STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. BLOCK AT BALLARD II, LLC, Defendant.	NO. 10-2-21304-0 SEA FIRST AMENDED CONSENT DECREE RE: WESMAR COMPANY, INC. SITE, SEATTLE, WASHINGTON

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ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
360-586-6770

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
360-586-6770

I. INTRODUCTION

A. The mutual objective of the State of Washington, Department of Ecology (Ecology) and Block at Ballard II, LLC (hereinafter Defendant or Block at Ballard II) under this Decree is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances and to resolve the liability of Defendant for contamination at the Site. This Decree requires Defendant to conduct a cleanup of the Site, consistent with the Revised Cleanup Action Plan (CAP) attached as Exhibit A, that includes the excavation and disposal of polycyclic aromatic hydrocarbon- and metal-contaminated soil; dewatering, treatment, and disposal of arsenic contaminated groundwater; compliance sampling of soil and groundwater; and implementation of an institutional control on the Site, according to the schedule and other requirements identified in this Decree and all exhibits thereto. Ecology has determined that these actions are necessary to protect human health and the environment.

B. 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.

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

D. 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.

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PO Box 40117
Olympia, WA 98504-0117
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E. 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 Defendant shall not challenge the authority of the Attorney General and Ecology to enforce this Decree.

F. Successors in Interest and Assigns may become parties to this Decree as provided in Section XV.

G. 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

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

B. Authority is conferred upon the Washington State Attorney General by RCW 70.105D.040(4)(a) to agree to a settlement with any potentially liable person (PLP) if, after public notice and any required hearing, Ecology finds the proposed settlement would lead to a more expeditious cleanup of hazardous substances. RCW 70.105D.040(4)(b) requires that such a settlement be entered as a consent decree issued by a court of competent jurisdiction.

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

D. Ecology has given notice to Defendant of Ecology's determination that Defendant is a PLP for the Site, as required by RCW 70.105D.020(26) and WAC 173-340-500.

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

F. This Decree was subject to public notice and comment upon initial entry.

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PO Box 40117
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G. 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 70.105D.030(2)(e) and chapter 173-340 WAC.

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

III. PARTIES BOUND

This Decree shall apply to and be binding upon the Parties to this Decree, their Successors in Interest and Assigns. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Decree and to execute and legally bind such party to comply with this Decree. Defendant 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. Defendant shall provide a copy of this Decree to all agents, contractors, and subcontractors retained to perform work required by this Decree, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Decree.

IV. DEFINITIONS

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

A. Site: The Site is referred to as Wesmar Company, Inc. Site and is generally located at 1401 and 1451 Northwest 46th Street, Seattle, Washington. The Site is more particularly described in the Site Diagram (Exhibit B). The Site constitutes a Facility under RCW 70.105D.020(8).

B. Parties: Refers to the State of Washington, Department of Ecology and Block at Ballard II.

C. Defendant: Refers to Block at Ballard II.

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Ecology Division
PO Box 40117
Olympia, WA 98504-0117
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D. Consent Decree or Decree: Refers to this Consent Decree and each of the exhibits to this Decree. All exhibits are integral and enforceable parts of this Consent Decree. The terms "Consent Decree" or "Decree" shall include all exhibits to this Consent Decree.

E. Successors in Interest and Assigns: Refers to any person who acquires an interest in the Properties through purchase, lease, transfer, assignment, or otherwise, including those who become a party to this Decree pursuant to Section XV.

V. FINDINGS OF FACTS

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

A. Block at Ballard II owns the property Parcel #2768303245, listed as 1401 and 1451 Northwest 46th Street, Seattle, Washington, and consisting of approximately 2.34 acres (hereinafter Property). Portions of the Property are located within 200 feet of the shoreline for the Lake Washington Ship Canal, a freshwater surface body.

B. The Site is generally located at 1401 and 1451 Northwest 46th Street, Seattle, Washington. The Site is more particularly described in the Site Diagram (Exhibit B). The Site constitutes a Facility under RCW 70.105D.020(8).

C. The Site is listed on Ecology's Hazardous Sites List as "Wesmar Company, Inc." with the Facility Site ID No. 2194. The Site Hazard Assessment ranking for this Site is 5.

D. The Property was previously operated by Wesmar Company, Inc., a chemical product manufacturer and distributor, and Color Tech, Inc. (aka Color-Tech, Inc.; Colortech, Inc.), a metal coating service. Historically, the Property is also known to have been operated by various other industrial entities including: a wooden pipe manufacturing facility (during which time the wood preservative creosote was used and stored on the Property), a produce cannery, and a plastic products manufacturing facility.

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E. Two underground fuel storage tanks are reported to have been removed from the Property in 1991.

F. Bridge Group II, LLC (Bridge Group II), which owned the property immediately prior to Block at Ballard II, retained Sound Environmental Strategies Corporation, Seattle, Washington (SES) to conduct environmental investigations at the Site and to prepare technical memoranda documenting the results of those investigations. Beginning in October 2006, SES conducted several investigations as independent actions. These independent investigations resulted in technical memoranda identifying polynuclear aromatic hydrocarbons (PAHs) and the metal arsenic as contaminants in soil and groundwater at the Site.

G. In October 2007, Ecology determined that Bridge Group II was a PLP for the Site based on its ownership of the Property.

H. In December 2007, Ecology and Bridge Group II entered into an Agreed Order (Agreed Order No. DE 5242), which required Bridge Group II (1) to conduct supplemental remedial investigation work at the Site, (2) to prepare and submit to Ecology a draft Remedial Investigation and Feasibility Study (RI/FS) reporting the extent and character of contamination at the Site and proposing the best method of performing an environmental cleanup of the affected areas, and (3) to prepare and submit to Ecology a draft Cleanup Action Plan (dCAP).

I. In accordance with the Agreed Order, Bridge Group II submitted a draft RI/FS and dCAP, dated September 12, 2008. The RI/FS confirmed the contaminants of PAHs and the metal arsenic in soil and arsenic in groundwater at the Site, in excess of MTCA cleanup levels. Ecology provided comments on the draft, and Bridge Group II responded to the comments with appropriate revisions. Ecology has accepted as final the *Remedial Investigation/Feasibility Study and Proposed Cleanup Action* report.

J. On January 27, 2009, Block at Ballard II purchased the Property from Bridge Group II. In February 2009, Ecology notified Block at Ballard II that it was potentially a PLP for

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the Site based on its ownership of the Property. Block at Ballard II did not contest PLP status and on March 17, 2009, Ecology determined Block at Ballard II to be a PLP for the Site.

K. Based on the information acquired during the RI, SES designated three remedial areas on the Site: those portions of the Property that are located within the proposed shoring system (Area A), those portions of the Property that are located outside the shoring system (Area B), and the portion of the Site located within the Northwest 46th Street ROW (Area C) (Exhibit B). The shoring locations were chosen for cost and logistical reasons associated with the constructability of the planned development and in coordination with the disproportionate cost analyses conducted as part of the FS.

L. The Site will be subject to a Master User Permit (MUP) to be issued by the City of Seattle in September 2017. The prior MUPs issued for the Site are no longer valid: MUP 3008041 previously issued for the west building (Legal Description: LTS 1-6 & 17-22, MLK 173, GILMAN PARK ADDITION LESS PORTION FOR STREET) with a Shoreline Substantial Development Permit component and MUP 3008040 previously issued for the east building (Legal Description: LTS 7-16, BLK 173, GILMAN PARK ADDITION LESS PORTION FOR STREET. SUBJ TO ESMT OVER SELY POR OF LOT 12 FOR SPUR STRACT REC #3761195).

M. Pursuant to Section IX of Agreed Order No. DE 5242, Ecology finds that Bridge Group II has completed the actions required by the Agreed Order, and that all of Bridge Group II's obligations under that Agreed Order are hereby deemed satisfied.

N. A Cleanup Action Plan was included as Exhibit A to the Consent Decree as originally entered on June 16, 2010. Changes to redevelopment plans for the Property and extensions to the construction schedule necessitated minor adjustments to the cleanup action as presented in the Revised Cleanup Action Plan (CAP) attached as Exhibit A. All references to

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the Cleanup Action Plan, CAP, and/or Exhibit A beginning in Section VI below and continuing thereafter apply to the Revised Cleanup Action Plan.

O. On May 24, 2010, Ecology issued a Determination of Nonsignificance (DNS) under the State Environmental Policy Act, chapter 43.21C RCW, related to the cleanup action selected in the June 16, 2010, Cleanup Action Plan. Ecology has reviewed the May 24, 2010, DNS in relation to the minor adjustments to the cleanup action as presented in the Revised Cleanup Action Plan. Ecology finds that there is no basis to require a new threshold determination pursuant to WAC 197-11-600(3).

VI. WORK TO BE PERFORMED

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

A. Defendant will perform a final cleanup action at the Site by implementing the attached Cleanup Action Plan (Exhibit A), which establishes the required remedial action at the Site, in accordance with the Schedule (Exhibit C) and all other requirements of this Decree.

B. The cleanup action shall include:

1. Excavation and disposal of contaminated soils and fill materials to meet MTCA cleanup standards for Area A, as described in the CAP.

2. Implementation of Institutional Controls for Areas B and C in accordance with WAC 173-340-440, as described in the CAP.

3. Ongoing groundwater monitoring at the standard point of compliance to monitor contaminant concentrations, as described in the CAP.

C. In order to implement the CAP, Defendant will prepare and submit for Ecology's review and approval all documents necessary to conduct the final cleanup action, such as compliance monitoring plan(s), cleanup action reports, compliance monitoring reports,

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and as-built reports in accordance with the Schedule (Exhibit C) or any amended schedule pursuant to Section XVI. Any such deliverable, once approved by Ecology, becomes an integral and enforceable part of this Decree.

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

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

F. Defendant agrees not to perform any remedial actions outside the scope of this Decree unless the Parties agree to modify the scope of work as identified in the CAP (Exhibit A) and Schedule (Exhibit C) to cover these actions. All work conducted by Defendant under this Decree shall be done in accordance with chapter 173-340 WAC unless otherwise provided herein.

VII. DESIGNATED PROJECT COORDINATORS

The project coordinator for Ecology is:

John Guenther, LHG
Washington State Department of Ecology
Bellingham Field Office
1440 10th Street, Suite 102
Bellingham, WA 98225
360-715-5213
john.guenther@ecy.wa.gov

The project coordinator for Defendant is:

Chris Carter
Principal Scientist
SoundEarth Strategies, Inc.
2811 Fairview Avenue East, Suite 2000
Seattle, WA 98102
206-436-5905
chrisc@soundearthinc.com

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 Defendant and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Decree shall be directed through the project coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Decree. 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

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

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

Any documents submitted containing geologic, hydrologic, or engineering work shall be under the seal of an appropriately licensed professional as required by chapters 18.220 and/or 18.43 RCW.

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

IX. ACCESS

Ecology or any Ecology-authorized representative shall have full authority to enter and freely move about all property at the Site that Defendant 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 Defendant. Defendant shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by Defendant where remedial activities or investigations will be performed pursuant to this Decree. Ecology or any Ecology-authorized representative shall give Defendant reasonable notice before entering any Site property owned or controlled by Defendant 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.

X. SAMPLING, DATA SUBMITTAL, AND AVAILABILITY

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

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Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and/or any subsequent procedures specified by Ecology for data submittal.

If requested by Ecology, Defendant shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by Defendant pursuant to the implementation of this Decree. Defendant shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow Defendant 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 Defendant at least five (5) working days prior to any sample collection activity unless an emergency prevents such notice.

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

XI. PROGRESS REPORTS

Defendant shall submit to Ecology written Progress Reports that describe the actions taken to implement the requirements of this Decree. Prior to commencement of the Remedial Action, Defendant shall submit brief, quarterly Progress Reports providing the anticipated schedule for commencing the Remedial Action. After commencement of the Remedial Action, Defendant shall submit monthly Progress Reports that include the following:

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

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

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C. Description of all deviations from the scope of work identified in the CAP (Exhibit A) and Schedule (Exhibit C) during the current month and any planned deviations in the upcoming month;

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

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

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

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, Progress Reports and any other documents submitted pursuant to this Decree shall be sent by certified mail, return receipt requested, to Ecology's project coordinator.

XII. 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 XXVII (Duration of Decree), Defendant 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, Defendant shall make all records available to Ecology and allow access for review within a reasonable time.

XIII. TRANSFER OF INTEREST IN PROPERTY

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

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Prior to Defendant's transfer of any interest in all or any portion of the Site, and during the effective period of this Decree, Defendant 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, Defendant shall notify Ecology of said transfer. Upon transfer of any interest, Defendant shall restrict uses and activities to those consistent with this Decree and notify all transferees of the restrictions on the use of the property.

Successors in Interest and Assigns may request to become parties to this Decree by following the amendment procedures set forth in Section XV. In the event Defendant assigns all of its fee interest to a Successor in Interest or Assign, and that Successor in Interest or Assign becomes a party to this Decree, Ecology may elect, at its sole discretion, to thereafter look first to such successor for performance of the requirements of this Decree, including, but not limited to, performance of the work as described in Section VIII, and payments of Ecology costs described in Section XXIII. However, all signatory PLPs remain jointly and severally liable for performance under this Decree.

XIV. RESOLUTION OF DISPUTES

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

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

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

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

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

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

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

B. If Ecology's final written decision is unacceptable to Defendant, Defendant 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. In the event Defendant presents an issue to the Court for review, the Court shall review the action or decision of Ecology on the basis of whether such action or decision was arbitrary and capricious and render a decision based on such standard of review.

