

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

**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

CITY OF SEATTLE,

Defendant.

NO. 90-2-13283-8 SEA

AMENDMENT NO. 2 TO
CONSENT DECREE
(MIDWAY LANDFILL SITE)

This amendment to Consent Decree No. 90-2-13283-8 is issued pursuant to the authority of RCW 70.105D, the Model Toxics Control Act (MTCA).

STATEMENT OF CURRENT CONDITIONS

A. Consent Decree No. 90-2-13283-8 was signed by the Court and filed on June 29, 1990. The Decree was a negotiated settlement between the Washington State Department of Ecology (Ecology) and the City of Seattle (Seattle). The Consent Decree included provisions for the implementation of remedial actions to address the release of hazardous substances at the site. Based upon Ecology's determination that the remedial actions in the Consent Decree would provide immediate protection to the public health, welfare and environment, the Consent Decree was negotiated and filed before Ecology had completed a Cleanup Action Plan (CAP) under MTCA to select a final cleanup action.

1 B. On February 3, 2006, the Court signed, and on February 7, 2006, filed,
2 Amendment No. 1 to the Consent Decree. The Amendment was for the purpose of integrating
3 into the Decree the selected final remedy (cleanup action) for the Site, as well as to make certain
4 changes to clarify the intent of the Decree. The final remedy (cleanup action) for the Site was
5 set forth in a September 6, 2000 Record of Decision (ROD) issued by the United States
6 Environmental Protection Agency (EPA) under the federal Comprehensive Environmental
7 Response, Compensation, and Liability Act (CERCLA). The ROD provided that Ecology would
8 continue as the lead agency overseeing the performance of the selected remedy at the Site.
9 Pursuant to WAC 173-340-380(4), Ecology adopted EPA's ROD to serve as a CAP for the Site
10 under MTCA.

11 C. Among other matters, EPA's ROD/Ecology's CAP, as implemented through
12 Amendment No. 1 to the Consent Decree, specifies landfill cover, landfill gas extraction system,
13 surface water management, monitoring, other operations and management, and institutional
14 control requirements for the Site, including a requirement for Seattle to record an environmental
15 covenant on property it owns within the Site.

16 D. The Central Puget Sound Regional Transit Authority (Sound Transit) proposes to
17 construct the Federal Way Link Extension through the eastern portion of the Midway Landfill
18 Site, on property currently owned by the Washington State Department of Transportation
19 (WSDOT) and Seattle that will be acquired by Sound Transit (the Sound Transit Property).
20 Sound Transit's construction would also facilitate WSDOT's State Route 509 Corridor Project,
21 which involves eventually adding two additional lanes to Interstate 5 adjoining the Midway
22 Landfill. Both projects will impact areas that currently contain Landfill Material and that contain
23 landfill cover and other components of the remedial action. The purpose of the Federal Way
24 Link Extension is to expand mass transit capacity in the Central Puget Sound region. The purpose
25 of the State Route 509 Corridor Project is to ease Interstate 5 congestion and improve access to
26 Sea-Tac Airport.

1 E. The site work required for the Sound Transit and WSDOT projects through the
2 Midway Landfill area will be combined in one construction effort to be undertaken by
3 contractors employed by Sound Transit. This effort will require Landfill Material removal,
4 relocation of the eastern edge of the landfill cap system, and drainage improvements within the
5 area subject to the EPA ROD/Ecology CAP for the Site, as implemented through Amendment
6 No. 1 to the Consent Decree. After this work is completed, the Sound Transit Property and parts
7 of the remaining WSDOT property will have an underlying infiltration barrier and newly placed
8 backfill. No Municipal Solid Waste will remain on the Sound Transit Property. No Landfill
9 Material will remain on the remaining WSDOT property. These changes affect Seattle's existing
10 requirements and plans for the Site under Amendment No. 1 to the Consent Decree, including
11 its Compliance Monitoring Plan and Operations and Maintenance Manual for the Site.

12 F. In conjunction with the above work, Sound Transit will be acquiring property
13 currently owned by WSDOT and Seattle within the Site. Seattle will also be acquiring an area
14 west of the property to be acquired by Sound Transit within the Site. Seattle will consolidate this
15 acquisition with property it currently owns within the Site. These transactions will require that
16 an environmental covenant be recorded by Seattle on the property Seattle acquires to which a
17 covenant should apply.

18 G. Ecology has issued an amendment to the Ecology CAP for the Site (CAP
19 Amendment) that specifies modifications to remedial action requirements necessitated by Sound
20 Transit's construction activities. The CAP Amendment is attached to this Amendment as Exhibit
21 E. These modifications are to ensure that the construction activities, as well as Sound Transit's
22 and WSDOT's future operations, are consistent with and maintain the integrity of the remedy
23 selected in the EPA ROD/Ecology CAP. Specifically, the CAP Amendment updates the landfill
24 cover, landfill gas extraction system, surface water management system, compliance monitoring
25 plan, operations and management manual, and institutional control requirements in response to
26 the construction activities and use changes planned within the Site. Prior to issuance of the CAP

1 Amendment, Ecology, as the lead agency for the Site under the cooperative agreement between
2 EPA and Ecology for management of National Priorities List sites in Washington, briefed EPA
3 as to the requirements of the proposed CAP Amendment, and their consistency with the ROD,
4 i.e., how they will protect the integrity of the remedy selected under the ROD. EPA did not object
5 to Ecology's issuance of the CAP Amendment.

6 H. This Amendment is to implement the CAP Amendment requirements as they
7 pertain to Seattle's obligations under this Decree. Ecology is concurrently entering into a
8 Prospective Purchaser Consent Decree with Sound Transit requiring Sound Transit to undertake
9 work at the Site in conformance with, and implement portions of the remedial actions specified
10 in, the CAP Amendment.

11 **AMENDMENT TO CONSENT DECREE**

12 Based on the foregoing, the parties stipulate and agree that the Decree should be
13 amended, pursuant to the provisions of Section XXI. AMENDMENT OF CONSENT DECREE,
14 as follows:

15 A. All of the terms of the Consent Decree, as amended through Amendment No. 1,
16 remain in effect unless expressly amended herein.

17 B. Section IX. DEFINITIONS shall be amended as follows:

18 R. Municipal Solid Waste: Refers to material disposed of in the Midway
19 Landfill, excluding Landfill Soils. Municipal Solid Waste may include, but not be limited
20 to, "solid waste" as defined by RCW 70.95.030(22); "commercial solid waste,"
21 "household waste," "industrial solid wastes," and "solid waste" as defined by WAC 173-
22 351-100; and "dangerous wastes" as defined by WAC 173-303-040.

23 S. Landfill Soils: Refers to soils used as daily cover material during
24 operations of the Midway Landfill, or otherwise comingled with the Municipal Solid
25 Waste.

1 T. Landfill Material: Refers inclusively to Municipal Solid Waste, Landfill
2 Soils, and comingled Municipal Solid Waste and Landfill Soils.

3 C. Section XI. SCOPE OF WORK, Heading B, shall be amended, and new
4 Paragraphs 7, 8, and 9 shall be added, as follows:

5 7. Seattle shall undertake work at the Site in conformance with, and
6 implement the remedial actions specified in, Exhibit E (CAP Amendment), in accordance
7 with Exhibit F (Scope of Work and Schedule). The CAP Amendment specifies
8 requirements related to, among other things, overburden removal and reuse; landfill
9 cover system removal and replacement; Landfill Material removal, relocation, and
10 disposal; segregation and reuse of Landfill Soils; landfill gas extraction system
11 disturbance and replacement; surface water management; the protection, and if
12 necessary, decommissioning and replacement, of groundwater monitoring wells; access
13 controls during and after construction; other controls during construction (including
14 stormwater controls and dust and odor control); institutional controls; and revising
15 Seattle's existing Operation and Maintenance Manual and Compliance Monitoring Plan
16 for the Site to reflect and address changes to the Midway Landfill's landfill cover, landfill
17 gas extraction system, and surface water management system. All plans or other
18 deliverables submitted by Seattle for Ecology's review and approval under the Scope of
19 Work and Schedule (Exhibit F) shall, upon Ecology's approval, become integral and
20 enforceable parts of this Decree.

