

EXHIBIT E
to Sound Transit
Prospective Purchaser Consent Decree

**(Permits and Applicable or Relevant
and Appropriate Requirements (ARARs))**

EXHIBIT E

PERMITS AND APPLICABLE OR RELEVANT AND APPROPRIATE REQUIREMENTS (ARARs) FWLE/SR 509 MIDWAY PROJECT MIDWAY LANDFILL

The cleanup action to be performed at the Site requires the following permits and environmental review processes. This Exhibit identifies regulations that must be considered. These elements are identified as of the date of this Prospective Purchaser Consent Decree. Additional elements may be identified in the future during project design and construction phases.

PERMITS

NPDES Construction Stormwater General Permit

The cleanup action requires coverage under the National Pollution Discharge Elimination System (NPDES) Construction Stormwater General Permit. Construction projects that disturb more than 1 acre must obtain coverage under the NPDES construction stormwater permit. The NPDES permit program is delegated to Washington State by the federal Environmental Protection Agency under the federal Clean Water Act, §1251 et seq. Ecology administers the federal NPDES regulation in Washington State. Pursuant to RCW 70.105D.090(2), Ecology has determined that MTCAs are not exempt from the procedural requirements of an NPDES permit. The cleanup action will be conducted under the requirements of the NPDES Construction Stormwater General Permit No. WAR307947, which has already been issued by Ecology for the overall Sound Transit Federal Way Link Extension project, with companion Administrative Order Docket Number 16630.

Puget Sound Clean Air Agency

Puget Sound Clean Air Agency (PSCAA) is the lead agency for regulation of air emissions, pursuant to PSCAA Regulations I, II, and III. Under PSCAA Regulation I, A Notice of Construction is required to evaluate new sources, including landfill gas systems. PSCAA issued Order of Approval No. 11400 for operation of the landfill gas system at Midway Landfill. The Order of Approval defines minimum operating requirements for the landfill gas flare, minimum destruction requirements for non-methane organic compounds, notification requirements, and an operation and maintenance plan. Modified operation of the landfill gas system is anticipated during the cleanup action to limit the intrusion of ambient air, while maintaining the control and recovery of explosive gases. The landfill gas collection system will be modified during the cleanup action. The operations and maintenance manual for the landfill gas system should be amended as warranted for construction activities, and revised following completion of construction activities.

ARARS

Criteria for Municipal Solid Waste Landfills

Midway Landfill operated from 1966 to 1983. The landfill began operations before the implementation of Chapter 173-301 (Regulations Relating to Minimum Functional Standards for Solid Waste Handling) of the Washington Administrative Code (WAC) in 1972, and stopped accepting waste before the enactment of the federal Hazardous and Solid Waste Amendments Act in 1984. As the jurisdictional health department, Public Health – Seattle & King County (PHSKC), or its predecessor, was responsible for permitting the landfill in accordance with WAC 173-301. PHSKC no longer permits Midway Landfill.

The final landfill cover for Midway Landfill was constructed between October 1989 and May 1991, after the implementation of Chapter 173-304 WAC (Minimum Functional Standards for Solid Waste Handling) on November 27, 1985 and the repeal of Chapter 173-301 WAC in 1985. Chapter 173-304 WAC was last updated on October 4, 1988, and has been superseded by Chapter 173-351 WAC (Criteria for Municipal Solid Waste Landfills) and Chapter 173-350 WAC (Solid Waste Handling Standards).

Chapter 173-351 WAC (Criteria for Municipal Solid Waste Landfills) was implemented on April 9, 1994, following enactment of the federal Hazardous and Solid Waste Amendments Act in 1984 and the subsequent development of federal Subtitle D municipal solid waste landfill standards in October 1991. The closure criteria in WAC 173-351-500(1)(a) are relevant and appropriate requirements for all landfill disturbing activities during the cleanup action.

Operating, groundwater monitoring, post-closure care, and financial assurance requirements in WAC 173-351 are not specifically applicable as ARARs following disturbance of the landfill cover during the FWLE/SR 509 Midway project.

Dangerous Waste Regulations

Seattle Public Utilities reported that the Site was used primarily for disposal of demolition debris, wood waste and yard waste, although there was also the disposal of some industrial wastes at the site. Some hazardous wastes and industrial wastes, including approximately 2,000,000 gallons of bulk industrial liquids from a single source were placed in the landfill. After the enactment of the Resource Conservation and Recovery Act (RCRA) in 1976, PHKSC administrated a state-mandated screening process to eliminate the disposal of hazardous waste into the landfill in 1980.

Ecology has primacy for implementation of the federal Resource Conservation and Recovery Act (RCRA) in accordance with Chapter 173-303 WAC (Dangerous Waste Regulations). Any excavated waste that is potentially hazardous, based on the presence of free product, sealed or ruptured drums containing possible chemical waste, or other indicators of potential hazardous waste, shall be stabilized, isolated, and moved to a location for chemical characterization in accordance with 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).

Construction and Maintenance of Wells and Geotechnical Borings

Groundwater monitoring wells shall be decommissioned and constructed in accordance with Chapter 173-160 WAC (Minimum Standards for Construction and Maintenance of Wells). WAC 173-160, Part Two addresses general requirements for resource protection wells and geotechnical soil borings.

Occupational Safety and Health Standards

Contractors shall develop site safety and health plans in accordance with WAC 296-62 and 29 CFR 1910.120 that address occupational safety for all pertinent work elements performed.

ARARs CHECKLIST

Potential Chemical-Specific Applicable or Appropriate and Relevant Regulations (ARARs)

- National Ambient Air Quality Standards [40 Code of Federal Regulations (CFR) 50]
- Federal Regulations Implementing the Toxic Substance Control Act (TSCA) (40 CFR 700-799, as applicable)
- State Dangerous Waste Regulations [Washington Administrative Code (WAC) 173-303]
- Washington State Minimal Functional Standards for Landfills (WAC 173-304-460)
- Puget Sound Clean Air Agency (PSCAA) Notice of Construction (Regulation I)
- PSCAA Emission Standards for Toxic Air Pollutants (Regulation II)
- King County Board of Health Regulations (Title 10)

Potential Action-Specific ARARs

- Federal Occupational Safety and Health Standards (29 CFR 1910.120)
- State Occupational Health Standards (WAC 296-62)
- Well Construction and Decommissioning Standards (WAC 173-160, Part Two)
- State Particulate Matter Standards (WAC 173-470)
- PSCAA Fugitive Dust Standards (Regulation I)
- National Pollution Discharge Elimination System (NPDES) Permit (WAC 173-220)
- State Waste Discharge General Permit Program (WAC 173-226)
- Industrial Waste Discharge to King County Sewer System [King County Code (KCC) 28.84.060]
- Highway Access Management Permit (WAC 468-51)

Potential City of Kent-Specific ARARs

- Grading permit
- Water Connection (Kent City Code 7.02)
- Sanitary Sewer Connection (Kent City Code 7.04)
- Electrical Service Connection (Kent City Code 7.10)
- Building Codes (Kent City Code Title 14, as applicable)
- Environmental Management (Kent City Code Title 11, as applicable)
- Noise Control (Kent City Code 8.05)