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C. 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.

D. 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.

XV. AMENDMENT OF DECREE

The project coordinators 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 with copy to the Defendant.

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. Such amendment shall become effective upon entry by the Court. If material changes to the planned property use occur that would require substantial changes to the cleanup, any amendment to the scope of the decree will be handled under this Section. Agreement to amend the Decree shall not be unreasonably withheld by any party.

Defendant shall submit a written request for amendment to Ecology for approval. In the event of material changes to the planned property use requiring substantial changes to the cleanup, such as may be occasioned by the expiration of the Master Use Permit(s) referenced in Section V.L, Defendant shall submit a revised scope of work consisting of a MTCA-compliant cleanup action and schedule consistent with WAC 173-340-360. The existing FS and CAP will be revised in accordance with WAC 173-340-350 and 173-340-380, respectively, and resubmitted to Ecology. Ecology shall indicate its approval or disapproval in

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

A Successor in Interest or Assign may request, in writing directed to Ecology, to become a party to the Decree, which may occur upon or after conveyance of the Property interest to it. Ecology and the Attorney General's Office, at their sole discretion, may agree to amend the Decree to incorporate a Successor in Interest or Assign as a party. The amendment to the Decree shall be in the form of Exhibit E, "Agreement of Successors in Interest and Assigns." If the amendment merely adds the party as a signatory, and no substantial changes are made to the terms of the Decree, then no public notice and comment will be required. Successors in Interest and Assigns who do not become parties to this Decree will be entitled to the protections, if any, afforded by RCW 70.105D.040(4)(e) and (f).

XVI. EXTENSION OF SCHEDULE

A. 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:

1. The deadline that is sought to be extended;

2. The length of the extension sought;

3. The reason(s) for the extension; and

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

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B. The burden shall be on Defendant 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:

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

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

3. Endangerment as described in Section XVII (Endangerment).

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 Defendant.

C. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give Defendant 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 XV (Amendment of Decree) when a schedule extension is granted.

D. 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:

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

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2. Other circumstances deemed exceptional or extraordinary by Ecology; or

3. Endangerment as described in Section XVII (Endangerment).

XVII. 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 XVI (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.

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XVIII. COVENANT NOT TO SUE

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

This Decree covers only the Site specifically identified in the Site Diagram (Exhibit B) and those hazardous substances that Ecology knows are located at the Site as of the date of entry of this Decree. This Decree does not cover any other hazardous substance or area. Ecology retains all of its authority relative to any substance or area not covered by this Decree.

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

1. Criminal liability;

2. Liability for damages to natural resources; and

3. Any Ecology action, including cost recovery, against PLPs not a party to this Decree.

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

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

1. Upon Defendant's failure to meet the requirements of this Decree, including, but not limited to, failure of the remedial action to meet the cleanup standards identified in the CAP (Exhibit A);

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
360-586-6770

2. 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;

3. Upon the availability of new information regarding factors previously unknown to Ecology, including the nature or quantity of hazardous substances at the Site, 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; or

4. 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.

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

XIX. CONTRIBUTION PROTECTION

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

XX. LAND USE RESTRICTIONS

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

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Ecology Division
PO Box 40117
Olympia, WA 98504-0117
360-586-6770

XXI. INDEMNIFICATION

Defendant agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action for death or injuries to persons or for loss or damage to property to the extent arising from or on account of acts or omissions of Defendant, its officers, employees, agents, or contractors in entering into and implementing this Decree. However, Defendant 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

A. All actions carried out by Defendant 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 70.105D.090. The permits or other federal, state or local requirements that the agency has determined are applicable and that are known at the time of entry of this Decree have been identified in the CAP (Exhibit A).

B. Pursuant to RCW 70.105D.090(1), Defendant is exempt from the procedural requirements of chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals. However, Defendant shall comply with the substantive requirements of such permits 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 entry of this Decree, have been identified in the CAP (Exhibit A).

Defendant has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Decree. In the event either Ecology or Defendant determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
360-586-6770

remedial action under this Decree, it shall promptly notify the other party of this determination. Ecology shall determine whether Ecology or Defendant shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Defendant 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 Defendant and on how Defendant must meet those requirements. Ecology shall inform Defendant in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Decree. Defendant shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

C. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.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 Defendant shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

XXIII. REMEDIAL ACTION COSTS

Defendant 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 chapter 70.105D RCW, 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 has accumulated $4,713.76 in remedial action costs related to this facility as of September 10, 2009. Payment for this amount shall be submitted within thirty (30) days of the date this

Decree is entered by the Court. For all costs incurred subsequent to September 10, 2009, Defendant shall pay the required amount within thirty (30) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

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

XXIV. IMPLEMENTATION OF REMEDIAL ACTION

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

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

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Ecology Division
PO Box 40117
Olympia, WA 98504-0117
360-586-6770

XXV. PERIODIC REVIEW

As remedial action, including groundwater monitoring, continues at the Site, the Parties agree to review the progress of remedial action at the Site, and to review the data accumulated as a result of monitoring the Site as often as is necessary and appropriate under the circumstances. At least every five (5) years after the initiation of cleanup action at the Site, the Parties shall meet to discuss 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, Defendant shall submit a report to Ecology that documents whether human health and the environment are being protected based on the factors set forth in WAC 173-340-420(4). Ecology reserves the right to require further remedial action at the Site under appropriate circumstances. This provision shall remain in effect for the duration of this Decree.

XXVI. PUBLIC PARTICIPATION

Ecology shall maintain the responsibility for public participation at the Site. However, Defendant 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 major meetings with the interested public and local governments. Likewise, Ecology shall notify Defendant prior to the issuance of all press releases and fact sheets, and before major meetings with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by Defendant that do not receive prior Ecology approval, Defendant shall clearly indicate to its

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
360-586-6770

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 locations:

1. Ballard Branch Public Library
5614 22nd Avenue NW
Seattle, WA 98107
206-684-4089

2. Ecology's Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008-5452
425-649-7190

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

XXVII. DURATION OF DECREE AND CERTIFICATIONS BY ECOLOGY

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 Hazard Sites List, pursuant to WAC 173-340-330(7). This Decree shall remain in effect until dismissed by the Court. When dismissed, Section XVIII (Covenant Not to Sue) and Section XIX (Contribution Protection) shall survive.

XXVIII. CLAIMS AGAINST THE STATE

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

XXIX. EFFECTIVE DATE

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

XXX. WITHDRAWAL OF CONSENT

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

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

FOR JIM PENDOWSKI

Robert Warren
Northwest Region Section Manager
Toxics Cleanup Program
425-649-7054

Date: 9-14-17

ROBERT W. FERGUSON
Attorney General

Andrew A. Fitz, WSBA #22169
Senior Counsel
360-586-6752

Date: Sept. 14, 2017

BLOCK AT BALLARD II, LLC, a Delaware limited liability company

By: 1290 BROADWAY LAND REIT, LLC, a Delaware limited liability company, its sole member

By: PRINCIPAL ENHANCED PROPERTY FUND, L.P., a Delaware limited partnership, its managing member

By: PRINCIPAL ENHANCED PROPERTY FUND GP, LLC, a Delaware limited liability company, its general partner

By: PRINCIPAL REAL ESTATE INVESTORS, LLC, a Delaware limited liability company, its sole member

By: _____
Jay Fisher
Investment Director
515-248-3076
Date Signed: 10/18/2017

By: _____
Printed Name: Joel L. Woehler
Title: Investment Director Asset Management
Telephone: 515-248-0518
Date Signed: 10/18/2017

ENTERED this 20th day of October 2017.

see attached electronic signature
JUDGE
King County Superior Court

King County Superior Court
Judicial Electronic Signature Page

Case Number: 10-2-21304-0
Case Title: WA STATE OF ECOLOGY VS BLOCK AT BALLARD II

Document Title: AGREED ORDER

Signed by: Laura Inveen
Date: 10/20/2017 3:33:09 PM

Judge/Commissioner: Laura Inveen

This document is signed in accordance with the provisions in GR 30.
Certificate Hash: E38BBAEA97798E86CC98E92119CF685F545E5D70
Certificate effective date: 7/29/2013 12:52:38 PM
Certificate expiry date: 7/29/2018 12:52:38 PM
Certificate Issued by: C=US, E=kcscefiling@kingcounty.gov, OU=KCDJA, O=KCDJA, CN="Laura Inveen:rll0vXr44hGIVNM4YYhwmw=="

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. BLOCK AT BALLARD II, LLC, Defendant.	NO. 10-2-21304-0 SEA ORDER ENTERING FIRST AMENDED CONSENT DECREE ~~[PROPOSED]~~

Having reviewed the Joint Motion to Enter First Amended Consent Decree, it is hereby ORDERED AND ADJUDGED that the First Amended Consent Decree in this matter is entered and that the Court shall retain jurisdiction over the First Amended Consent Decree to enforce the terms.

DATED: October 20, 2017.

see attached electronic signature on page 3
JUDGE/COURT COMMISSIONER
King County Superior Court

//

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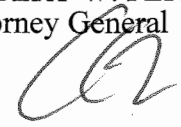
ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
360- 586-6770

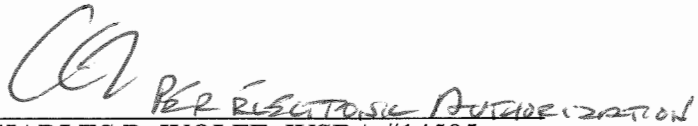
Presented by:

ROBERT W. FERGUSON
Attorney General



ANDREW A. FITZ, WSBA #22169
Senior Counsel
Attorneys for Plaintiff
State of Washington, Department of Ecology
360-586-6752

CHARLES R. WOLFE, ATTORNEY AT LAW



CHARLES R. WOLFE, WSBA #14585
Attorney for Defendant
Block at Ballard II, LLC
206-274-5145

King County Superior Court
Judicial Electronic Signature Page

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Exhibit A

Revised Cleanup Action Plan

REVISED CLEANUP ACTION PLAN

FORMER WESMAR PROPERTY
SEATTLE, WASHINGTON

Issued by:

Washington State Department of Ecology
Toxics Cleanup Program
Northwest Regional Office
Bellevue, Washington

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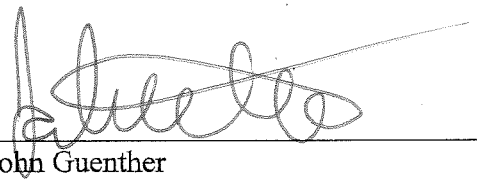
APPENDIX

DECLARATIVE STATEMENT

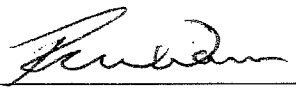
Consistent with the Model Toxics Control Act, Chapter 70.105D RCW, as implemented by the Model Toxics Control Act Cleanup Regulation, Chapter 173-340 WAC, it is determined that the selected cleanup actions are protective of human health and the environment, attain federal and state requirements that are applicable or relevant and appropriate, comply with cleanup standards, provide for compliance monitoring, use permanent solutions to the maximum extent practicable, provide for a reasonable restoration time-frame, and consider public concerns raised during public comment.



9/18/17

John Guenther
Site Manager
Toxics Cleanup Program
Northwest Regional Office

Date



9-14-17

Robert W. Warren, P.Hg., MBA
Regional Section Manager
Toxics Cleanup Program
Northwest Regional Office

Date

1 INTRODUCTION

This *Cleanup Action Plan* (CAP) describes the cleanup action proposed by the Washington State Department of Ecology (Ecology) for the cleanup of contamination at the Wesmar Company, Inc., Site (Site) in Seattle, Washington. The plan was developed using information presented in the *Final Remedial Investigation Report, Feasibility Study, and Proposed Cleanup Action* (SES 2009) (hereinafter *RI/FS and PCA*) submitted by Bridge Group II, LLC (Bridge Group), the Potentially Liable Party (PLP) for the Site. This document has been prepared to satisfy the requirements of the Model Toxics Control Act (MTCA), Chapter 70.105D of the Revised Code of Washington (RCW), administered by Ecology under the MTCA Cleanup Regulation, Chapter 173-340 of the Washington Administrative Code (WAC).

A CAP was included in the Consent Decree, dated June 11, 2010. Changes to redevelopment plans for the Property and extensions to the construction schedule necessitated minor adjustments to the CAP.

The cleanup alternative analysis conducted in the *RI/FS and PCA* was reanalyzed considering the minor adjustments proposed for the redevelopment plans. This analysis indicated that the minor adjustments did not change the selection of the preferred remedial alternative and is not anticipated to significantly impact the implementation of the original CAP.

Below is a summary of the modifications made to this revised CAP:

- A sealed sheet-pile shoring wall will replace the secant piles previously identified in the CAP. The sheet piles are designed to provide a barrier to limit on-Property migration of the regional arsenic groundwater plume. The sheet pile system is anticipated to have a comparable permeability to the secant pile system.
- The location of the shoring system will be closer to the property line effectively reducing the footprint of Area B. Additional adjustments to the shoring system placement may be made for construction purposes but are expected to be very minor.
- There will only be one floor of underground parking so the depth of the construction excavation will not be as deep as previously identified in the CAP. However, polycyclic aromatic hydrocarbon- and arsenic-contaminated soil in Area A will still be removed until confirmation sampling demonstrates that the cleanup levels have been achieved.

1.1 Site Background

The Site is situated at and around the former Wesmar Company Inc. Property, located at 1401 and 1451 Northwest 46th Street in Seattle, Washington (herein referred to as the Property) (Figure 1).

