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STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY  
PO Box 47775 • Olympia, Washington 98504-7775 • 360-407-6300  
Call 711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

April 1, 2021

Michael Swartz  
Federal Way Public Schools  
33330 8th Ave S  
Federal Way, WA 98003  
[mswartz@fwps.org](mailto:mswartz@fwps.org)

**Re: Acceptance of VCP Application for the following Contaminated Site:**

- **Site Name:** Olympic View Elementary Federal Way
- **Site Address:** 2626 SW 327th St, Federal Way, King County, WA 98023
- **Facility/Site ID:** 77894
- **Cleanup Site ID:** 15410
- **VCP Project ID:** NW3305

Dear Michael Swartz:

The Department of Ecology (Ecology) has accepted your application to the Standard process of the Voluntary Cleanup Program (VCP) for the Olympic View Elementary Federal Way facility (Site). We applaud your initiative and welcome your interest in the VCP. This letter provides important information on how we will review your VCP cleanup project (Project) at the Site.

## Agreement

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We completed and signed your Standard VCP agreement for the project on **March 10, 2021**. This date is the effective date of the agreement. A copy of your signed agreement is [enclosed](#).

## Identification Numbers

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We have assigned a unique name and number to your Site. This information is listed on the first page of your VCP agreement ([enclosed](#)). When contacting us, please reference this information to identify your project.

## Communications

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Unless otherwise requested, we will communicate directly with your project manager, Michael Swartz, as listed on your VCP application form. If you replace your project manager, or their contact information changes, please submit a completed [change of contact form](#).<sup>1</sup>

We have designated the following site manager to respond to your requests:

Eva Barber  
Toxic Cleanup Program, Southwest Regional Office  
PO Box 47775  
Olympia, WA 98504-7775  
Phone: (360) 407-7094  
E-mail: [eva.barber@ecy.wa.gov](mailto:eva.barber@ecy.wa.gov)

## Requests for Written Opinions

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In your application, you requested a written opinion on the sufficiency of your Remedial Action Work Plan. We will review your submitted document(s) and expect to provide a written response within approximately 90 days.

## Reporting Requirements

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When requesting written opinions, you must comply with the following reporting requirements to avoid unnecessary delays in the VCP process:

- **Licensing.** You must submit documents containing geologic and hydrogeologic work and engineering work under the seal of an appropriately licensed professional, as required by chapters [18.220](#)<sup>2</sup> and [18.43](#)<sup>3</sup> RCW.
- **Data Submittal.** You must submit environmental data to our [Environmental Information Management](#) (EIM) system.<sup>4</sup> The [Toxics Cleanup Program Policy 840](#)<sup>5</sup> describes data submittal requirements. Please visit the [EIM Submit Data webpage](#)<sup>6</sup> for data submittal instructions.

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<sup>1</sup> <https://fortress.wa.gov/ecy/publications/documents/ecy070218.pdf>

<sup>2</sup> <https://apps.leg.wa.gov/RCW/default.aspx?cite=18.220>

<sup>3</sup> <https://apps.leg.wa.gov/RCW/default.aspx?cite=18.43>

<sup>4</sup> <https://ecology.wa.gov/eim>

<sup>5</sup> <https://fortress.wa.gov/ecy/publications/SummaryPages/1609050.html>

<sup>6</sup> <https://ecology.wa.gov/Research-Data/Data-resources/Environmental-Information-Management-database/EIM-submit-data>

## Payment

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We will send monthly invoices to the billing contact listed in your VCP application form. Payment is due within 30 calendar days of the date of each invoice. Our invoices include a summary of costs incurred, payments received, names of staff billing to the project, and the time spent on the project during the previous month.

If you replace your billing contact or their contact information changes, you must submit a completed change of contact form.

## Independent Remedial Action Grants and Cultural Resource Compliance Review

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You may qualify for an Independent Remedial Action Grant from Ecology after completing an independent cleanup and receiving a no further action opinion from us. We accept grant applications continuously. Visit our [Grants & loans webpage](#)<sup>7</sup> for information about this program and how to apply.

Under Governor's Executive Order 05-05, we may not fund ground-disturbing remedial actions unless we or another state or federal agency consults with the [Washington State Department of Archaeology and Historic Preservation](#) and affected Tribes before the remedial actions are performed. The purpose of the consultation is to identify potential impacts on cultural resources.