21 8. To effectuate work to be performed under this Decree and the Sound
22 Transit Prospective Purchaser Consent Decree (Work) in the most efficient manner,
23 Sound Transit and Seattle have designated lead roles in performing various aspects of
24 the Work. These roles are designated in the Scope of Work and Schedule (Exhibit F).
25 Seattle and Sound Transit may, by mutual agreement and with notice to Ecology, revise
26 the lead agency designations, provided that all Work is completed as required. In the

1 event the party identified as a lead should fail to timely and properly complete
2 performance of all or any portion of its Work as designated in Exhibit F, Sound Transit
3 and Seattle remain strictly, jointly, and severally liable for the performance of any
4 remaining Work, regardless of designations in Exhibit F; provided, that: (1) in the event
5 Sound Transit fails to timely and properly complete performance of tasks solely
6 necessary to the Sound Transit and WSDOT projects, Seattle's sole obligation under this
7 Decree will be to, under Ecology's supervision, maintain and, if necessary, restore the
8 Site to conform with the remedy selected in the ROD/CAP; (2) in the event Sound Transit
9 fails to timely and properly complete performance of tasks related to ongoing operation
10 and maintenance of the Site within the Subject Property as defined in the Sound Transit
11 Prospective Purchaser Consent Decree, Seattle's sole obligation under this Decree will
12 be to comply to the extent the task is necessary to maintain compliance with the approved
13 Amended Operations and Maintenance Plan; (3) in the event Seattle fails to timely and
14 properly complete performance of tasks related to ongoing compliance monitoring or
15 operations and monitoring of the Site outside of the Subject Property as defined in the
16 Sound Transit Prospective Purchaser Consent Decree, Sound Transit's sole obligation
17 under the Sound Transit Prospective Purchaser Consent Decree will be to comply to the
18 extent the task is applicable to the Subject Property as defined in that Decree; and (4)
19 with respect to tasks related to recording Environmental Covenants, those tasks will
20 remain the sole obligations of Sound Transit and Seattle with respect to their respective
21 properties.

22 9. Financial Assurance. Pursuant to WAC 173-340-440(11), Seattle shall
23 maintain sufficient and adequate financial assurance mechanisms to cover all costs
24 associated with the operation and maintenance of engineering and institutional controls
25 at the Site, including compliance monitoring and corrective measures.
26

1 1. Within sixty (60) days of the effective date of this Amendment,
2 Seattle shall submit to Ecology for review and approval an estimate of the costs
3 associated with the operation and maintenance of the engineering and
4 institutional controls at the Site that it will incur in carrying out the terms of this
5 Decree. Within sixty (60) days after Ecology approves the aforementioned cost
6 estimate, Seattle shall provide proof of financial assurance sufficient to cover
7 those costs in a form acceptable to Ecology. Seattle may utilize one of the
8 allowable mechanisms described in WAC 173-340-440(11)(a), including the
9 government financial test.

10 2. Seattle shall adjust the financial assurance coverage and provide
11 Ecology's project coordinator with documentation of the updated financial
12 assurance for:

13 i. Inflation, annually, within ninety (90) days after the close
14 of Seattle's fiscal year if the government financial test is used, or if not,
15 within thirty (30) days of the anniversary date of the entry of this Decree
16 or, if applicable, the modified anniversary date established in accordance
17 with this section.

18 ii. Changes in cost estimates, within thirty (30) days of
19 issuance of Ecology's approval of a modification or revision to the CAP
20 that result in increases to the cost or expected duration of engineering and
21 institutional controls at the Site. Any adjustments for inflation since the
22 most recent preceding anniversary date shall be made concurrent with
23 adjustments for changes in cost estimates. The issuance of Ecology's
24 approval of a revised or modified CAP will, subject to subparagraph i
25 above, revise the anniversary date established under this section to
26 become the date of issuance of such revised or modified CAP.

1 D. Section XIX. TRANSFER OF INTEREST IN PROPERTY shall be amended and
2 replaced in its entirety as follows:

3 No voluntary conveyance or relinquishment of title, easement, leasehold, or other
4 interest in any portion of the landfill shall be consummated without provision for
5 continued operation and maintenance of any containment system, treatment system, or
6 monitoring system installed or implemented pursuant to this Decree, unless Ecology has
7 approved of the retirement or abandonment of any such systems or part thereof. Prior to
8 transfer of any legal or equitable interest in all or any portion of the landfill real property,
9 Seattle shall serve a copy of this Decree upon any prospective purchaser, lessee,
10 transferee, assignee, or other successor in interest of the property; and, at least thirty (30)
11 days prior to the transfer, Seattle shall notify Ecology of said contemplated transfer.

12 Seattle and Ecology will, pursuant to RCW 64.70.100, cooperate in recording a
13 restrictive covenant on property that is acquired by the Seattle pursuant to this project,
14 and such restrictive covenant shall be substantially the same as the covenant that was
15 previously recorded and applies to the Midway Landfill. Ecology will, in consultation
16 with Seattle, prepare an Environmental (Restrictive) Covenant consistent with
17 WAC 173-340-440, RCW 64.70, and any policies or procedures specified by Ecology,
18 for the property to be acquired and owned by Seattle at the Midway Landfill Site after
19 the acquisitions by Sound Transit and Seattle described above (“Subject Property”). The
20 Environmental (Restrictive) Covenant shall restrict future activities and uses of the
21 Subject Property as required by the CAP Amendment and as agreed to by Ecology and
22 Seattle.

23 After approval by Ecology, Seattle shall record the Environmental (Restrictive)
24 Covenant for the Subject Property with the office of the King County Auditor as detailed
25 in the Schedule (Exhibit F). Seattle shall provide Ecology with the original recorded
26 Environmental (Restrictive) Covenant within thirty (30) days of the recording date.

1 STATE OF WASHINGTON
2 DEPARTMENT OF ECOLOGY

ROBERT W. FERGUSON
Attorney General

3
4 _____
JAMES J. PENDOWSKI
Program Manager
5 Toxics Cleanup Program

_____ ANDREW A. FITZ, WSBA #22169
Senior Counsel
Attorney for Plaintiff

6 Date: _____

Date: _____

7 CITY OF SEATTLE

PETER HOLMES
City Attorney

8
9
10 _____
MAMI HARA, General Manager
Seattle Public Utilities

_____ TAD H. SHIMAZU, WSBA #16571
Assistant City Attorney
Attorney for Defendant

11
12 Date: _____

Date: _____

13
14 DATED this _____ day of _____, 2020.

15
16 _____
17 JUDGE
King County Superior Court

18
19 ATTACHED EXHIBITS:

20 EXHIBIT E – Midway Landfill CAP Amendment
21 EXHIBIT F – Scope of Work & Schedule
22
23
24
25
26

EXHIBIT E
to Amendment No. 2 to
Midway Landfill Site Consent Decree

EXHIBIT C
to Sound Transit
Prospective Purchaser Consent Decree
(Cleanup Action Plan Amendment No. 1)

Midway Landfill Site

DRAFT Cleanup Action Plan Amendment No. 1

DRAFT

Table of Contents

1.0	Introduction	1-1
1.1	PURPOSE OF CAP AMENDMENT	1-1
2.0	Site Description and History	2-1
2.1	PHYSICAL SETTING	2-1
2.2	REGULATORY HISTORY	2-2
2.3	MIDWAY LANDFILL CLEANUP ACTIONS AND REMEDIAL ELEMENTS.....	2-2
3.0	Proposed Development Actions	3-1
3.1	FEDERAL WAY LINK EXTENSION AND I-5 WIDENING PROJECTS.....	3-1
4.0	Remedial Requirements for Development Actions	4-1
4.1	SPECIAL INSPECTION ENVIRONMENTAL PROFESSIONAL	4-1
4.2	HEALTH AND SAFETY.....	4-1
4.3	OVERBURDEN SOIL, SOIL WITHIN REFUSE, AND NATIVE SOIL REUSE	4-1
4.4	WASTE AND SOILS REMOVAL AND RELOCATION	4-2
4.4.1	Onsite Disposal Requirements.....	4-2
4.4.2	Waste and Soil Removal Plan.....	4-2
4.4.3	Stormwater Controls.....	4-4
4.4.4	Dust and Odor Control.....	4-4
4.4.5	Waste Loading, Transportation, and Disposal.....	4-4
4.5	INFILTRATION BARRIER.....	4-5
4.6	LANDFILL COVER SYSTEM	4-5
4.7	LANDFILL GAS EXTRACTION SYSTEM AND GAS MONITORING PROBES	4-5
4.8	SURFACE WATER MANAGEMENT	4-6
4.9	GROUNDWATER MONITORING WELLS.....	4-7
4.10	ACCESS CONTROL.....	4-7
4.11	CONSTRUCTION QUALITY ASSURANCE.....	4-7
5.0	Required Pre-Construction Submittals for Ecology Approval	5-1
6.0	Construction Completion Report.....	6-1
7.0	Environmental Covenant and Financial Assurance	7-1
8.0	Amended Operations and Maintenance Plan and Compliance Monitoring Plan	8-1
9.0	References	9-1

List of Figures

- Figure 1** Midway Landfill Location Map
- Figure 2** FWLE/SR 509 Midway Project Components
- Figure 3** Conceptual Waste Removal and Backfill Cross Section

List of Acronyms and Abbreviations

Acronym/ Abbreviation	Definition
CAP	Cleanup Action Plan
CD	Consent Decree
Ecology	Washington State Department of Ecology
FWLE	Federal Way Link Extension
HAZWOPER	Hazardous Waste Operations and Emergency Response
I-5	Interstate-5
MTCA	Model Toxics Control Act
NPL	National Priorities List
OMF	Operations and Maintenance Facilities
ROD	Record of Decision
ROW	Right of way
Site	Midway Landfill Site
ST	Sound Transit
ST3	Sound Transit 3
USEPA	U.S. Environmental Agency
WAC	Washington Administrative Code
WSDOT	Washington State Department of Transportation

1.0 Introduction

This document is the first amendment to the Cleanup Action Plan (CAP) for the Midway Landfill site (Site), a closed municipal landfill (landfill) that occupies an approximately 60-acre property in Kent, Washington, between Interstate-5 (I-5) and Highway 99 (Figure 1).