The Property is currently vacant. Wesmar Company, Inc., a chemical distributor specializing in cleaners, sanitizers, and water treatment compounds, was the most recent occupant of the western portion of the Property. In addition, the eastern portion of the Property was recently occupied by Colortech®, Inc., a company that provided coating services for metals and metal-formed products. The Property was formerly occupied by two single-story, slab-on-grade buildings that were constructed in 1905 and 1957, respectively. Both buildings were demolished

in 2008 with the concrete floors and retaining components of the foundations left in place. Prior to the most recent tenants, the Property operated as a pipe-treatment facility that utilized creosote. The floor grade of the buildings lies approximately 8 to 10 feet below the surrounding street grade, and a wastewater sump is located on the southern portion of the former Wesmar Company, Inc. building. The Property is scheduled to undergo redevelopment to a multi-story, mixed-use commercial/retail complex. Redevelopment plans include construction of a subsurface parking lot to an approximate depth of 14 feet (approximately elevation 13 feet North American Vertical Datum of 1988 [NAVD88]) below the surrounding street surface grade (approximate elevation 27 feet NAVD88).

The results of preliminary subsurface investigations conducted on the Property indicated that polycyclic aromatic hydrocarbon (PAH)-contaminated soil and arsenic-contaminated soil and groundwater are present beneath the Property. In January 2008, Bridge Group entered into an Agreed Order with Ecology. The Agreed Order required that Bridge Group complete a Remedial Investigation and Feasibility Study of the Site and submit a proposed draft cleanup action plan.

On January 27, 2009, Block at Ballard II purchased the Property from Bridge Group II. In February 2009, Ecology notified Block at Ballard II that it was a PLP for the Site based on its ownership of the Property. Block at Ballard II did not contest PLP status and on March 17, 2009, Ecology determined Block at Ballard II to be a PLP for the Site.

1.2 Site Definition

The Site has been defined to include the areas identified in the Site Boundary Definition (Figure 2). Based on the findings from the investigations conducted and historical research presented by Sound Environmental Strategies Corporation (SES) between September 2005 and August 2008, the Site has been defined to include the following criteria:

- Extent of PAH-contaminated soil both on and off of the Property associated with the historical use of the Property as a wood pipe treatment facility. The off-Property extent of PAH contamination is limited to Area C, identified in Figure 2.
- Arsenic-contaminated soil beneath the Property.
- Arsenic-contaminated groundwater beneath the Property. Ecology has determined that the groundwater contamination associated with the historical use of the Property is limited to Area A, identified in Figure 2.

Based on the location of the Property within the Ballard Interbay Northend Manufacturing and Industrial Center (BINMIC) area, the heavy railroad use in the rights-of-way adjacent to the Property, and the absence of historical uses on Property that would have contributed to the local and regional arsenic soil and groundwater contamination, the following criteria have been excluded from the Site definition.

- Arsenic in soil beyond the Property boundary.
- Arsenic in groundwater beyond the Property boundary.

1.3 Purpose and Scope

The main state law that governs the cleanup of contaminated sites is MTCA. MTCA regulations define the process for the investigation and cleanup of contaminated sites. MTCA regulations specify criteria for the evaluation and conduct of a cleanup action. The cleanup must protect human health and the environment, meet state environmental standards and standards in other laws that apply, and provide for monitoring to confirm compliance with site cleanup standards.

This CAP was developed using information presented in the *RI/FS and PCA*. Public comment on the *RI/FS and PCA* was combined with public comment on this CAP, as permitted by Chapter 173-340-600(13)(c) WAC.

The purpose of this CAP is to describe Ecology's proposed cleanup action for the Site, consistent with MTCA requirements. Consistent with the requirements of Chapter 173-340-380 WAC, this document provides the following information:

- Cleanup standards for each hazardous substance and medium of concern at the Site (Section 2)
- Applicable state and federal laws (Section 2)
- Brief summary of other cleanup action alternatives evaluated in *RI/FS and PCA* (Section 3)
- Summary of rationale for selecting the proposed alternative (Section 3)
- General description of proposed cleanup action (Section 4)
- Institutional controls required as part of the cleanup action (Section 4)
- Containment measures addressing hazardous substances remaining on Site (Section 6)

2 CLEANUP REQUIREMENTS

2.1 Site Contaminants

The results of subsurface investigations conducted at the Site between September 2005 and August 2008 indicate that PAH-contaminated soil and arsenic-contaminated soil and groundwater are present at the Site.

PAH-contaminated soil resulting from the former use of the Property as a wooden pipe treatment and storage facility generally appears to be limited to the Property and a portion of the Northwest 46th Street Right-of-Way (ROW). Soil in the vicinity of the former wood treatment operations contains elevated concentrations of carcinogenic PAHs (cPAHs). Concentrations of benzo(a)pyrene that exceeded the MTCA Method A cleanup level generally were observed at depths between 2.5 and 11.5 feet bgs and were confined to the fill layer beneath the Property and a portion of the Northwest 46th Street ROW. The equivalent cPAH exceedances at each location were correlative with the detection of benzo(a)pyrene. Groundwater was not impacted by cPAHs.

Concentrations of arsenic detected in soil samples collected from within the ROWs and along the former BNSF railroad are likely a result of regional impacts and do not appear to be associated with activities conducted on the Property. Concentrations of arsenic exceeded the MTCA Method A cleanup level in soil on the eastern portion of the Property and along the northern Property boundary, although soil concentrations generally exceed the MTCA Method A Cleanup Level by less than 5 mg/kg. Two soil samples collected from the southern Property boundary also contained elevated arsenic concentrations.

Concentrations of arsenic in soil and groundwater collected from the North BINMIC area commonly exceed the MTCA Method A cleanup level. This is likely a result of the fill materials beneath the Property and vicinity and the ballast used in the construction of the railroads. Three of the ballast samples contained the highest arsenic concentrations relative to other soil samples collected from the Property and surrounding off-Property areas. In addition, arsenic is a common compound used in herbicides and is regularly used along roads and railways in an effort to reduce the growth of vegetation.

Based on the findings from the investigations conducted by SES and the historical research presented by it, the Site has been defined to include the following criteria:

- Extent of PAH-contaminated soil both on and off of the Property associated with the historical use of the Property as a wood pipe treatment facility. The off-Property extent of PAH contamination is limited to Area C, identified in Figure 2.
- Arsenic-contaminated soil beneath the Property.
- Arsenic-contaminated groundwater beneath the Property. Ecology has determined that the groundwater contamination associated with the historical use of the Property is limited to Area A, identified in Figure 2.

2.2 Cleanup Levels

On-Property soil is compared to MTCA Method A cleanup levels for unrestricted land uses, which are sufficient to address the Property, as much of the subgrade soil will be removed prior to the construction of a belowground parking garage. Preliminary soil cleanup levels for arsenic will be based on unrestricted land use as defined in MTCA. Soil cleanup levels for PAHs will be compared to the cleanup level established for benzo(a)pyrene (0.1 mg/kg). Using the toxicity equivalent methodology in Chapter 173-340-708(8) WAC, equivalent concentrations of the remaining PAHs, including benzo(a)anthracene, chrysene, benzo(b)fluoranthene, benzo(k)fluoranthene, indeno(1,2,3-cd)pyrene, and dibenz(a,h)anthracene, will be calculated and summed to obtain the total toxicity soil concentration for the total cPAH mixture as it compares to the cleanup level for benzo(a)pyrene.

MTCA Method A Cleanup Levels for groundwater are proposed for benzo(a)pyrene and arsenic. The table below presents the cleanup levels proposed for the Site remediation activities. Arsenic in soil and groundwater, and benzo(a)pyrene (and associated TEFs) in soil are the COCs for the Site and will be addressed by the Site remediation.

Table 1: Cleanup Levels Proposed for Site Remediation Activities

COC	**Soil** (mg/kg)	**Groundwater** (µg/L)
Arsenic	20[a]	5[b]
Benzo(a)pyrene	0.1[a]	0.1[b]

[a]MTCA Cleanup Regulation 173-340-900, Table 740-1, Method A Soil Cleanup Levels for Unrestricted Land Uses.
[b]MTCA Cleanup Regulation Chapter 173-340-900 WAC, Table 720-1 Method A Groundwater Cleanup Levels for Unrestricted Land Uses.
COC = chemical of concern
mg/kg = milligrams per kilogram
µg/L = micrograms per liter
WAC = Washington Administrative Code

2.3 Applicable or Relevant and Appropriate Requirements

The cleanup conducted on a site must comply with applicable or relevant and appropriate requirements (ARARs). ARARs were screened in order to assess their applicability to the Site. The following list identifies the ARARs that may be applicable to the Site.

- State Environmental Policy Act (Chapter 43.21C RCW).
- Washington State Shoreline Management Act (Chapter 90.58 RCW; Chapters 173-18, 173-22, and Chapter 173-27 WAC).
- The Clean Water Act (33 United States Code (U.S.C.) 1251 et seq.).
- CERCLA of 1980 (42 U.S.C. 9601 et seq., and Part 300 of Title 40 of the Code of Federal Regulations (40 C.F.R. 300)).
- The Fish and Wildlife Coordination Act.
- Endangered Species Act (16 U.S.C. 1531 et seq.; 50 C.F.R. 17, 225, and 402).
- Native American Graves Protection and Repatriation Act (25 U.S.C. 3001–3013; 43 C.F.R. 10) and Washington's Indian Graves and Records Law (Chapter 27.44 RCW).
- Archaeological Resources Protection Act (16 U.S.C. 470aa et seq.; 43 C.F.R. 7).
- Washington Dangerous Waste Regulations (Chapter 173–303 WAC).
- Solid Waste Management Act (Chapter 70.95 RCW; Chapters 173-304 and 173-351 WAC).
- Water Quality Standards for Surface Waters of the State of Washington (Chapters 90.48 and 90.54 RCW; Chapter 173-201A WAC).
- Department of Transportation Hazardous Materials Regulations (40 C.F.R. Parts 100–185).
- Washington State Water Well Construction Act (Chapter 18.104 RCW; Chapter 173-160 WAC).

- City of Seattle and King County regulations, codes, and standards.

3 REMEDIAL ACTION SELECTION

Based on the information acquired during the RI, SES designated three remedial areas on the Site: those portions of the Property that are located within the proposed shoring system (Area A), those portions of the Property that are located outside the shoring system (Area B), and the portion of the Site located within the Northwest 46th Street ROW (Area C) (Figure 2). The shoring locations were chosen for cost and logistical reasons associated with the constructability of the planned development and in coordination with the disproportionate cost analyses conducted as part of the FS. Technologies reviewed for each of the areas (Area A, B, and C) are summarized below. Technologies are discussed in greater detail in *RI/FS and PCA* Section 5.6.

While revising the CAP, the technologies reviewed for each of the areas (Area A, B, and C) were reevaluated to include the modifications in the cleanup action activities.

3.1 Summary of Alternatives

In the FS, the following cleanup alternatives were evaluated for Area A:

- Cleanup Alternative 1a—Impervious wall shoring (secant or sealed sheet pile) combined with the excavation of the source area and discharge to the storm system of the water captured in the proposed subgrade water intrusion control system.
- Cleanup Alternative 2a—Pervious wall shoring (soldier pile or unsealed sheet pile) combined with excavation of the source area and installing a permeable reactive barrier to pre-treat the water captured in the proposed subgrade water intrusion control system.
- Cleanup Alternative 3a—Pervious wall shoring combined with excavation of the source area and installing a permanent system to treat the water captured in the proposed subgrade water intrusion control system.

In the FS, the following cleanup alternatives were evaluated for Area B:

- Cleanup Alternative 1b—Shored excavation with off-Site disposal.
- Cleanup Alternative 2b—Capping arsenic- and PAH-contaminated soil.

In the FS, the following cleanup alternatives were evaluated for Area C:

- Cleanup Alternative 1c—Shored excavation with off-Site disposal.
- Cleanup Alternative 2c—Capping PAH-contaminated soil.

3.2 Rationale for Selection of Proposed Cleanup Action

Based on the results of the FS, a combination of Cleanup Alternatives 1a, 2b, and 2c, which entail installing an impervious shoring wall, excavating contaminated soil from within Area A, capping contaminated soil within Areas B and C, and monitoring the direct discharge of arsenic-

contaminated groundwater within the building subgrade groundwater intrusion control system, were selected for the cleanup action.

Cleanup Alternatives 1a, 2b, and 2c meet the requirements set forth in Chapters 173-340-360(3) and 173-340-370 WAC. These cleanup alternatives received "favorable" scores for the evaluation criteria of protectiveness, permanence, cost, long-term effectiveness, implementability, and consideration of public concern. The rating of "average" was assigned for short-term risk management, as a result of possible dust issues associated with the excavation. The rating of "favorable" was assigned for implementation because the sealed sheet pile wall creates a physical barrier that reduces the likelihood that the regional arsenic groundwater plume will migrate beyond the boundary of the shoring barrier on the Property while the other two alternatives rely on treatment systems. Cleanup Alternatives 1a, 2b, and 2c received "very favorable" overall scores for the evaluation criteria of cost due to the significant cost savings over Alternatives 2a, 1b, and 1c. (Additional information available in *RI/FS and PCA* Tables 9a–9g; Charts 1–3.)

The selected cleanup alternative must comply with MTCA cleanup regulations specified in Chapter 173-340 WAC and with applicable state and federal laws. Under Chapters 173-340-350 and 173-340-710 WAC, applicable requirements include regulatory cleanup standards, standards of control, and other environmental requirements, criteria, or limitations established under state or federal law that specifically address a contaminant, remedial action, location, or other circumstances at a site.

