further, that Defendant will make no claim against the State Toxics Control
7 Account or any local Toxics Control Account for any costs incurred in implementing this
8 Decree. Except as provided above, however, Defendant expressly reserves its right to seek to
9 recover any costs incurred in implementing this Decree from any other PLP. This Section does
10 not limit or address funding that may be provided under Chapter 173-322 WAC.

11 **XXX. EFFECTIVE DATE**

12 This Decree is effective only upon the date (Effective Date) that title to the Property
13 vests in Defendant, following entry of this Decree by the court. If Defendant does not
14 purchase the Property by December 16, 2011, this Decree shall be null and void, and
15 Defendant will be under no obligation to perform the work required by this Decree.

16 **XXXI. WITHDRAWAL OF CONSENT**

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

21 //

22 //

23 //

24 //

25

26

1 STATE OF WASHINGTON
2 DEPARTMENT OF ECOLOGY

3 

4 James J. Pendowski
5 Program Manager
6 Toxics Cleanup Program
7 (360) 407-7177

8 Date: _____

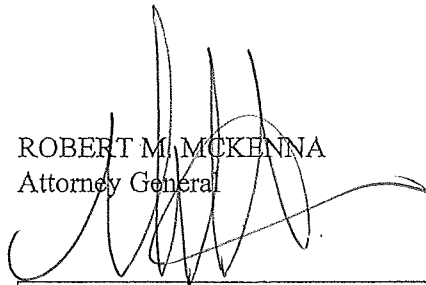
9 NORTH LOT DEVELOPMENT, LLC

10 _____
11 Kevin Daniels
12 Manager
13 (206) 382-4988

14 Date: _____

15 ENTERED this _____ day of _____ 20____

ROBERT M. MCKENNA
Attorney General



Michael L. Dunning, WSBA # 29452
Assistant Attorney General
(360) 586-6741

Date: August 12, 2011

JUDGE
King County Superior Court

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

ROBERT M. MCKENNA
Attorney General

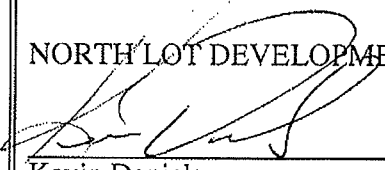
James J. Pendowski
Program Manager
Toxics Cleanup Program
(360) 407-7177

Michael L. Dunning, WSBA # 29452
Assistant Attorney General
(360) 586-6741

Date: _____

Date: _____

NORTH LOT DEVELOPMENT, L.L.C.


Kevin Daniels
Daniels Real Estate
Manager
(206) 382-4600

Date: _____

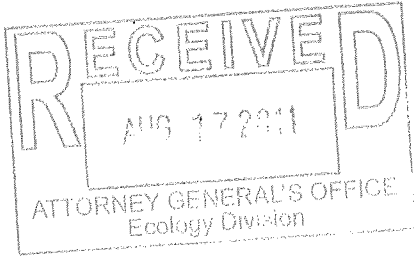
ENTERED this _____ day of _____ 20__.

JUDGE
King County Superior Court

FILED
KING COUNTY, WASHINGTON

AUG 12 2011

DEPARTMENT OF
JUDICIAL ADMINISTRATION



EXP07

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

NORTH LOT DEVELOPMENT, LLC,

Defendant.

NO. 11-2-27892-1

ORDER ENTERING PROSPECTIVE
PURCHASER CONSENT DECREE
~~PROPOSED~~

Having reviewed the Joint Motion for Entry of Prospective Purchaser Consent Decree, the Prospective Purchaser Consent Decree signed by the parties to this matter, the supporting Declaration of Robert Warren, the file herein, and being fully advised on the matter, it is hereby

ORDERED AND ADJUDGED that the Prospective Purchaser Consent Decree in this matter is entered and that the Court shall retain jurisdiction over the Prospective Purchaser Consent Decree to enforce its terms.

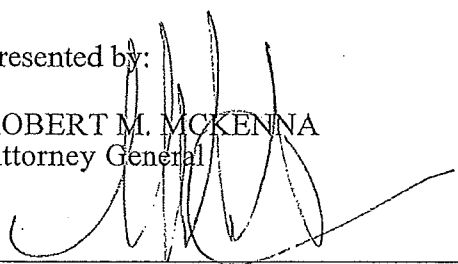
SIGNED this 12 day of August 2011.

Superior Court Judge/Commissioner

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Presented by:

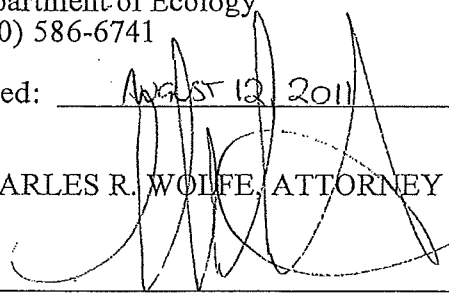
ROBERT M. MCKENNA
Attorney General



MICHAEL L. DUNNING, WSBA # 29452
Assistant Attorney General
Attorneys for Plaintiff
State of Washington
Department of Ecology
(360) 586-6741

Dated: August 12, 2011

CHARLES R. WOLFE, ATTORNEY AT LAW



FOR
PGR AUTHORIZATION

CHARLES R. WOLFE, WSBA # 14585
Attorney for Defendant
North Lot Development, LLC
(206) 274-5145

Dated: August 12, 2011