This CAP Amendment has been prepared because updates are required for major design changes or field work orders that modify landfill remedial elements.

The landfill is currently operated by the City of Seattle under the terms of a consent decree between the City and the Washington State Department of Ecology (Ecology) entered in King County Superior Court to resolve liability under the Model Toxics Control Act (MTCA). Portions of the landfill are owned by the City of Seattle, and portions are on Washington State Department of Transportation (WSDOT) right-of-way (ROW). The Site is included in the federal National Priorities List (NPL) as a Superfund Site under the Comprehensive Environmental, Response, Compensation, and Liability Act (CERCLA), but, through agreement between the United States Environmental Protection Agency (EPA) and Ecology, is being addressed by Ecology under MTCA. The EPA has been briefed on the proposed CAP amendment and has not objected.

1.1 PURPOSE OF CAP AMENDMENT

This CAP Amendment describes the actions required by Ecology to maintain the integrity of remedial elements during and after a proposed development at the Site. The amendment's purpose is to allow for the implementation of development actions in a manner that continues to protect human health and the environment from releases of hazardous substances into the environment.

The development actions addressed by this CAP Amendment include construction of Sound Transit (ST) light rail facilities and WSDOT highway widening located adjacent to I-5 on the eastern boundary of the landfill. These development actions will require waste removal and replacement with structural fill, relocation of the eastern edge of the landfill cap and gas control systems, drainage improvements, and other ancillary actions.

2.0 Site Description and History

2.1 PHYSICAL SETTING

The landfill is located between I-5 and Highway 99, and between S. 252nd Street and S. 246th Street in Kent, Washington, as shown on Figure 1. The landfill, containing approximately 3,000,000 million cubic yards of refuse placed between 1966 and 1983, is approximately 40 acres in size and a maximum of about 130 feet deep. USEPA files indicate that a broad range of industrial wastes were deposited in the landfill up to 1980, when a state-mandated screening process administered by the Seattle-King County Department of Public Health was put in place. The landfill is currently maintained by the City of Seattle – Seattle Public Utilities.

Materials deposited within the landfill are defined in Amendment 2 to the City’s Consent Decree (CD) and the Prospective Purchaser Consent Decree (PPCD) with Sound Transit (see Section 3.1). These definitions are reproduced here for clarity and continuity:

- “Landfill Soils” refers to soils used as daily cover material during the placement of MSW (see below), or otherwise co-mingled with MSW.
- “Municipal Solid Waste” (MSW) refers to material disposed of in the Midway Landfill, excluding Landfill Soils, which may include but are not limited to, “solid waste” as defined by RCW 70.95.030(22); “commercial solid waste”, “household waste”, “industrial solid wastes”, and “solid waste” as defined by WAC 173-351-100; and “dangerous waste” as defined by WAC 173-303-040.
- “Landfill Material” refers inclusively to MSW, Landfill Soils, and comingled MSW and Landfill Soils.

The landfill has a multilayered engineered impermeable cap, with a grass cover. The landfill is fenced, and access is limited. A gas extraction system is in place and operating throughout the landfill. Stormwater from the landfill surface and adjacent areas, including portions of I-5, drains to a detention pond on City of Seattle-owned property north of the landfill (the North Pond).

Land use in the Site vicinity includes commercial operations and residential housing. Commercial establishments, light industry, and manufacturing facilities border both sides of Highway 99, with residential housing typically located behind the commercial strip. Two elementary schools, Sunnycrest Elementary School and Parkside Elementary School, and a city park, Linda Heights Park, are within a half-mile radius of the landfill. Most of the nearby residences are detached single-family dwellings, with some multi-unit residential developments. Several mobile home parks are also in the vicinity. A 6-acre wetland, the Parkside Wetland, located to the east of Parkside Elementary School and west of the landfill, is a naturally occurring detention basin for local surface water runoff, primarily from the west side of Highway 99.

2.2 REGULATORY HISTORY

In October 1984, the Site was nominated for inclusion on the federal NPL based on potential groundwater contamination. Following that nomination, Ecology was designated as the lead agency for the Midway Landfill Superfund action, pursuant to a Cooperative Agreement with the U.S. Environmental Protection Agency (USEPA). In May 1986, Midway Landfill was placed on the NPL. In September 1988, the City of Seattle, which owns and had operated Midway Landfill, entered a Response Order on Consent with Ecology. This Response Order governed the preparation of a Remedial Investigation and Feasibility Study (RI/FS) for the Site. Prior to the completion of the RI/FS, the City of Seattle and Ecology entered into a consent decree pursuant to MTCA and entered in King County Superior Court, No. 90-2-13283 (1990 CD). The 1990 CD outlined requirements for a number of interim remedial actions, as described in the following section. In September 2000, the USEPA signed a Record of Decision under CERCLA choosing a selected remedy for the Site, which Ecology utilized as a CAP for the Site pursuant to the MTCA regulations (former Washington Administrative Code [WAC] 173-340-360(13), currently codified at WAC 173-340-380(4)). The ROD established site cleanup levels and the required cleanup actions and remedial elements described in the following section. In February 2006, Ecology and the City of Seattle amended the 1990 CD to require implementation of the final cleanup action selected in the ROD and adopted by Ecology (2006 CD Amendment).

This CAP Amendment is consistent with, supplements, and maintains the integrity of the remedy selected in the ROD. All requirements for site cleanup, monitoring, and maintenance defined in the 1990 CD, the 2006 CD Amendment, and the 2000 ROD remain in effect, except as specifically modified by this CAP Amendment.

2.3 MIDWAY LANDFILL CLEANUP ACTIONS AND REMEDIAL ELEMENTS

Cleanup actions by the City of Seattle have been performed since 1985, when Ecology began investigating the Site. Beginning in September 1985, the City of Seattle constructed gas migration control wells within the landfill property and gas extraction wells beyond the landfill property to control the subsurface migration of landfill gas.

In addition, the City of Seattle constructed a surface water management system in accordance with a Surface Water Management Plan. This system consisted of filling and grading to control surface water drainage to prevent surface water from infiltrating the landfill, construction of a 10-million-gallon stormwater detention pond with permanent dewatering system (the North Pond), a controlled discharge structure, and rerouting of stormwater from surrounding areas to prevent it from entering the landfill. This rerouting was done by diverting the Linda Heights Park drain and surface water runoff from I-5 to the North Pond. All elements of the surface water management system were completed by April 1990.

The 1990 CD memorialized the remedial actions already completed, and detailed additional cleanup work that the City of Seattle agreed to finance and perform. This additional cleanup work, or remedial action, was completed by December, 1992 and had four elements:

1. **Construction of a multi-layered landfill cover system or “cap.”** The cap comprised layers (from bottom to top) of low permeability clayey silt/silty clay, a 50-mil synthetic membrane, a geonet drainage layer, 1 foot of sand, and 1 foot of topsoil planted with shallow-rooted grasses. The landfill cover was designed to greatly reduce the amount of stormwater infiltration and control post-closure escape of hazardous emissions from the landfill. Placement of the low permeability clayey silt/silty clay was not required on the steeper sideslope areas of the landfill.
2. **Completion of a landfill gas extraction system.** This system included a final gas manifold system to link onsite extraction wells to an enhanced motor blower and flare system. The purpose of the onsite extraction wells was to create a “vacuum curtain” around the closed landfill to prevent offsite migration of landfill gas, and to help draw previously migrated gas back to the landfill. The enhanced flares were installed to burn the extracted gas before discharge to the atmosphere. The gas extraction system also included numerous offsite gas monitoring probes to provide data on the extent of landfill gas migration and the effectiveness of the extraction system.
3. **Completion of final project reports.** A final project report was prepared for each remedial action project constructed at the landfill. These reports included record drawings documenting the work as constructed, and a narrative report identifying deviations from the approved plans and specifications.
4. **Preparation of a comprehensive Operations and Maintenance Manual.** This manual incorporated both short-term and long-term operation and maintenance requirements for all remedial actions implemented at the landfill as part of the CD.

The 1990 CD also required the City of Seattle to place a notice on title to properties owned by the City, in the records of real property kept by the King County auditor, stating that the landfill was on the NPL. The CD also required the City of Seattle to serve a copy of the CD upon any prospective purchaser, lessee, transferee, assignee, or other successor in interest to the property prior to the transfer of any legal or equitable interest in all or any portion of the landfill.