Alternatives 1a, 2b, and 2c, hereafter referred to as Alternative A, Alternative B, and Alternative C, respectively, were selected as the most effective, feasible, and appropriate remedial options. These alternatives were reevaluated with respect to the modifications made to cleanup action activities. The evaluation indicated that the minor modifications would not significantly impact the cleanup alternatives. Therefore, the previously selected remedy would be selected as the cleanup action.

In the event that additional contaminants are discovered during the course of the cleanup activities, their concentrations will be compared to the MTCA Method A cleanup levels for soil and groundwater.

4 PROPOSED CLEANUP ACTION

4.1 Cleanup Action for Area A – Excavation Within the Perimeter Shoring

Prior to beginning the excavation, sheet piles will be installed and interlocked to create an impervious sheet pile shoring wall within the perimeter of the Property. The sheet pile shoring wall will extend through the water-bearing zone into a less-permeable geologic formation, the Vashon Till. The lowest elevation of the shoring wall will be at approximately -10 feet NAVD88, which is approximately 15 feet into the Vashon Till formation. As the excavation progresses soil tiebacks will be installed approximately eight feet below the street grade into Area B, Area C, and the surrounding ROW. A six inch auger will be used to install the tiebacks. Minimal Soil cuttings will be generated during installation of the sheet piles. The soil cuttings generated from sheet pile installation and soil tieback augers will be separately stockpiled and characterized for arsenic and PAHs prior to disposal. The approximate location of the shoring

system is shown in plan view on Figure 2. The location and extent of the shoring system is included on Sheets SS1 through SS5 of the Project Plan Set (CT Engineering, Inc. 2017).

Once the shoring system is in place, excavation of arsenic- and PAH-contaminated soil will be conducted within the limits of Area A depicted on Figure 2 and to an approximate depth of six feet below the grade of the former Wesmar Company, Inc. building and 9 feet below the grade of the former Colortech®, Inc. building.. Analytical data collected during the RI and previous investigations, as well as profile samples collected during the excavation process, will be used to guide the removal of arsenic- and PAH-contaminated soil. Where possible, visual indications of contamination will be used to direct the excavation. Excavated soil will be placed in temporary stockpiles pending characterization. Soil containing concentrations of PAHs or arsenic above their respective cleanup levels will be disposed of at a permitted facility. An environmental scientist from SoundEarth Strategies, Inc. (SoundEarth) will be on Property during the remedial excavation activities to screen and segregate soil for disposal.

In addition to the extent of arsenic- and PAH-contaminated soil identified during the RI, it is possible that soil with high pH may be identified beneath the former caustic mixing area within the former Wesmar building. A soil pH meter will be used to identify and segregate soil containing elevated pH. Soil exhibiting elevated pH will be stockpiled and profiled prior to disposal at a permitted facility.

Contaminated soil within the shoring boundary (Area A) will be removed until field screening and profile sampling suggest soil with COCs above the respective cleanup levels have been removed or the native soil interface is exposed. Immediately following the presumed removal of the contaminated soil within Area A, confirmation soil samples will be collected in accordance with the procedures described below. Locations characterized by concentrations of COCs above their respective cleanup levels will be overexcavated in six inch to one foot depth intervals and resampled. Once confirmation data show that COCs in soil have been effectively removed from Area A, the construction excavation will either be backfilled or overexcavated to the planned construction grade elevation. Specific details regarding the sampling analysis and quality assurance programs are provided in the Sampling and Analysis Plan (SAP; *RI/FS and PCA* Appendix I) and the Quality Assurance Project Plan (QAPP; *RI/FS and PCA* Appendix J).

Locations within Area A that were identified as containing arsenic concentrations in soil exceeding the cleanup level will be excavated and consolidated into a stockpile for waste characterization and disposed of at an appropriate off-Site facility.

Profile samples will be collected from the remaining construction excavation-generated soils to determine appropriate soil handling methods and disposal options.

4.2 Cleanup Action for Area B – Capping On-Property Arsenic- and PAH-Contaminated Soil Beyond the Perimeter Shoring

The portion of the Property located beyond the shoring system for the proposed building will be capped with a combination of asphalt, landscaping, and concrete sidewalks. Formal deed restrictions will be recorded for the portions of the Property that exhibit concentrations of COCs in excess of cleanup levels.

4.3 Cleanup Action for Area C – Capping PAH-Contaminated Soil Located Within the Right-of-Way

As described in *RI/FS and PCA* Section 5.0, one area beyond the Property boundary—Area C—has been confirmed to contain concentrations of PAHs in excess of the MTCA Method A cleanup level. The PAH contamination in Area C is limited to approximately 18 cubic yards in volume, and it is capped by the ROW improvements and approximately 11 feet of clean soil.

Due to the depth of the contaminated soil, any utility work or ROW improvement projects (street paving or sidewalk improvements) that may be conducted are not likely to extend to the contaminated zone. If a need arises to access the PAH-contaminated soil in the ROW for the installation or maintenance of deep utilities, the preliminary risk assessment included in *RI/FS and PCA* Section 4.7.2 suggests that the PAH concentrations in the ROW soil associated with the Site do not represent a direct exposure hazard to construction/utility workers who may come in contact with it.

An environmental covenant will be placed on the Property and will include the PAH-contaminated soil located within Area C (Figure 2). The covenant will include instructions for regulatory notification, waste handling, and disposal profiling if contaminated soil within Area C is accessed. In reference to the soil contamination within Area C, the covenant will extend from six feet bgs to below the maximum depth of soil contamination encountered (13 feet bgs, Figure 3). The City of Seattle (City) has been notified in writing of the Area C contamination and that a restrictive environmental covenant will be placed on Area C. Ecology has determined that the environmental covenant will be sufficiently protective of human health and the environment without subrogation of the City's ROW interest. If the City conducts any maintenance or repair of street and sidewalk surfaces, or any excavation for utility placement or repair, in Area C, the City is responsible for following appropriate health, safety, and soil management protocols, as described in the restrictive covenant.

4.4 Point of Compliance

While the Area A excavation will likely meet cleanup levels, because some contaminated soil will be left in place and contained by capping in Areas B and C, the conditional point of compliance for soil at the Site is "containment" per Chapter 173-340-740(6)(f) WAC. A standard point of compliance will be used for the arsenic-contaminated groundwater associated with the Site, per Chapter 173-340-720(8)(b) WAC. The Site is excluded from a terrestrial ecological evaluation because the contaminated soil beneath Areas B and C is currently, and will continue to be, covered by buildings, paved roads, and other physical barriers (Chapter 173-340-7491(b) WAC). Therefore, no point of compliance under the ecological risk assessment needs to be defined for the Site.

4.5 Institutional Controls

Following approval from Ecology, a specific deed restriction, which will include the survey limits for Areas B and C that contain soil exhibiting elevated concentrations of arsenic and PAHs, will be recorded with the King County Tax Assessor and attached to the title of the Property. The remainder of the Property will be covered by a mixed-use commercial/retail building, a below-grade parking garage, perimeter landscaping, and concrete or asphalt-

pavement. The surrounding ROWs are capped with asphalt or concrete. The extent of the deed-restricted area is depicted in Figure 3a, 3b, and 3d through 3h.

5 WORK ACTIVITY SUMMARY AND SEQUENCE FOR REMEDIATION

This section briefly describes Site preparation for the excavation and removal of the PAH- and arsenic-contaminated soil from within Area A.

5.1 Construction Setup

The excavation contractor will mobilize to the Property and set up operational areas necessary to implement the remedial and construction plans. Subsequent work will proceed generally as described in the following sections.

5.1.1 Property Security and Public Notice

The work will involve securing the Property from trespass and from entry by the unprotected public. The preparations will include installing temporary fencing around the perimeter of the Property, posting suitable warning signs every 50 feet along the temporary fence, posting a notice at Property entrances to convey information of the exposure hazards that are represented by the contamination on the Property, and submitting a written notice to the City of Seattle and regulatory agencies as prescribed in the private rights of action section of MTCA (Chapter 173-340-545 WAC).

5.1.2 Shoring Installation

The shoring system is to be constructed of impervious steel sheet piles that will be interlocked during installation. This will create an impervious steel wall within the perimeter of the Property. The sheet piles will be installed via vibratory sheet pile driving or static press methods. The shoring wall will extend approximately 15 feet into the Vashon Till and will terminate at an approximate elevation of -10 feet NAVD88. As the excavation progresses soil tiebacks will be installed at an approximate elevation of 20 feet NAVD88 to anchor the sheet piles in zones 3 and 10 as shown on Sheet SS2 of the Project Plan Set (CTI Engineering, Inc. 2017). A six inch auger will be used to install the tiebacks. The shoring installation will be coordinated by the General Contractor and installed according to Sheets SS1 through SS5 of the Project Plan Set (CTI Engineering, Inc. 2017).

The sheet-pile wall is to be constructed of interlocking steel sheets designed to have low permeability (i.e., hydraulic conductivity). . The steel sheet piles are impervious; therefore, the only possible route for groundwater to pass through the shoring wall is via the interlocks. The sheet pile interlocks will be filled with a sealant material to limit this groundwater seepage. The groundwater seepage rate for the entire shoring wall system has been calculated at 0.10 gallons per minute (gpm).

5.1.3 Stabilized Construction Entrance and Wheel Wash

A 12-inch-thick, rock-stabilized construction access/decontamination pad and wheel wash will be constructed on the southern portion of the Property (Sheets C3.00 and C3.10 of the Project Plan Set; Weber Thompson 2017). The pad will limit off-Property migration of arsenic- and

PAH-contaminated soil from the Property by reducing contact between vehicles and Property soils and by providing an area to remove mud from truck tires. The pad will be constructed by excavating a shallow pit, which will be lined with a heavy-duty plastic liner and sloped toward the excavation interior in order to collect any rain or wash water. The liner will be covered with sand, pea gravel, and/or quarry spalls meeting Washington State Department of Transportation (WSDOT) Specification 9-13.6 (WSDOT 2006). Upon conclusion of the remediation, the access/decontamination pad will be excavated, transported, and disposed.

5.1.4 Construction Dewatering

Water that collects within the excavation will be pumped into a holding tank that will be stored on the Property. Dewatering details can be found on the Temporary Erosion and Sediment Control Sheet (Sheet C3.00 of the Project Plan Set; Weber Thompson 2017).

Groundwater flow into the excavated interior of the sheet pile shoring wall area (Area A) during construction will be limited. It is estimated that it will occur principally as seepage through the floor of the excavation via the native glacial till. Groundwater flow through the floor of the excavation is estimated to have a maximum rate of 12.3 gpm with a more probable flow rate of 2.2 gpm for the entire excavated area (SES 2008b). Groundwater flow is anticipated to occur as slow seepage through the sheet pile interlocks. The anticipated flow rates range from near zero to 0.10 gpm. During construction dewatering, arsenic-contaminated groundwater on the interior portion of the engineered containment system will be extracted.

The extracted water from construction is to be permitted and discharged to the King County Metro sewer system via the local sewer system or treated on-Site to Washington State surface water standards and discharged to the City of Seattle storm water system. The quantity and quality of water to be generated are expected to be acceptable for discharge to the Metro sewer system. The public storm drain (PSD) in 14th Avenue Northwest discharges to Lake Union. All discharges to the PSD must meet state water quality requirements for all regulated parameters, including, but not limited to, turbidity (reported as NTU), pH, and all contaminants (such as those listed above). Maximum levels and thresholds for these parameters are generally regulated by Ecology's Surface Water Quality Standards for Marine Waters (e.g., turbidity, pH, and some metals such as arsenic) under Chapter 173-201A WAC. For contaminants that do not have surface water quality standards, maximum levels in Property discharges shall not exceed Ecology's MTCA Method A Ground Water Cleanup Levels under Chapter 173-340 WAC.

It will be the Contractor's responsibility to understand the soil and groundwater COCs on the Property as well as the treatment methods and cleanup requirements for these COCs. It is also the Contractor's responsibility to sample, perform testing, and monitor all Property discharges to the PSD as needed to assure that state water quality requirements are being met for all construction discharges.

5.1.5 Health and Safety Protocol

A health and safety plan detailing cautionary procedures that will be followed by all personnel on-Site during construction excavation activities will be prepared prior to beginning field work. Daily health and safety meetings will be conducted as part of the protocol, as discussed below.

5.2 ENGINEERING DESIGN DOCUMENT FOR CAP IMPLEMENTATION

The following subsections present an engineering design document that specifies the activities required to implement the CAP.

5.2.1 Excavation of Arsenic- and PAH-Contaminated Soil

The following remedial work activities will be implemented by the excavation and general contractors in accordance with detailed plans and specifications included within the Project Plan Set (Appendix A).

- Install the perimeter shoring system using vibratory sheet pile driving or static press methods.
- Remove arsenic- and PAH-contaminated soil from Area A to an approximate depth of six to nine feet below the current on-Property grade (approximately elevation 13 feet NAVD88), and stockpile excavated soil on-Property pending characterization and disposal.
- Load and transport excavated soil to appropriate disposal facilities and fill sites.
- Collect confirmation samples from excavated portions of Area A.
- Cap Area B with concrete sidewalks, asphalt driveways, and landscaping surrounding the planned building.
- Cap Area C with asphalt as part of the Northwest 46th Street ROW.

5.2.1.1 Excavation Preparation

The excavation phase of the remediation will commence following the completion of the demolition phase. The sequence of excavation is designed to minimize vehicular traffic on impacted soil, thereby reducing the potential for cross-contamination of non-impacted areas of the Property. Prior to commencing excavation, utility locations that were identified during the demolition phase will be confirmed and remarked, if necessary, and the perimeter shoring system will be installed.