Additional remedial elements included in the September 2000 ROD were negotiated and agreed upon by the City of Seattle and Ecology in the 2006 CD Amendment. These additional elements include the following:

1. Monitoring to:
 - A. Ensure the remedial systems are working as designed
 - B. Ensure progress is being made toward meeting groundwater cleanup standards and containing landfill gas
 - C. Ensure adequate containment is maintained when and if major changes are approved by Ecology in the operation of the Site, such as turning off or scaling down the gas collection system
 - D. Demonstrate that the cleanup levels have been achieved

-
2. An Institutional Control to give notices to appropriate agencies, water districts, and locally active well drillers that no water supply wells should be constructed and used in areas with groundwater contamination emanating from the landfill.

DRAFT

3.0 Proposed Development Actions

3.1 FEDERAL WAY LINK EXTENSION AND I-5 WIDENING PROJECTS

WSDOT and ST have transportation projects planned along the I-5 Corridor, portions of which are located within the Midway Landfill Site. The WSDOT SR 509 Completion Project will add additional lanes to I-5, and the ST Federal Way Link Extension (FWLE) will extend light rail from the existing Angle Lake Station at S 200th Street to the Federal Way Transit Center. At the Site, the two projects are adjacent and the FWLE will be constructed in the WSDOT I-5 right of way (ROW) along the east edge of the landfill, as shown on Figure 2.

Municipal solid waste is present in the WSDOT ROW, and the City of Seattle has an obligation to remove it as necessary to accommodate the WSDOT project. The three agencies have decided that there are advantages to implementing a combined project that meets the needs of all three agencies and provides best value to the public.

ST's contractor (Contractor) will remove Landfill Material sufficient to accommodate both the WSDOT lane widening and the construction of an at-grade alignment for the FWLE, as shown in plan view on Figure 2 and conceptually in cross section on Figure 3. Removing the Landfill Material will create an excavation that will be backfilled with structural fill. Remedial elements associated with the Midway Landfill Site will then be re-constructed. At the completion of construction, no MSW will remain on the property to be acquired by Sound Transit or on the WSDOT property to the east. As described below, screened Landfill Soils will remain on the Sound Transit property. This scope of work is referred to in this CAP Amendment as the "FWLE/SR 509 Midway Project."

The excavation backfill will be imported from a WSDOT or Sound Transit source and from soils obtained on the Midway Landfill property (see Section 4.3). The WSDOT source is located within WSDOT right-of-way in areas of Federal Way, Des Moines, and Sea Tac that are currently under Sound Transit control according to agreements between WSDOT and Sound Transit.

WSDOT will specify backfill requirements for their SR 509 project, and ST will establish its own backfill requirements for the FWLE project. This construction will remove waste that the City of Seattle is obligated to remove, and allow for an FWLE alignment that will provide greater schedule certainty during construction and result in lower long-term maintenance costs than an elevated guideway.

At some point during or after the completion of the FWLE/SR 509 Midway Project, the City of Seattle, ST, and WSDOT will engage in property ownership transfers. Through the transfers, ST will become owner of the rail alignment property currently held by WSDOT, and the City of Seattle will take ownership of all "orphaned" property currently owned by WSDOT that lies to the west of the FWLE alignment (subject to City Council approval).

FWLE/SR 509 Midway Project construction will impact landfill remedial infrastructure within the limits of work on the eastern border of the landfill. It will impact the landfill cap, gas collection

infrastructure, surface water management system, and monitoring network (gas probes and groundwater monitoring wells).

3.2 POTENTIAL FUTURE OPERATIONS AND MAINTENANCE FACILITY

ST is currently implementing a system-wide expansion of its Link light rail system throughout its service area in the Puget Sound Region. This expansion is part of the Sound Transit 3 (ST3) Plan for transit investments approved by the voters in 2016. To accommodate the ST3 light rail fleet expansion, two new Operations and Maintenance Facilities (OMF) are required—one in the north service area and one in the south service area.

The Midway Landfill property is one of three potential OMF locations currently under consideration in the south service area. OMF South sites are being evaluated through a State Environmental Policy Act (SEPA) Environmental Impact Statement (EIS) process. A preferred OMF South location is expected to be identified by the ST Board in late 2020. As part of the EIS process, multiple subsurface design construction methods for the Midway Landfill property are also being considered that would require substantial removal and replacement of the landfill cap system, and could likely include installation of pile-supported structures. If the ST Board were to select the Midway Landfill property as the project to construct, an additional CD and CAP Amendment would be required to define remedial requirements for the work.

4.0 Remedial Requirements for Development Actions

4.1 SPECIAL INSPECTION ENVIRONMENTAL PROFESSIONAL

An independent, special inspection environmental professional (Environmental Professional) must be present during all excavation activities at the Site. The Environmental Professional shall be knowledgeable in environmental sampling and waste classification. The Environmental Professional shall have the authority to identify potential waste material as described in Section 4, shall observe all excavation activities, and shall document all waste classification and relocation activities.

4.2 HEALTH AND SAFETY

All work that is conducted with a potential for worker direct contact with waste material must be conducted by workers that have current Hazardous Waste Operations and Emergency Response (HAZWOPER) health and safety training certification. This includes all work conducted below the existing landfill cap, for waste removal and landfill cap repair. Following HAZWOPER requirements, all work areas in which there is the potential to contact waste materials must be defined and marked as managed exclusion zones, with specific decontamination areas for personnel and equipment at the exit from exclusion zones. All companies working on the project must have a site-specific Health and Safety Plan defining requirements for personnel protection.

4.3 OVERBURDEN SOIL, SOIL WITHIN REFUSE, AND NATIVE SOIL REUSE

Three sources of soil within the FWLE Midway Project excavation are potentially usable as backfill:

Overburden Soil: Clean soil overburden, ranging from 2 to 14 feet thick, is present below the multi-layer landfill cover system and above the Landfill Material. The overburden soil was placed as part of re-grading the landfill surface in 1988 and 1989.

Landfill Soils: Zones of suitable soil, defined previously in Section 2.1, are present within the Landfill Material, based on exploratory borings drilled at the Site. It may be necessary to physically screen excavated Landfill Material to removed intermixed waste prior to use of Landfill Soils as backfill.

Native Soil: Undisturbed native soil may be encountered, and may need to be excavated, in some portions of the ST/WSDOT alignment. Excavated native soils would be available for use as backfill.

Overburden soils, Landfill Soils, and native soils may be visually identified, temporarily stockpiled onsite, and reused within the Sound Transit portion of the FWLE/SR 509 Midway Project limits provided it meets ST geotechnical requirements for structural fill and is materially free of landfill waste. Overburden soils and native soils, but not Landfill Soils, may be similarly used within the WSDOT portion of the FWLE/SR 509 Midway Project. The Environmental Professional shall

determine whether the excavated overburden and Landfill Soils are either materially free of MSW, and thus suitable for reuse as backfill, or is Landfill Material.

If excess Landfill Soils are not used as backfill on the Site, and it is determined that they must be disposed offsite, they must be disposed in accordance with the Waste and Soil Removal Plan (see below, Section 4.4.2).

Offsite disposal or beneficial use of excess overburden soils or undisturbed native soils will require that these materials be chemically characterized to determine suitability for reuse or disposal. For purposes of offsite reuse, chemical testing will be completed in accordance with the Waste and Soil removal Plan (see below, Section 4.4.2). For offsite disposal at a permitted Subtitle D landfill, the receiving facility will determine whether and what type of chemical testing is required.

4.4 WASTE AND SOILS REMOVAL AND RELOCATION

The FWLE/SR 509 Midway Project is anticipated to include the removal of MSW, Landfill Soils, and other soils (Section 4.3) from beneath the I-5 widening area and the planned ST alignment.

4.4.1 Onsite Disposal Requirements

Any wastes relocated within the Midway Landfill are exempt from landfill permit requirements in accordance with RCW 70.105D.090. However, any relocated waste must meet the substantive requirements of applicable or relevant and appropriate requirements (ARARs) for waste disposal. Municipal solid waste landfill closure criteria in WAC 173-351-500 has been determined to be relevant and appropriate, with the understanding that the requirements of this CAP Amendment – to replace the landfill cover system above relocated wastes, address landfill gas and surface water management – will meet the requirements of WAC 173-351 that are relevant and appropriate to this closed landfill. Other requirements of WAC 173-351 are not applicable to this Site.

4.4.2 Waste and Soil Removal Plan

A Waste and Soils Removal Plan (WSRP) shall be developed for the FWLE/SR 509 Midway Project for approval by Ecology. The WSRP will provide for the excavation and disposition of all overburden soil, native soil, and Landfill Material from the property to be acquired by ST and the WSDOT ROW to the east. The WSRP must specify detailed procedures for excavation, inspection, physical screening, relocation and disposal, stormwater controls, dust and odor control, chemical characterization, and loading, transportation, and disposal. The WSRP must identify acceptable disposal facilities and chemical characterization requirements for disposal.

MSW is anticipated to be visually identifiable by the presence of plastic bags, plastic, metal, wood, paper, organic debris, and other municipal waste materials. Once excavation of overburden soils reaches the top of waste, all material below the top of waste must be

considered Landfill Material, including MSW and Landfill Soils. The Environmental Professional will determine when the top of waste has been reached.