5.2.1.2 Excavation Sequence, Estimated Volume, and Methods

Approximately 27,300 tons of arsenic- and PAH-contaminated soil will be excavated following the installation of the shoring system. Excavation will commence in the eastern portion of Area A and progress westerly toward the stabilized construction entrance and decontamination pad. A track-mounted excavator will excavate soil and place it in a temporary stockpile. A rubber-tired front-end loader will pick up stockpiled contaminated soil and place it in dump trucks staged at the stabilized construction entrance on-Property or in the right-of-ways.

Guidance for the final vertical and lateral extent of the arsenic and PAH excavations shall be based upon data obtained during the RI and previous investigations conducted on the Site, field observations and screening, and the results of confirmation sampling and testing. If performance samples indicate that contamination remains after the initial excavation is completed, additional

soil will be excavated and additional samples will be collected. This process will continue until confirmation sampling demonstrates that the cleanup levels have been achieved.

Profile samples will be collected from the remaining construction excavation-generated soil to evaluate appropriate soil handling methods and disposal options.

During excavation, the excavator operator will be escorted by at least one person functioning as a Spotter. The Spotter's responsibilities include:

- Enforcing a no-personnel zone within the swing radius of the excavator;
- Observing excavations for subsurface structures, such as unidentified utilities, artifacts, and sidewall stability;
- Abiding by all regulations pertaining to discovery and excavation of archaeological resources, including, but not limited to, Chapters 27.34, 27.53, 27.44, 79.01, and 79.90 RCW and Chapter 24-48 WAC, as applicable;
- Field screening of excavated soil with various techniques (e.g., photoionization detector, sheen test, visual observation) to assess impacts; and
- Notifying the Site Manager when a designated area of excavation has been completed and is ready for sampling.

A safety meeting will be conducted prior to the start of each workday to inform existing and new site personnel of changing work conditions and to reinforce key safety requirements. During the safety meeting, specific instructions will be given to each equipment operator that spillage of excavated soil is to be minimized. In particular, operators will be instructed to carry only 3/4-full buckets and travel at moderate speeds to prevent soil spilling during transport to the stabilized construction entrance or during placement in the dump trucks.

A Soil Loading Technician shall be present at all times during the loading of soil into dump trucks to help identify when each truck is fully loaded. Truck drivers will be specifically instructed that they are to remain in their trucks at all times with the windows closed. The Soil Loading Technician shall also be responsible for inspecting the truck after loading to confirm that spillage of soil has not occurred onto the outside structures of the trucks (e.g., running boards, tongue, etc.) and that the load is properly covered, if required. If spillage has occurred, the Soil Loading Technician shall collect the spillage and place it back into the truck. If spillage becomes a recurring problem, a wheel/vehicle wash area will be designated as a contingency to help prevent contaminated soils from being inadvertently tracked off-Site.

5.2.1.3 Transportation and Disposal

Truck drivers shall be instructed to keep hazardous waste manifests and bills of lading with them at all times while transporting impacted soil. Drivers will also be instructed that direct routes to the waste facilities are to be used and no overnight layovers are permitted while the trucks are loaded. Drivers will be provided the Site Manager's phone number as well as the 24-hour emergency contact number.

The Site Manager will maintain a log of soils disposed off-Property, including the number of trucks with date and time of departure from the Site, estimated weight and volume, destination, waste manifest numbers, and other appropriate documentation.

All soil waste manifests, weight tickets, and bill of lading shall be signed by the respective disposal facilities and returned to SoundEarth. These documents will be included as attachments to the Cleanup Action Report, which will be completed at the end of the project.

5.2.1.4 Previously Unidentified Contaminants

Monitoring of Site remediation activities will be limited to testing for arsenic and cPAHs. Therefore, the detection of unknown contaminants will rely solely on exhibition of field-screenable characteristics, such as odor and color. SoundEarth personnel will collect representative samples and submit them for laboratory analysis and identification prior to disposal at a permitted facility.

5.2.2 Capping Area B and Area C

The perimeter of the Property and a portion of Northwest 46th Street (Area C) will be capped per the design specifications on Sheets A1.00 through A1.00B of the Project Plan Set (Weber Thompson, 2017).

5.2.3 Institutional Controls

An institutional control will be applied to the portions of the Property located outside of the shoring walls (Areas B and C), which are depicted on Figures 3a through 3h.The approximate location of Area B is depicted on Figure 2.

5.2.4 Site Restoration

It is anticipated that Property development work will occur in conjunction with the cleanup action.

6 COMPLIANCE MONITORING

There are three types of compliance monitoring identified for remedial cleanup actions performed under MTCA (Chapter 173-340-410 WAC): Protection, Performance, and Confirmation Monitoring. A paraphrased definition for each is presented below (Chapter 173-340-410(1) WAC). Additional details regarding procedures for sample collection, handling, and quality assurance procedures are included in the Sampling and Analytical Plan and Quality Assurance Project Plan attached to the *RI/FS and PCA* Appendices I and J, respectively.

- **Protection Monitoring**—To determine if human health and the environment are adequately protected during construction and the operation and maintenance period of an interim action or cleanup action as described in the health and safety plan.
- **Performance Monitoring**—To document that the interim action or cleanup action has attained cleanup standards.

- **Confirmation Monitoring**—To evaluate the long-term effectiveness of the interim action or cleanup action once cleanup standards or other performance standards have been attained.

6.1 Protection Monitoring

A separate health and safety plan will be prepared for the remedial action that meets the minimum requirements for such a plan identified in federal (Title 29 C.F.R. Parts 1910.120, and 1926) and state regulations (Title 296 WAC). A complete job hazard analysis will be prepared for the health and safety plan that identifies all known physical, chemical, and biological hazards, hazard monitoring protocols, and administrative and engineering controls to mitigate the identified hazards.

6.2 Performance Monitoring

The objectives for performance monitoring are to document compliance with waste analysis profiles and that cleanup levels are achieved. To demonstrate compliance, the following separate performance monitoring activities are planned for the remedial action:

- Waste profiling for off-Site treatment or disposal.
- Confirming that cleanup levels have been achieved.

The performance monitoring activities are described in the following subsections.

6.2.1 Waste Profiling for Off-site Treatment or Disposal

Wastes generated during the remedial activities will require analytical testing before being offered for off-Site transportation and disposal. Generally, the treatment, storage, or disposal facility (TSDF) receiving the waste specifies the minimum number of samples and analytical tests before accepting wastes from the project. Wastes that will be generated from the remedial action destined for off-Site disposal include:

- Contaminated soil removed by installing the sheet pile shoring wall and through excavation;
- Contaminated groundwater from excavation dewatering;
- Contaminated personnel protective equipment;
- Decontamination solutions; and
- Miscellaneous solid wastes.

Each waste stream will be profiled separately in accordance with the minimum waste analyses requirements of the respective permitted TSDF. Excavated contaminated soil will be subjected to performance monitoring. Ecology guidance for remediation of petroleum-contaminated sites (Ecology 2016) suggests that samples of stockpiled excavated soil be collected from locations where field survey methods indicate that contamination is likely to be present, and to collect samples from a depth of six to 12 inches beneath the surface of the pile. The minimum number of samples for excavated soil is listed in Table 6.9 of Ecology's 2016 guidance document. The

number of samples collected for performance monitoring of soil destined for off-Property disposal will be the number shown in Table 6.9 (Ecology 2016) or the number required by the TSDF for waste profiling, whichever is greater. The required analytical tests for these samples will be the TSDF waste profiling requirements.

6.2.2 Confirming That Cleanup Levels Have Been Achieved

The excavation will be conducted based on the findings of the RI and previous investigations. Soil will be excavated to an approximate depth of 6 feet below the grade of the former Wesmar Company, Inc. building and 9 feet below the grade of the former Colortech®, Inc. building (approximately elevation 13 feet NAVD88). (*RI/FS and PCA* Figures 12, 13, and 21a–21h). A 50-foot systematic sampling grid will be superimposed over the exposed excavation area being tested (sidewalls and floor). A grid size of 50 feet will result in a statistically valid number of at least 43 soil samples based on the size of Area A (*RI/FS and PCA* Figure 22). Confirmation soil samples will be collected from each grid node following excavation and submitted for analysis of arsenic and PAHs.

To confirm that cleanup levels have been achieved, the mean concentrations of specific cPAHs and arsenic will be compared to their respective cleanup levels in accordance with the statistical guidance provided by Ecology (Ecology 1992). As detailed in the guidance, confirming whether the Site is clean is based on a comparison of the 95th percent upper confidence limit on the mean (UCL_{95}) with the defined cleanup level. Each sample will be analyzed for the constituents of concern at a detection limit low enough to detect compliance with the cleanup level. The resulting data will then be tested for conformance with distributional assumptions (normal versus lognormal) and the UCL_{95} calculated based on the methods described in Ecology's 1992 guidance document.

If the UCL_{95} for a specific constituent does not exceed the cleanup level, then the Site is considered clean; otherwise, it is still considered contaminated. The Site is considered clean when the UCL_{95} for each COC is less than its respective cleanup level. This statistical approach allows for post-sampling excavation to remove individual sample hot spots that cause exceedance of the cleanup levels and retesting to assess if the recalculated UCL_{95} exceeds the cleanup level. In the event that utilities or other improvements are installed outside of the perimeter shoring system, soil samples will be collected from the floor and sidewalls of the excavations and submitted for analyses of arsenic and PAHs. Soil exhibiting elevated concentrations of COCs will be overexcavated and resampled.

6.3 Confirmation Monitoring

It is anticipated that on-Property groundwater quality will be substantially restored by virtue of installing the shoring barrier wall, dewatering the excavation, and removing the contaminated soil as implemented under the remedial action. Water accumulated during the construction process and captured in the permanent building dewatering system will require discharge as described below.

6.4 Groundwater Monitoring Requirements

6.4.1 Permanent Dewatering System Monitoring

The proposed alternative consists of installing a watertight shoring wall that extends approximately 30 to 40 feet below the street surface grade and approximately 20 feet below the soil/groundwater interface. These controls make it unlikely that the regional arsenic groundwater plume would infiltrate into the permanent subgrade water control system that is proposed to be installed beneath the building (Sheet C4.00 and C4.10; Weber Thompson 2017). Water collected in the subgrade water control system will be discharged to the storm system. The discharge from the building subgrade water control system will be monitored to confirm that arsenic- and PAH-contaminated groundwater is not migrating into the building area and that discharge water complies with surface water discharge standards, as described above.

Upon initial operation of the permanent building dewatering system discharge sampling will be conducted weekly for three weeks to monitor arsenic concentrations. Concentrations of arsenic detected in the discharge water over the three week sampling program will determine the following action items:

1. If arsenic concentrations in the discharge water in all three weekly sampling events contain concentrations between 0 and 5 µg/L, then weekly sampling will be discontinued and quarterly monitoring as described below in Section 8.4.2 will be implemented.
2. If arsenic concentrations in the discharge water in any one of the three weekly sampling events contain concentrations greater than 5 µg/L, then weekly sampling will be extended for an additional three weeks.
3. If arsenic concentrations in the discharge water in the six weekly sampling events contain an average concentration of less than 5 µg/L, then weekly sampling will be discontinued and quarterly monitoring, as described below in Section 6.4.2, will be implemented.

If arsenic concentrations in the discharge water in the six weekly sampling events contain an average concentration greater than 5 µg/L, then a treatment system, as described above in Section 5.6.1.1, will be added to the permanent dewatering system. Alternatively, the permanent dewatering system can be modified to discharge water to the sanitary sewer system. All required federal, state, and municipal permits and authorizations would be acquired prior to discharge. Discharge water would continue to be monitored per the requirements of the applicable permit. The weekly sampling program will be repeated upon installation of the treatment system.

6.4.2 Long Term Groundwater Monitoring

Per Chapter 173-340-410 WAC, compliance monitoring is required for any site that utilizes containment as a part of the cleanup action plan. Consequently, a groundwater monitoring program will be in place to evaluate whether the cleanup action proposed herein is sufficient for the protection of human health and the environment. Water discharged from the subgrade water control system will be sampled for total arsenic quarterly during the first year, semiannually during the second and third years, and annually during the fourth and fifth years. If arsenic is not detected above the applicable cleanup level in the groundwater after five years, then monitoring

may be discontinued. If arsenic concentrations above 5 µg/L are detected in any of the scheduled monitoring events beyond the initial three to six week monitoring program, the weekly program described above will be reinstated to evaluate the need for treatment.

Sampling for arsenic in the subgrade water control system will be initiated upon startup of the permanent dewatering system after construction of the building foundation. The results of the monitoring events will be submitted to Ecology.

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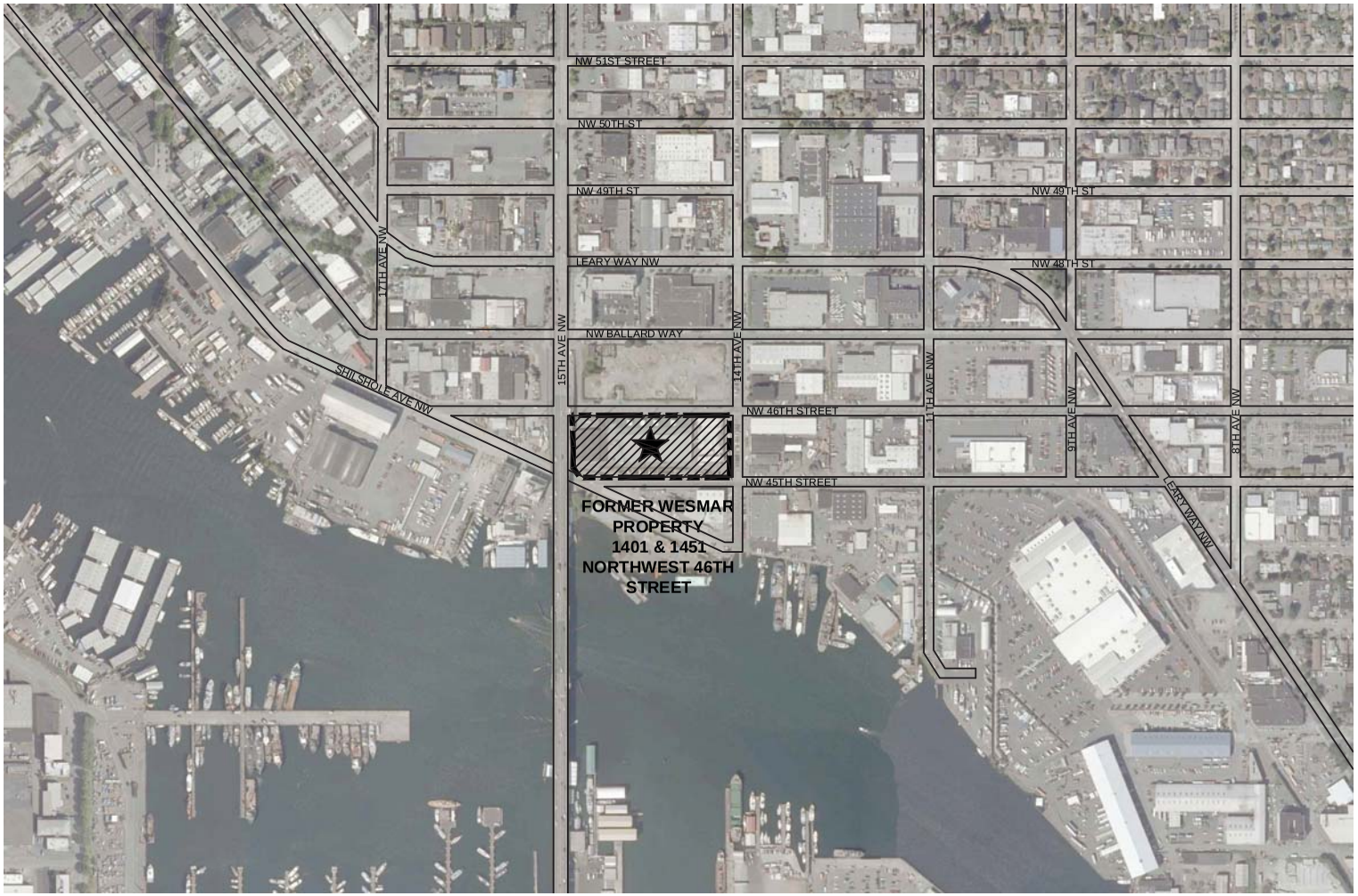

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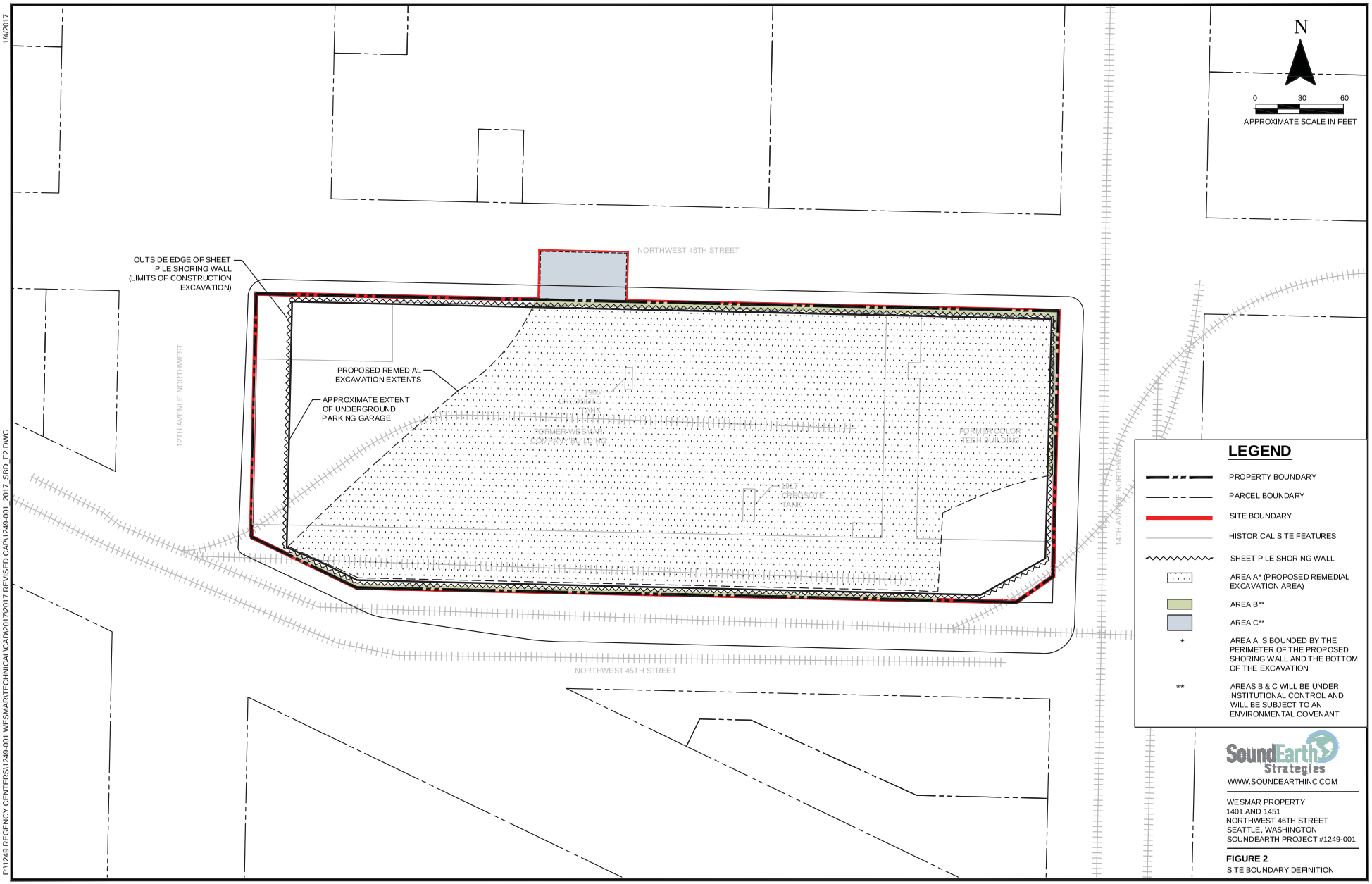
APPROXIMATE SCALE IN FEET

SoundEarth Strategies

WWW.SOUNDEARTHINC.COM

WESMAR PROPERTY
1401 AND 1451
NORTHWEST 46TH STREET
SEATTLE, WASHINGTON
SOUNDEARTH PROJECT #1249-001

FIGURE 1
VICINITY MAP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APPROXIMATE SCALE IN FEET
OUTSIDE EDGE OF SHEET PILE SHORING WALL (LIMITS OF CONSTRUCTION EXCAVATION)
PROPOSED REMEDIAL EXCAVATION EXTENTS
APPROXIMATE EXTENT OF UNDERGROUND PARKING GARAGE
NORTHWEST 46TH STREET
NORTHWEST 45TH STREET
12TH AVENUE NORTHWEST
14TH AVENUE NORTHWEST
FORMER WESMAR COMPANY BUILDING
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FIGURE 2
SITE BOUNDARY DEFINITION
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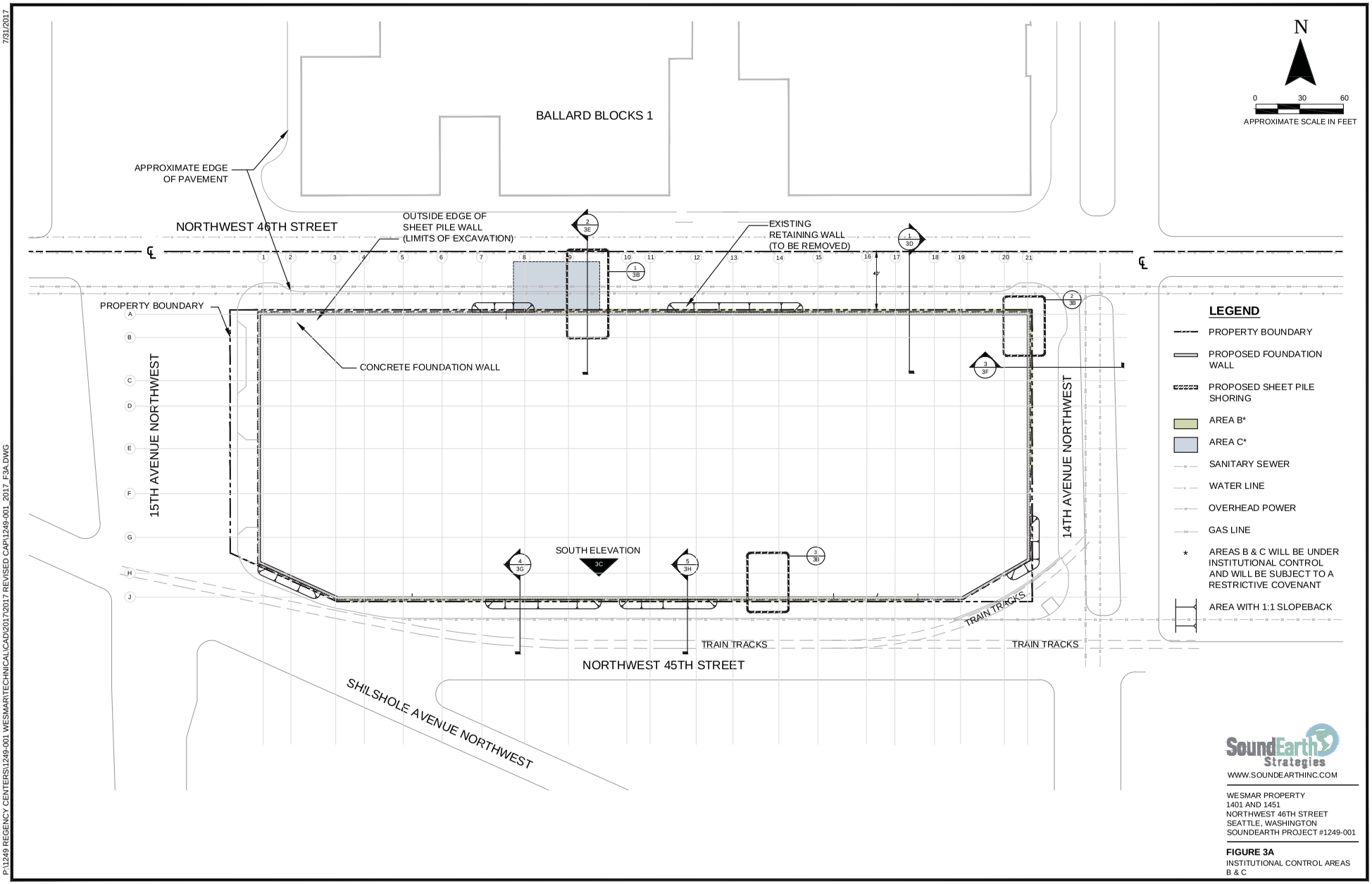

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FIGURE 3A
INSTITUTIONAL CONTROL AREAS B & C

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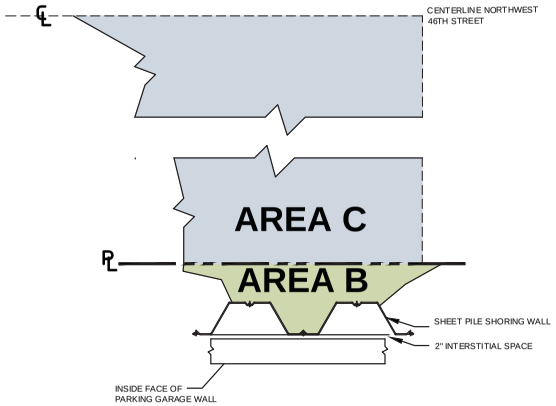
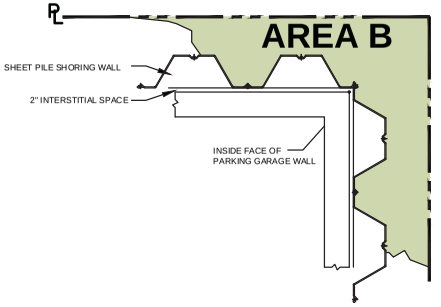
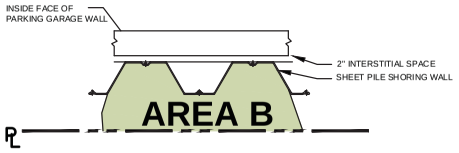
APPROXIMATE SCALE IN FEET