The FWLE/SR 509 Midway Project involves excavating waste to the bottom of waste in most project areas. The bottom of waste contact between Landfill Material and underlying non-Landfill Soils should be readily identifiable visually. The Environmental Professional will make the determination of when this contact has been reached.

It should be noted that in some areas native soil or imported clean fill placed for construction of I-5 will be encountered at land surface or shallow depth. The Midway Landfill was originally a gravel pit that was partially backfilled from the east during construction of I-5. A compacted backfill slope thus extends from I-5 westward beneath landfill waste.

The WSRP should include a sequencing approach for waste and soils removal. The sequencing approach should strive to minimize the amount of area open at any one time to air and rainfall.

Waste screening or segregation may be evaluated to separate intermixed Landfill Soils from MSW. If waste screening or segregation is proposed, the screening or segregation procedures should be described in the WSRP, and separated Landfill Soils that are designated to remain onsite must be managed in the same manner as Landfill Material, with final placement below the landfill cover system.

Excavated Landfill Material shall not be mixed with clean overburden and any inadvertently mixed soil shall be handled as Landfill Material.

Excavated Landfill Material is anticipated to be municipal, non-hazardous waste. However, there is a potential that hazardous waste could be present. If inspection by the Environmental Professional identifies the presence of free product, sealed or ruptured drums containing possible chemical waste, or other indicators of potential hazardous waste, excavation in the area shall be stopped, and the material in question stabilized, isolated, and moved to a location for chemical characterization. The Environmental Professional will determine the volume of suspect hazardous waste material to be moved for chemical characterization, based on visual observation or other relevant field monitoring methods.

The waste generator will be responsible to determine whether the material in question has the characteristics of hazardous waste in accordance with the Washington State Dangerous Waste Regulations (WAC 173-303). Any waste designating as a Dangerous or Extremely Hazardous Waste shall be manifested and treated or disposed at a permitted Treatment, Storage and Disposal Facility (e.g., RCRA Subtitle C disposal facility).

A Potential Hazardous Material Response Plan for all handling and chemical characterization of potentially dangerous waste will be developed for Ecology review and approval.

4.4.3 Stormwater Controls

The construction stormwater pollution prevention plan (SWPPP) shall require that open waste excavation areas be covered at the end of each workday, and when waste excavation is complete in each area of work. Excavation areas shall remain covered until backfilled. Covers shall be low permeability tarps, plastic sheeting, or equivalent, held in place by sandbags or similar weights, in accordance with best management practices identified in the Stormwater Management Manual for Western Washington.

4.4.4 Dust and Odor Control

During grading or excavation, dust and odor control procedures shall be implemented to ensure no visible dust is generated, air emissions do not exceed applicable air quality criteria, and noxious odors are limited to the work area. Dust and odor control procedures must include engineering controls to meet the substantive restrictions on offsite transport of airborne particulates by the local regulatory agency, the Puget Sound Clean Air Agency (PSCAA). Further, regardless of whether any asbestos is identified, an Asbestos/Demolition Notification and filing fee must be submitted to PSCAA electronically before waste removal begins.

Dust and odor control procedures could include water misting or equivalent, wetting or covering exposed soils and stockpiles. Odor management foam, its application equipment and water source must be present on-site and ready to be implemented at any time during waste excavation.

4.4.5 Waste Loading, Transportation, and Disposal

All non-hazardous waste removed from the Site shall be disposed of offsite at a permitted Subtitle D landfill, which must be identified in the WSRP. Waste shall be direct loaded to trucks or containers whenever possible. Waste material shall be transported by a contractor licensed and insured/bonded for waste transportation, with a site-specific Waste Clearance acquired from the Seattle-King County Department Public Health.

Temporarily stockpiled soils of any type must be covered in accordance with the SWPPP.

Any material that is characterized as Dangerous or Extremely Hazardous waste shall be segregated, containerized, transported, and disposed of offsite at a permitted Subtitle C landfill or Treatment, Storage, and Disposal Facility, utilizing the specific manifesting, characterization, containerization, transportation, and disposal requirements of the receiving facility. If hazardous waste is identified, the waste generator shall comply with EPA's Hazardous Waste Manifest System including obtaining a RCRA Identification Number. Adherence to EPA's Off-Site Rule (40 CFR 300.440), which specifies advance coordination for determining whether facilities are acceptable for the receipt of any waste, will also be required.

4.5 INFILTRATION BARRIER

A low-permeability infiltration barrier must be constructed above any areas of the planned WSDOT and ST properties that contain landfill waste or Landfill Soils (Section 4.4.2.) or where surface water infiltration must be controlled as part of the landfill remedy. Essentially the infiltration barrier must replicate the current area of coverage, extending from the eastern edge of the proposed excavation area to the western edge of the existing shoulder of I-5. An effective infiltration barrier shall be designed that is consistent with backfill specifications for the road and rail projects, including one or more of the following elements - pavement, low permeability soil, and/or geomembrane - as approved by Ecology.

4.6 LANDFILL COVER SYSTEM

The landfill cover system shall be protected, or removed and replaced, in a manner that meets the original objectives of the landfill cover system to prevent infiltration, prevent direct contact with waste, enable gas collection, and manage surface water runoff in areas that will contain Landfill Material after the FWLE/SR 509 Project is complete. Where the landfill cover is removed and replaced, the replacement cover system shall match the existing cover system construction details or be constructed of substitute materials and details to provide equivalent protection.

Where the existing landfill cover system is cut, the areas to remain shall be protected in a manner to prevent damage and allow overlap and secure connection with the new replacement materials. As part of the FWLE/SR 509 Midway Project, a landfill cover system shall be replaced on the new easterly landfill slope, constructed to match the original cover design (Section 2.3) or equivalent system, with Ecology approval. There must be a two-year guarantee for plant establishment.

The new membrane shall be connected to the existing membrane with a welded connection, and with overlap, welding specifications, and welding construction quality assurance that meet geomembrane manufacturer requirements.

If the slope of the landfill cover is increased from the maximum slope allowed by the original construction details, documentation shall be provided that demonstrates that the proposed slope and construction detail will be acceptable for membrane tension, plant establishment, and operations and maintenance.

The final cover design shall be approved by Ecology.

4.7 LANDFILL GAS EXTRACTION SYSTEM AND GAS MONITORING PROBES

The FWLE/SR 509 Midway Project shall be designed and constructed in a manner that maintains or improves the current ability to capture and monitor gas within the project area. The project shall avoid disturbance of gas collection infrastructure where possible and replace gas collection infrastructure in kind where disturbance is unavoidable. At the completion of construction, all

landfill gas collection infrastructure will be located on property currently owned by or to be acquired by the City of Seattle.

In addition, the FWLE/SR 509 Midway Project shall install a north-south perimeter gas collection pipe at the edge of waste, below the landfill cover system to minimize the potential for gas migration past the landfill boundary. This gas collection pipe shall be equipped with laterals to connect to the existing extraction system at west edge of FWLE/SR 509 Project limits. Other gas system elements may need to be constructed to achieve the same level of gas control as currently exists. Replacement and new gas collection infrastructure shall address management of condensate, utilizing details compatible with the existing landfill systems.

During construction, the FWLE/SR 509 Midway Project Contractor shall coordinate closely with the City of Seattle landfill operations staff to provide detailed project schedule and sequencing information. During all periods in which the landfill cover is removed, waste is being excavated, and there is the potential for increase in oxygen within landfill waste, existing landfill gas systems will be monitored to ensure against potentially dangerous levels of air flow through waste that could lead to spontaneous combustion.

All electrical infrastructure constructed as part of the FWLE/SR 509 Midway Project shall include protection details and code compliance appropriate to the presence of flammable landfill gas.

4.8 SURFACE WATER MANAGEMENT

All construction will be conducted under the requirements of an Ecology NPDES construction stormwater general permit (CSWGP). A site-specific Temporary Erosion and Sediment and Erosion Control Plan (TESC) must be developed for the FWLE/SR 509 Midway Project area. This plan shall specify stormwater controls that minimize entry of stormwater run-on into waste handling areas, and areas where the landfill cap has been removed. Stormwater that contacts waste must be collected, treated, and discharged in accordance with requirements of permits applicable to the discharge location.

The FWLE/SR 509 Midway Project shall be designed and constructed to prevent stormwater from the Project area infiltrating into the landfill following construction completion. Stormwater from the Project area shall not accumulate on the infiltration barrier described in Section 4.5, or be allowed to infiltrate.

Surface water management improvements shall be constructed as part of the FWLE/SR 509 Midway Project to collect all surface runoff from the eastern portion of the landfill, and the property between the landfill and I-5, for discharge away from the Project area in accordance with all applicable regulations regarding water quality and quantity. Subsurface drainage from above the landfill cap and low permeability barriers will be similarly collected and conveyed.

In addition, the FWLE/SR 509 Midway Project is anticipated to demolish two existing 24-inch-diameter pipes that drain across the project area into the North Pond. The FWLE/SR 509 Midway

Project shall replace these pipes with a system that meets or exceeds current conveyance, and are capable of conveying the new peak design flow.