1 AREA B/C DETAIL: NORTHERN PROPERTY BOUNDARY



2 AREA B DETAIL: NORTHEAST PROPERTY BOUNDARY



3 AREA B DETAIL: SOUTHERN PROPERTY BOUNDARY

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FIGURE 3B

PLAN VIEW DETAILS OF SHORING WALL, PROPERTY BOUNDARY, AND REMAINING CONTAMINATION CONDITIONS

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APPROXIMATE SCALE IN FEET

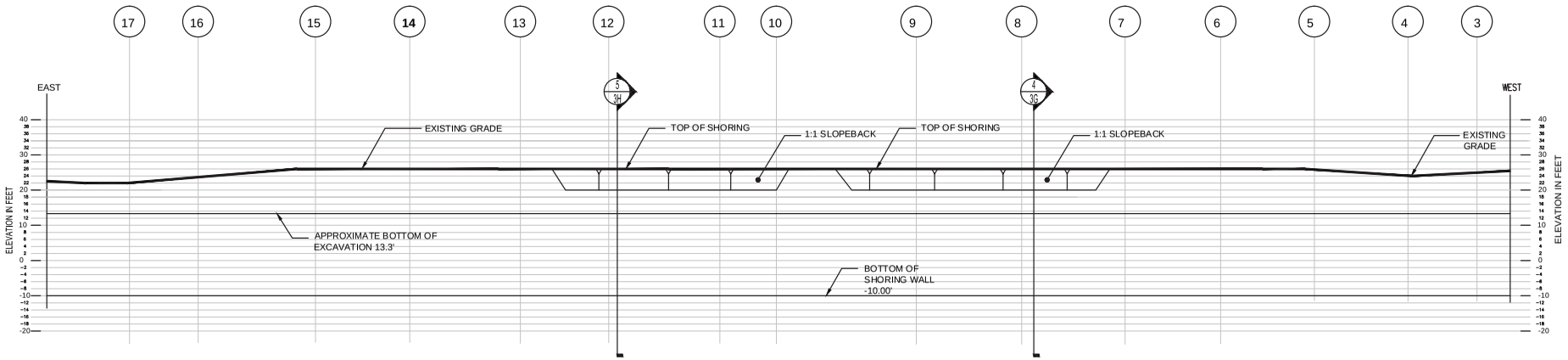

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FIGURE 3C
PARTIAL ELEVATION
SOUTH SHORING WALL

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1 / 3D SECTION AT NORTH LOOKING EAST

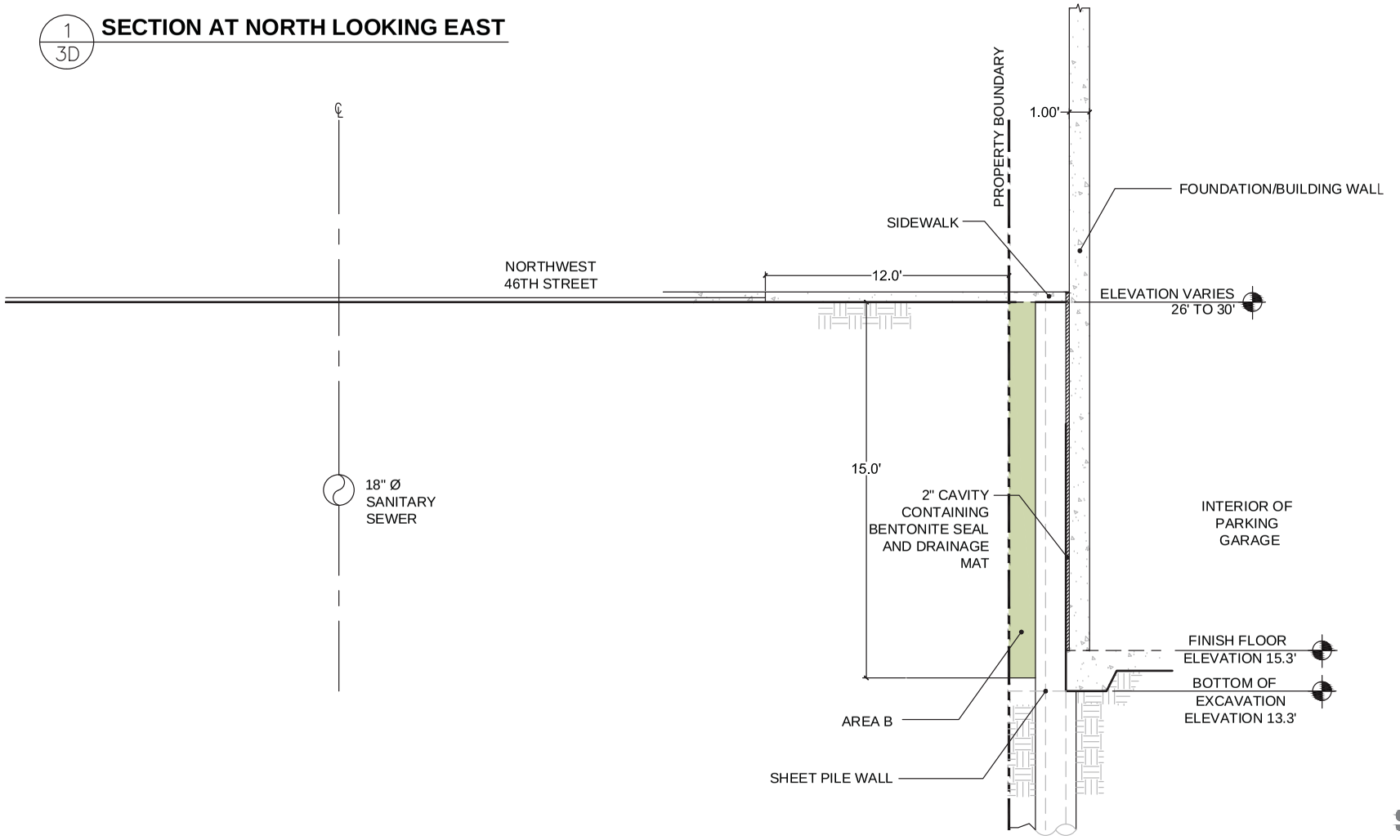

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FIGURE 3D
CROSS-SECTIONAL DETAIL
NORTH SHORING WALL

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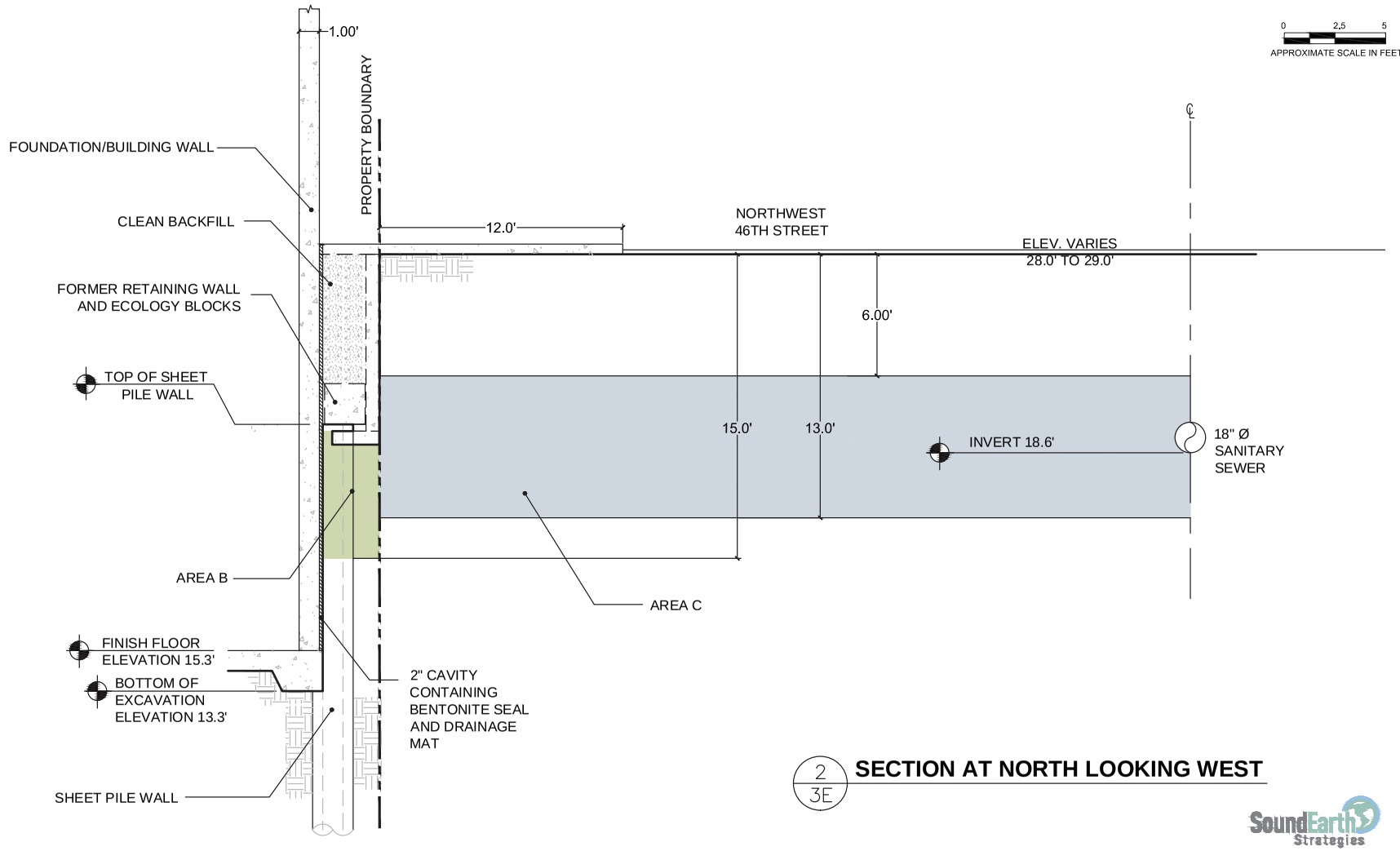

2/3E **SECTION AT NORTH LOOKING WEST**

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FIGURE 3E
CROSS-SECTIONAL DETAIL
NORTH SHORING WALL

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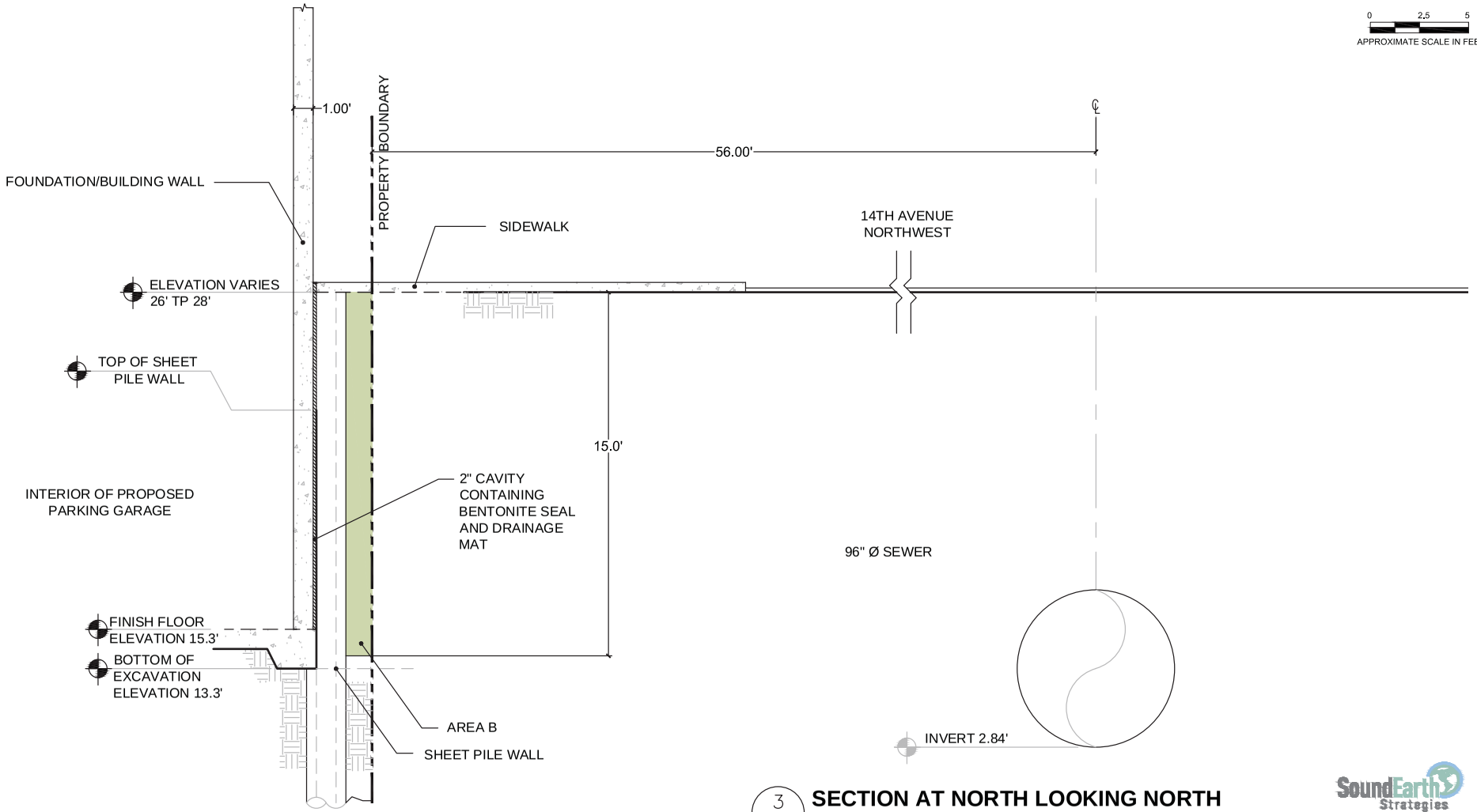