4.9 GROUNDWATER MONITORING WELLS

The FWLE/SR 509 Midway Project shall avoid disturbance of groundwater monitoring wells where possible. Where disturbance of groundwater monitoring wells is unavoidable, groundwater monitoring wells shall be protected, with modified surface completion performed by a licensed well driller.

If it is not possible to protect a groundwater monitoring well, it must be formally decommissioned by a licensed well driller, in accordance with WAC 173-160-381. The need for monitoring well abandonment must be communicated to Ecology's project manager. Ecology will determine whether a replacement monitoring well must be installed, and if so, provide details for its construction. Any new monitoring well must be installed by a licensed well driller in accordance with WAC 173-160.

4.10 ACCESS CONTROL

Public access to the landfill property must be prevented at all times, unless entry has been authorized. During construction, it is particularly important that public access to waste excavation and support activity areas be restricted.

Design for the FWLE/SR 509 Midway Project shall include replacement of the perimeter fence, in kind or equivalent, as approved by Ecology.

4.11 CONSTRUCTION QUALITY ASSURANCE

Construction quality assurance must be provided to ensure construction is completed in accordance with the requirements of this CAP Amendment and construction plans and specifications. Construction quality assurance shall include materials testing, construction inspections, and documentation. A Construction Quality Assurance Plan shall be provided for Ecology approval as described in Section 5.0.

5.0 Required Pre-Construction Submittals for Ecology Approval

The items listed below must be completed and any applicable documentation provided to Ecology for review and approval. A minimum of two calendar weeks should be assumed for review and approval of each item. Comments received on the Engineering Design Report may be addressed in development of the 90/100% Construction Documents and Related Plans. The 90/100% Construction Documents and Related Plans must be approved by Ecology prior to construction notice to proceed.

1. Engineering Design Report for Remedial Requirements. The Engineering Design Report shall include the following components:
 - A. Narrative description of construction approach and conceptual design details for each remedial requirement defined in Section 4.0 of this CAP Amendment. The narrative shall clearly describe how performance conditions for each remedial requirement will be met.
 - B. Conceptual plan and work area cross sections.
 - C. Identification of disposal facilities.
 - D. Schedule.
2. Stake out on the property the following lines for onsite review with Ecology and the City of Seattle: compatibility limit with WSDOT; ST guideway edges; location of edge of waste barrier; and limit of FWLE/SR 509 Midway Project construction limits. Flag and identify all landfill infrastructure within and adjacent to construction limits.
3. 90/100% Construction Documents (Permit Set) and Related Plans, including:
 - A. Temporary Erosion and Sediment Control Plan
 - B. SWPPP
 - C. WSRP
 - D. Potential Hazardous Material Response Plan
 - E. Construction Quality Assurance Plan
 - F. Contractor Health and Safety Plan
4. Materials submittals for primary material and equipment to be utilized to fulfil remedial requirements.

6.0 Construction Completion Report

Following completion of construction, draft and final versions of a formal Construction Completion Report must be prepared and submitted to Ecology for review and approval. The Construction Completion Report must comply with WAC 173-340-400(6)(b) and include:

- A narrative description of construction for all remedial elements.
- A description of all modifications from the approved 90/100% Construction Documents.
- Representative photographs of the landfill cap system and perimeter barrier.
- Documentation of waste quantities and disposal locations.
- Chemical characterization data if applicable.
- Documentation of soil acceptance and compaction testing and geomembrane and geotextile conformance and installation testing for the landfill.
- Record drawings showing final construction details for the landfill cover, stormwater system, gas collection system, and monitoring well network.
- Record drawings showing where each type of soil or material has been placed (Landfill Material, Landfill Soils, overburden soil, native soil, and imported backfill).
- Topographic survey of the entire landfill and Project area that depicts the surface and slope of the landfill; structures, streets, and the rail alignment; and drainage infrastructure, pathways, and surface water features.
- Boundary survey of current and proposed or revised property boundaries associated with the FWLE/SR 509 Midway Project. The boundary survey must be approved by a licensed land surveyor.
- Monitoring well and gas probe decommissioning or installation logs and records

7.0 Environmental Covenant and Financial Assurance

New environmental covenants shall be prepared for the City's landfill property and the Sound Transit FWLE property that may contain residual waste, Landfill Material, or remedial action elements (e.g., infiltration barrier) in accordance with Uniform Environmental Covenants Act in RCW 64.70. WAC 173-340-440(8)(b), and applicable guidance from Ecology. Similarly, an environmental covenant alternative shall be prepared for WSDOT properties that will contain remedial action elements in accordance with the October 2016 Implementing Agreement between Ecology and WSDOT Regarding the Use of Environmental Covenant Alternatives at WSDOT Sites (2016 Agreement).

The protective provisions required in the environmental covenant(s) will be established by Ecology and include the requirements in WAC 173-351-500(1)(h) and other restrictions. The environmental covenant(s) will:

- State that the document is an environmental covenant executed pursuant to chapter 64.70 RC
- Contain a legally sufficient description of the real property subject to the covenant
- Designate Ecology, or other person approved by Ecology, as the holder of the covenant
- Be signed by Ecology, and, unless waived by the department, every owner of a fee simple interest in the real property subject to the covenant
- Identify the name and location of the administrative record for the property subject to the environmental covenant
- Provide notice to Ecology of any proposed property transfer
- Allow no property transfer without provision for continued operation and maintenance of the landfill remedial elements, unless approved by Ecology
- Identify the property, in perpetuity, as having been on the National Properties List (NPL) site
- Provide notice that no water supply well may be installed on the property
- Describe with specificity the activity or use limitations on the real property subject to the covenant. At a minimum, this shall prohibit uses and activities that:
 - Threaten the integrity of any cover, waste containment, stormwater control, gas, leachate, public access control, or environmental monitoring systems;
 - May interfere with the operation and maintenance, monitoring, or other measures necessary to assure the integrity of the MSWLF unit and continued protection of human health and the environment; and
 - May result in the release of solid waste constituents or otherwise exacerbate exposures.

Ecology may also require new provisions based on the FWLE construction/operation or other environmental factors. All environmental covenants shall be filed with the King County Recorder.

Any environmental covenant alternative established with WSDOT will be incorporated into WSDOT's Parcel Restriction System as described in the 2016 Agreement, and will include applicable elements of the restrictions and requirements noted above.

In accordance with WAC 173-340-440(11), financial assurance is required at the Site in a sufficient amount to cover all costs associated with the operation and maintenance of the cleanup action, including institutional controls, compliance monitoring, and corrective measures.

DRAFT

8.0 Amended Operations and Maintenance Plan and Compliance Monitoring Plan

Following completion of the FWLE/SR 509 Midway Project construction, a revised or new Operations and Maintenance Plan (OMP) and a revised Compliance Monitoring Plan (CMP) will be submitted for Ecology review and approval. The revised or new plans will include all relevant elements in the existing plans, and any new element associated with ST or WSDOT operations or with construction changes.

In the event that future construction and/or operations and maintenance activities are performed by either ST or WSDOT within the FWLE/SR 509 Midway Project area, the remedial elements of the landfill designed and installed in accordance with the CAP and this CAP Amendment shall remain protected or replaced in kind. These elements include any portions or components of the landfill cover system, gas extraction system, surface water management system, and monitoring network. Any modification or replacement of these elements shall be proposed to, reviewed, and approved by Ecology.

DRAFT

9.0 References

U.S. Environmental Protection Agency (USEPA), 2000, Record of Decision (ROD) for Midway Landfill Site, September 6, 2000.

Washington State Department of Ecology (Ecology), 1990, Consent Decree (CD) No. 90-2-13283-8 between Ecology and City of Seattle, May 29, 1990.

Washington State Department of Ecology (Ecology), 2006, Amendment No. 1 to Consent Decree No. 90-2-13283-8 between Ecology and City of Seattle, February 3, 2006.

DRAFT

List of Figures

Figure 1: Midway Landfill Location Map

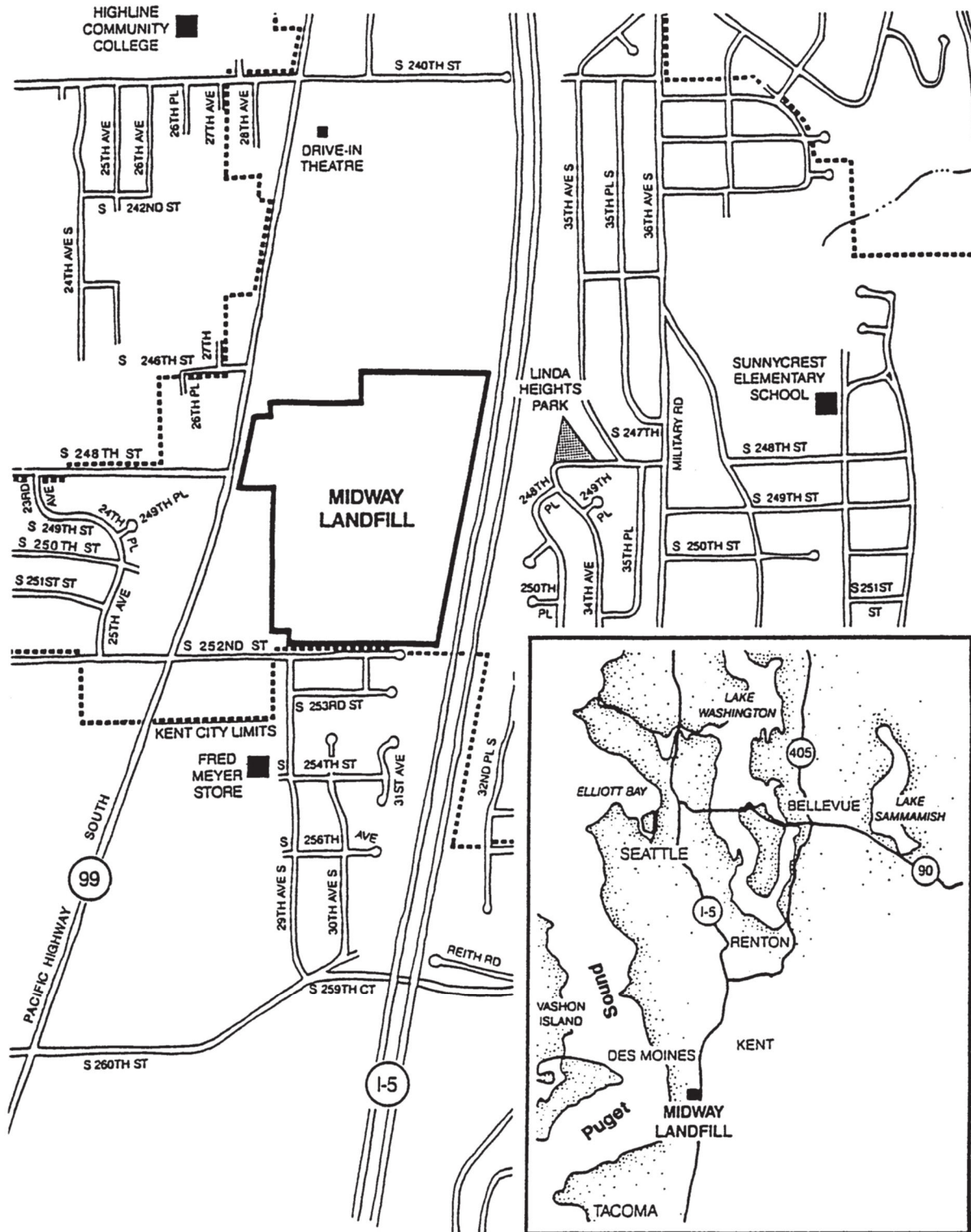


Figure 2: FWLE/SR-509 Midway Project Components



Figure 3: Conceptual Waste Removal and Backfill Cross Section

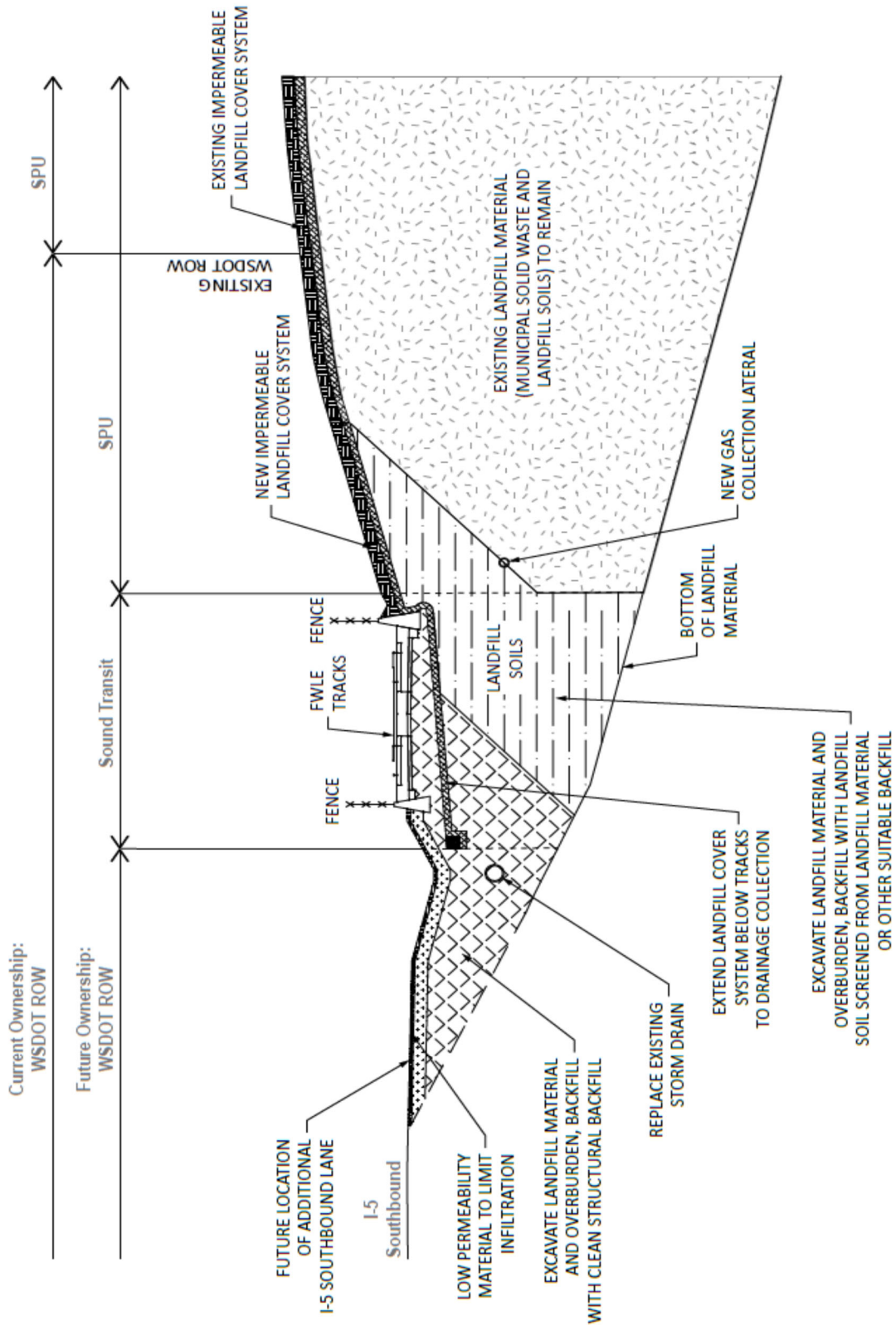


EXHIBIT F
to Amendment No. 2 to
Midway Landfill Site Consent Decree

EXHIBIT D
to Sound Transit
Prospective Purchaser Consent Decree

(Scope of Work and Schedule)

**EXHIBIT F to Amendment No. 2 to Midway Landfill Site
Consent Decree
EXHIBIT D to Sound Transit Prospective Purchaser
Consent Decree**

**SCOPE OF WORK AND SCHEDULE
FOR IMPLEMENTATION OF CLEANUP ACTION PLAN AMENDMENT NO. 1
MIDWAY LANDFILL – FWLE/SR 509 MIDWAY PROJECT**

This Scope of Work establishes the deliverables necessary to implement the requirements of the Cleanup Action Plan Amendment No. 1 (CAP Amendment) for the Midway Landfill Site – FWLE/SR 509 Midway Project. Deliverables shall be prepared in accordance with WAC 173-340-840, General Submittal Requirements, for approval by Ecology. The Schedule of Deliverables is attached. Also attached is a table designating the lead role, as between the City of Seattle and Sound Transit, in performing the tasks described in the CAP Amendment and this Scope of Work.

Task I. Engineering Design Report

Contents of the Engineering Design Report shall be as specified in CAP Amendment Section 5.0. This report shall include sufficient information for the development and review of construction plans and specifications in general accordance with WAC 173-340-400(4)(a). It shall document engineering concepts and design criteria used for the design of the cleanup action.

Deliverables: Engineering Design Report – Draft and Final

Task II. 90/100% Construction Plans and Specifications (Permit Set)

The 90/100% Construction Documents shall be submitted for review by Ecology. These shall be prepared in conformance with currently accepted engineering practices and techniques and shall include the requirements under WAC 173-340-400(4)(b). A response to comments document shall be provided for approval by Ecology, describing how comments received will be addressed in the final Issued for Construction (IFC) Set. The final IFC Set will be provided to Ecology.