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SECTION AT NORTH LOOKING NORTH

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FIGURE 3F
CROSS-SECTIONAL DETAIL
EAST SHORING WALL

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SECTION AT SOUTH LOOKING WEST

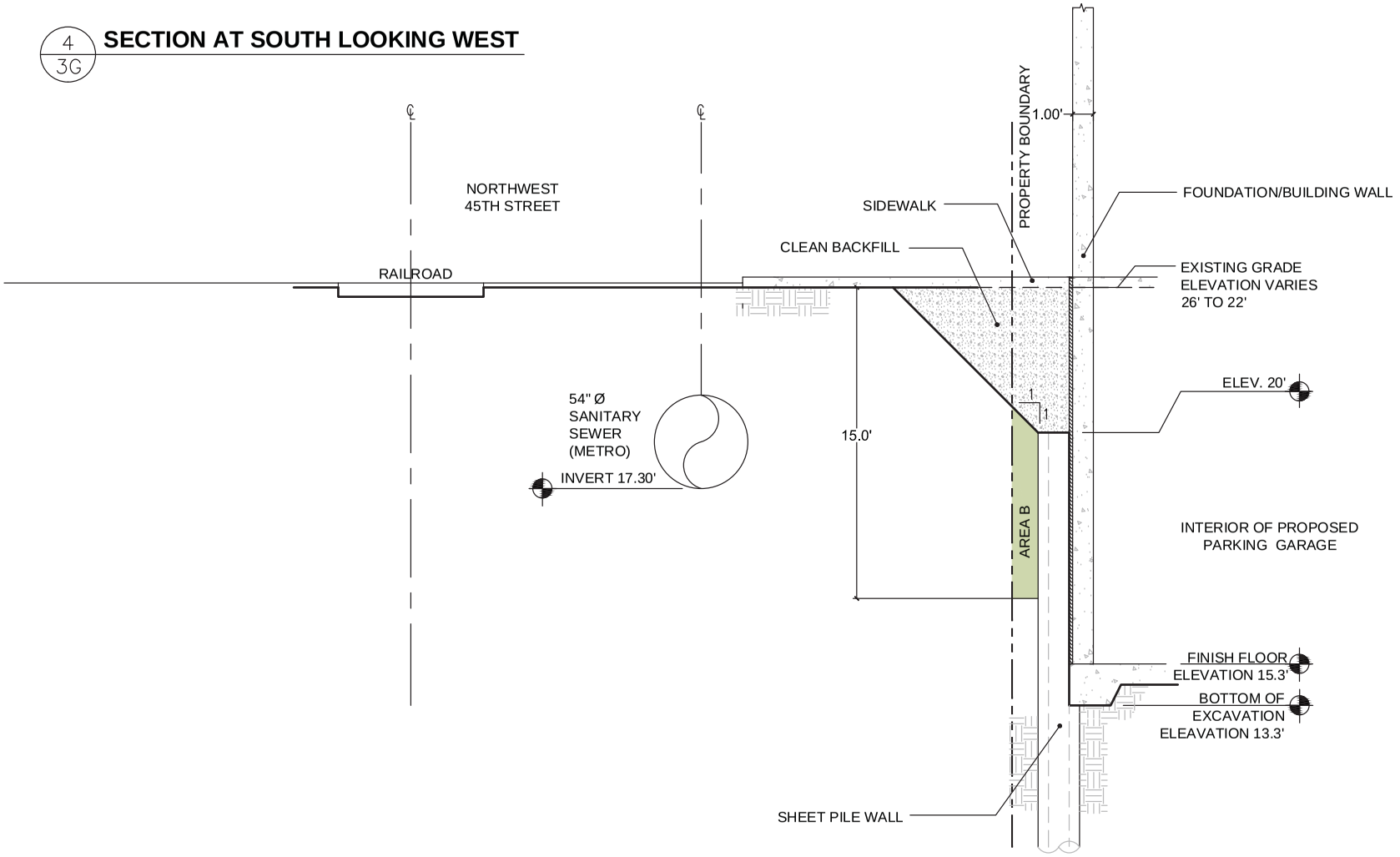

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FIGURE 3G
CROSS-SECTIONAL DETAIL
SOUTH SHORING WALL

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SECTION AT SOUTH LOOKING WEST

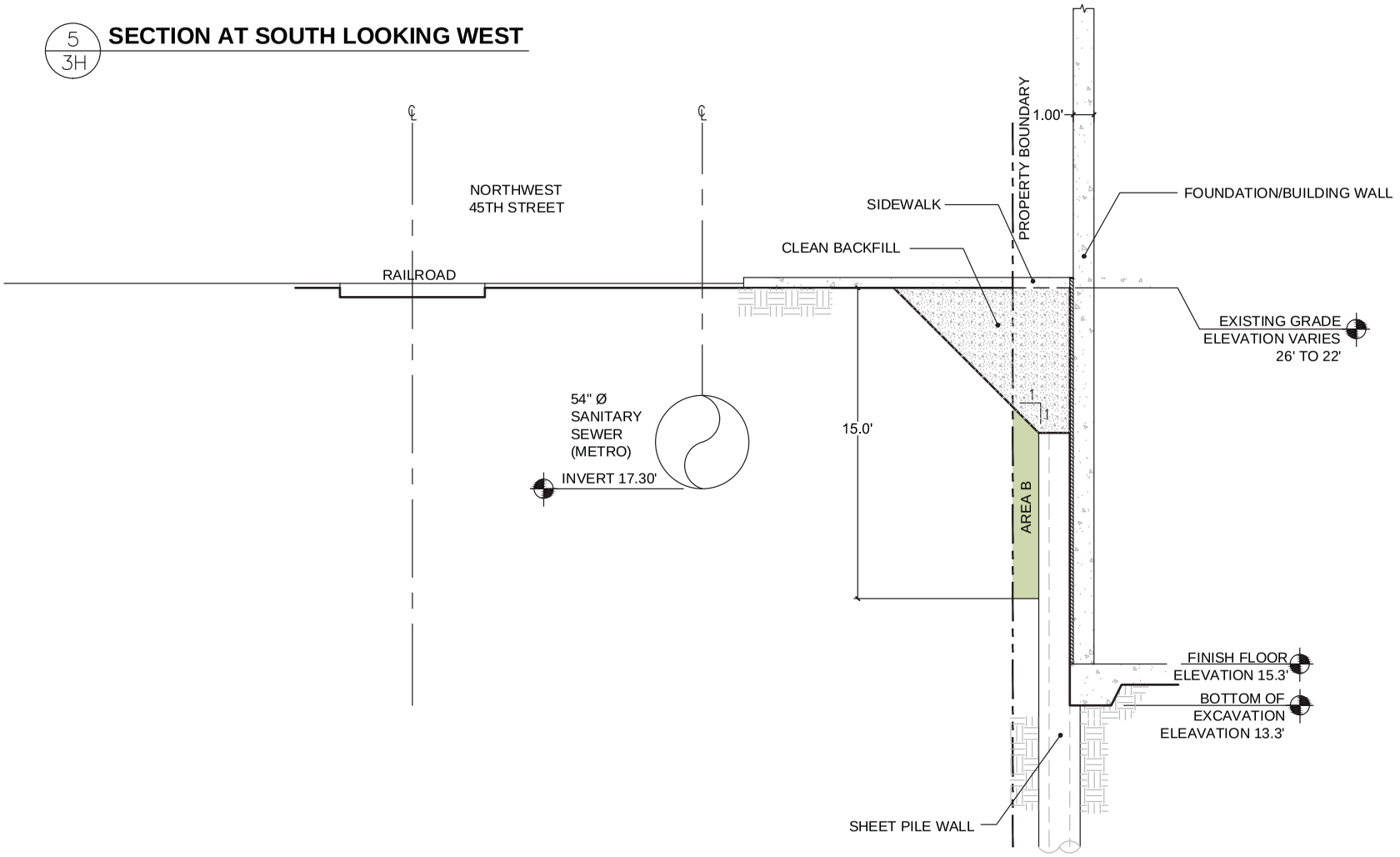

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FIGURE 3H
CROSS-SECTIONAL DETAIL
SOUTH SHORING WALL

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Placeholder for APPENDIX A to Exhibit A

Oversized Document
Submitted for Filing in Paper Form

(Appendix A consists of 51 pages of AutoCAD diagrams)

Exhibit B

Site Diagram

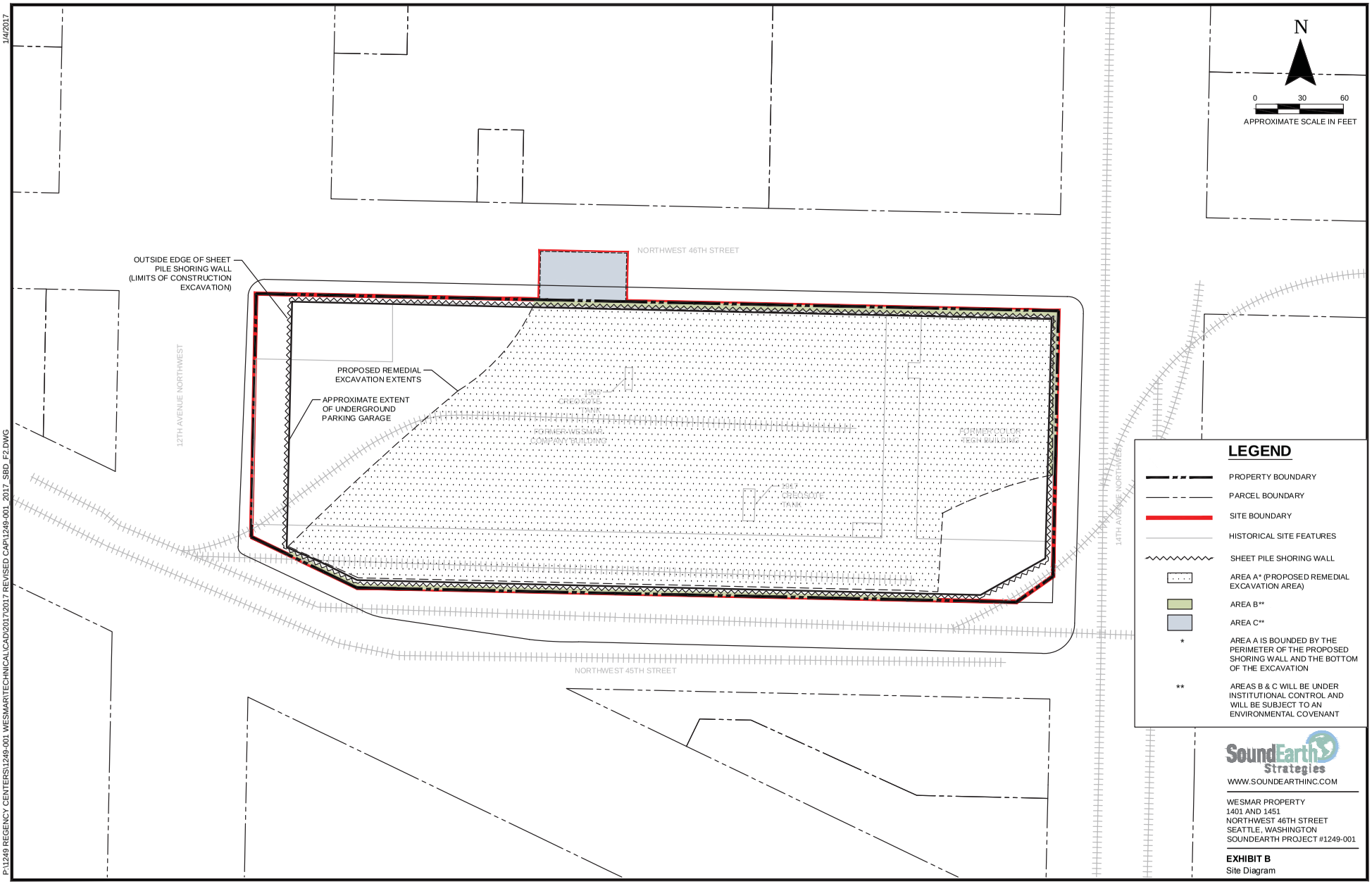
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EXHIBIT B
Site Diagram
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Exhibit C

Schedule

EXHIBIT C: SCHEDULE
WESMAR COMPANY, INC. SITE

Activity	Deadline
Submit Quarterly Progress Report documenting anticipated schedule for commencing Remediation Construction	By 10th day of January, April, July, and October, from effective date of Consent Decree until Remediation Construction begins
Commence Remediation Construction	January 2018 (or earlier)
Submit Monthly Progress Report	By 10th day of each month, from commencement of Remediation Construction until notified by Ecology
Complete excavation and disposal of contaminated soils in Area A	Not later than 1 year after remediation construction begins
Initiate operation of Permanent Subgrade Water Control System	Not later than 6 weeks after completion of parking garage foundation and concrete slab construction
Groundwater Monitoring	Begin within 3 months after installation and operation of Subgrade Water Control System
Submit Draft Cleanup Action Completion Report	Not later than 3 months after initial groundwater monitoring samples taken from Subgrade Water Control System
Install Improvements to existing cap for Area B	Not later than 2 years after Remediation Construction begins
Record Institutional Controls	At time of final Ecology approval of Cleanup Action Completion Report

*Changes to this schedule shall be governed by Section XV of the Consent Decree