Deliverables: 90/100% Construction Plans and Specifications
Response to Ecology Comments
Issued for Construction Plans and Specifications

Task III. Construction Work Plans

Construction Work Plans for the FWLE/SR 509 Midway Project shall be as defined in CAP Amendment Section 5.0. These plans, except for the Health and Safety Plan, shall be approved by Ecology prior to construction notice to proceed. Required Work Plans include the following:

1. Stormwater Pollution Prevention Plan (SWPPP), in compliance with requirements for the Construction Stormwater General Permit.
2. Temporary Erosion and Sediment Control Plan, in accordance with the requirements of the CAP Amendment.
3. Waste and Soils Removal Plan describing detailed waste removal and segregation procedures, screening of suspect material, transportation and disposal details, in accordance with the requirements of the CAP Amendment.
4. Potential Hazardous Material Response Plan for characterization of potentially characteristic hazardous waste, in accordance with CAP Amendment requirements, WAC 173-303.
5. Construction Quality Assurance Plan, defining testing and documentation requirements to ensure construction quality in accordance with CAP Amendment
6. Health and Safety Plan - This plan is required for remedial actions as specified in WAC 173-340-810.

Deliverables: Temporary Erosion and Sediment Control Plan – Draft and Final
Stormwater Pollution Prevention Plan – Draft and Final
Waste and Soils Removal Plan – Draft and Final
Potential Hazardous Material Response Plan – Draft and Final
Construction Quality Assurance Plan – Draft and Final
Health and Safety Plan

Task IV. Implementation of the Cleanup Action

Construction shall be conducted in accordance with the plans and specifications prepared under this Scope of Work (the Issued for Construction – IFC- set).

Material submittals shall be submitted for approval per CAP Amendment Section 5.0.

Detailed records shall be kept of all aspects of the work performed during the operation and construction including materials used, items installed, test and measurements performed.

Status reports shall be submitted monthly throughout the construction duration. The status reports shall provide a description of work completed

during the month; work to be completed the next month; approved change orders; potential future difficulties potentially requiring changes to the approved plans and specifications; contacts with the public or other regulatory agencies; and any other information required under Section VI.F of the Prospective Purchaser Consent Decree or relevant to completion of the project per the CAP Amendment.

Deliverables: Material Submittals
Status Reports

Task V. Construction Completion Report

At the completion of construction, a Construction Completion Report is required to document all work performed in accordance with the CAP Amendment. The Construction Completion Report shall meet the requirements of Section 6.0 of the CAP Amendment and documentation shall be in accordance with WAC 173-340-400(6)(b).

Deliverables: Construction Completion Report – Draft and Final

Task VI. Amended Operations and Maintenance Plan (O&M Plan)

This document will be an update of the current plan incorporating the modifications required to maintain effective remedial operations under WAC 173-340-400(4)(c)(xii). This document will also outline roles and responsibilities of the City of Seattle, Sound Transit, and WSDOT with respect to their properties. A primary focus of the Amended Operations and Maintenance Plan will be requirements for inspection and maintenance of the remedial elements within the FWLE/SR 509 Midway Project limits.

Deliverables: Amended Operations and Maintenance Plan – Draft and Final

Task VII. Amended Midway Landfill Compliance Monitoring Plan

This document will be an update of the current Midway Landfill Monitoring Plan, incorporating modifications necessitated by the removal, replacement, or re-location of monitoring stations under the FWLE/SR 509 Midway Project. Additional changes may be made in response to recommendations in the periodic review to be issued by the USEPA in 2020.

Deliverables: Amended Compliance Monitoring Plan – Draft and Final

Task VIII. Environmental Covenant

New Environmental Covenants will be placed on City of Seattle and Sound Transit properties within the Midway Landfill Site as specified in CAP Amendment Section 7.0, Section XIX of the Consent Decree, and Section VI.E of the Prospective Purchaser Consent Decree. The Environmental Covenants shall be recorded according to the Schedule of Deliverables. A copy of the recorded Environmental Covenants shall be provided to Ecology within (30) days of the recording dates.

Deliverables: Recorded Environmental Covenant – City of Seattle
Recorded Environmental Covenant – Sound Transit

Task IX. Financial Assurance

Financial assurance will be provided for the Site as described in the CAP Amendment and Section C of the Second Amendment to the Midway Landfill Site Consent Decree.

Deliverables: Financial Assurance Cost Estimate
Financial Assurance Mechanism

SCHEDULE OF DELIVERABLES

A minimum of 2 weeks shall be provided for Ecology review of all required deliverables

Effective Date of Consent Decree	Start
Task I	
Engineering Design Report - Draft	60 days from Start
Engineering Design Report - Final	60 days following receipt of Ecology comments
Task II	
90/100% Construction Documents	Per FWLE/SR 509 Schedule
Response to Comments Document	30 days following receipt of Ecology comments
IFC Construction Documents	Per FWLE/SR 509 Schedule
Task III	
Construction Work Plans – Draft	Per FWLE/SR 509 Schedule
Construction Work Plans - Final	30 days following receipt of Ecology comments
Note: Ecology approval must be received on Task II Response to Comments Document and Task III Final Construction Work Plans prior to Construction NTP at the Midway Landfill Site.	
Tasks IV and V	
Construction Status Reports	By the 15 th day of each month during construction
Construction Completion Report – Draft	Within 60 days of completing construction for the FWLE/SR 509 Midway Project
Construction Completion Report - Final	Within 60 days following receipt of Ecology comments
Tasks VI and VII	
Amended O&M Plan – Draft Amended ML Monitoring Plan - Draft	Concurrent with Final Construction Completion Report
Amended O&M Plan – Final Amended ML Monitoring Plan - Final	Within 60 days following receipt of Ecology comments
Task VIII	
Environmental Covenants – Draft	Concurrent with Final Construction Completion Report
Environmental Covenants Recorded	Within 60 days following receipt of Ecology comments, or within 30 days of property transfer following construction completion, whichever is later.
Task IX	
Financial Assurance Cost Estimate	60 days from Start
Financial Assurance Mechanism	60 days after Ecology approval of cost estimate

**SR 509 / FWLE Project Lead Parties
for Implementation of CAP Amendment No. 1**

Activity / Deliverable	Citation	Lead Party
Capital construction of SR 509 / FWLE Project within the Project Area consistent with CAP Amendment, including: <ul style="list-style-type: none"> • Overburden soil, landfill soil and native soil reuse; • Waste and soil removal, disposal and relocation; • Infiltration barrier; • Landfill cover system; • Landfill gas extraction system; • Surface water management; • Groundwater monitoring wells; • Health and safety; • Access control; and • Construction quality assurance. 	CAP Amendment Section 4.0	Sound Transit
Retaining Environmental Professional	CAP Amendment Section 4.0	City of Seattle
Waste and Soils Removal Plan	CAP Amendment Section 4.4.2	Sound Transit (Kiewit)
Characterization of any potential hazardous waste for purposes of disposal	CAP Amendment Section 4.4.2	City of Seattle
Potential Hazardous Material Response Plan for handling and characterization of potentially dangerous waste	CAP Amendment Section 4.4.2	City of Seattle
Manifesting, containerization, transportation and disposal of any Dangerous or Extremely Hazardous Waste	CAP Amendment Section 4.4.5	Sound Transit (with City of Seattle as generator)
Construction Stormwater Pollution Prevention Plan	CAP Amendment Section 4.4.5	Sound Transit (Kiewit)
Temporary Erosion and Sediment and Erosion Control Plan	CAP Amendment Section 4.8	Sound Transit (Kiewit)

Activity / Deliverable	Citation	Lead Party
Construction Quality Assurance Plan	CAP Amendment Section 4.11	Sound Transit (Kiewit)
Engineering Design Report for Remedial Requirements	CAP Amendment Section 5.0	Sound Transit (Kiewit)
90/100% Construction Documents (Permit Set) and Related Construction Work Plans	CAP Amendment Section 5.0	Sound Transit (Kiewit)
Materials submittals for primary material and equipment to be used	CAP Amendment Section 5.0	Sound Transit (Kiewit)
Construction Completion Report	CAP Amendment Section 6.0	Sound Transit (Kiewit)
Environmental Covenant for property to be acquired by Sound Transit	CAP Amendment Section 7.0 / PPCD Section VI.E	Sound Transit
Environmental Covenant for property to be acquired by City of Seattle	CAP Amendment Section 7.0 / CD Amendment Section XIX	City of Seattle
<i>(Listed for informational purposes*)</i> Environmental covenant alternative for remaining WSDOT property	<i>(Listed for informational purposes*)</i> CAP Amendment Section 7.0	<i>(Listed for informational purposes*)</i> WSDOT (*WSDOT is not subject to Exhibit C; Ecology will oversee implementation outside of CD Amendment/PPCD)
Financial Assurance	CAP Amendment Section 7.0	City of Seattle
Amended Operations and Maintenance Plan (OMP)	CAP Amendment Section 8.0	City of Seattle
Amended Compliance Monitoring Plan (CMP)	CAP Amendment Section 8.0	City of Seattle
Ongoing O&M of remedial action elements, e.g., landfill cover, landfill gas collection system, surface water management system outside of Subject Property (as defined in Sound Transit PPCD)	As provided in CMP/OMP	City of Seattle

Ongoing O&M of remedial action elements, e.g., landfill cover, surface water management system within Subject Property (as defined in Sound Transit PPCD)	As provided in OMP	Sound Transit
Ongoing Compliance Monitoring	As provided in CMP	City of Seattle