Under the VCP, you may request that we perform the specified consultation by completing and submitting the [project review form](#).<sup>8</sup> For more information about compliance with Washington's cultural resource laws, see [Washington Cultural Resource Regulations: Summary for Independent Cleanup Sites](#).<sup>9</sup>

## Site Listing Notice

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We determined that your Site requires remedial action. Therefore, we added your Site to our [Confirmed and Suspected Contaminated Sites List](#),<sup>10</sup> as required by the [Model Toxics Control Act](#) (MTCA).<sup>11</sup> We appreciate your cooperation in planning or conducting remedial action at the Site. Moving forward with remedial action does not constitute an admission of guilt or liability. This early notice of site listing is required under [WAC 173-340-310](#)(6)(b).<sup>12</sup>

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<sup>7</sup> <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans#Apply>

<sup>8</sup> <https://fortress.wa.gov/ecy/publications/documents/ecy070537.pdf>

<sup>9</sup> <https://fortress.wa.gov/ecy/publications/SummaryPages/1909059.html>

<sup>10</sup> <https://apps.ecology.wa.gov/tcpwebreporting/reports/cleanup/contaminated>

<sup>11</sup> <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Rules-directing-our-cleanup-work/Model-Toxics-Control-Act>

<sup>12</sup> <https://app.leg.wa.gov/wac/default.aspx?cite=173-340-310>

## Contact Information

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We are committed to working with you to reach the prompt and effective cleanup of your Site. If you have any questions, please contact Eva Barber at (360) 407-7094 or [eva.barber@ecy.wa.gov](mailto:eva.barber@ecy.wa.gov).

Sincerely,



Nicholas M. Acklam  
VCP Unit Manager  
Toxics Cleanup Program  
Southwest Regional Office

NMA/tam

Enclosure: Copy of signed Standard VCP Agreement

cc by email: James Welles, PBS Engineering, [james.welles@pbsusa.com](mailto:james.welles@pbsusa.com)  
Eva Barber, Ecology, [eva.barber@ecy.wa.gov](mailto:eva.barber@ecy.wa.gov)  
Sonia Fernandez, Ecology, [sonia.fernandez@ecy.wa.gov](mailto:sonia.fernandez@ecy.wa.gov)  
Ecology Fiscal Office – VCP Budget Analyst  
Ecology Site File

## **Enclosure**

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Copy of signed Standard VCP Agreement

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# Electronic Copy

## VCP AGREEMENT



**INSTRUCTIONS: Submit this Agreement (original) to Ecology as part of your Application.** Before submitting, enter the Customer's name and the Site's address on the first page and sign the Agreement on the second page. If your Application is accepted, then Ecology will do the following: 1) identify the Site and VCP project in the box below; 2) sign the Agreement; and 3) send you a copy of the completed Agreement.

This document constitutes an Agreement between the State of Washington Department of Ecology (Ecology) and Federal Way Public Schools (Customer) to provide informal site-specific technical consultations under the Voluntary Cleanup Program (VCP) for the Site identified below and associated with the following address:

Olympic View Elementary School - 2626 SW 327<sup>th</sup> Street, Federal Way, WA

The purpose of this Agreement is to facilitate independent remedial action at the Site. Ecology is entering into this Agreement under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW, and its implementing regulations, Chapter 173-340 WAC. If a term in this Agreement is defined in MTCA or Chapter 173-340 WAC, then that definition shall govern.

### Services Provided by Ecology

Upon request, Ecology agrees to provide the Customer informal site-specific technical consultations on the independent remedial actions proposed for or performed at the Site consistent with WAC 173-340-515(5). Those consultations may include assistance in identifying applicable regulatory requirements and opinions on whether the remedial actions proposed for or conducted at the Site meet those requirements.

Ecology may use any appropriate resource to provide the Customer with the requested consultative services. Those resources may include, but shall not be limited to, those of Ecology and the Office of the Attorney General. However, Ecology shall not use independent contractors unless the Customer provides Ecology with prior written authorization.

In accordance with RCW 70.105D.030(1)(i), any opinions provided by Ecology under this Agreement are advisory only and not binding on Ecology. Ecology, the state, and officers and employees of the state are immune from all liability. Furthermore, no cause of action of any nature may arise from any act or omission in providing, or failing to provide, informal advice and assistance under the VCP.

### Payment for Services by Customer

The Customer agrees to pay all costs incurred by Ecology in providing the informal site-specific technical consultations requested by the Customer consistent with WAC 173-340-515(6) and 173-340-550(6). Those costs may include the costs incurred by attorneys or independent contractors used by Ecology to provide the requested consultative services. Ecology's hourly costs shall be determined based on the method in WAC 173-340-550(2).

Ecology shall mail the Customer a monthly itemized statement of costs (invoice) by the tenth day of each month (invoice date) that there is a balance on the account. The invoice shall include a summary of the costs incurred, payments received, identity of staff involved, and amount of time staff spent on the project.

The Customer shall pay the required amount by the due date, which shall be thirty (30) calendar days after the invoice date. If payment has not been received by the due date, then Ecology shall withhold

FOR COMPLETION BY ECOLOGY ONLY	<b>Facility / Site Name:</b> Olympic View Elementary Federal Way
	<b>Facility / Site No.:</b> 77894
	<b>VCP Project No.:</b> NW3305



any requested opinions and notify the Customer by certified mail that the debt is past due. If payment has not been received within sixty (60) calendar days of the invoice date, then Ecology shall stop all work under the Agreement and may, as appropriate, assign the debt to a collection agency under Chapter 19.16 RCW. The Customer agrees to pay the collection agency fee incurred by Ecology in the course of debt collection.

### Reservation of Rights / No Settlement

This Agreement does not constitute a settlement of liability to the state under MTCA. This Agreement also does not protect a liable person from contribution claims by third parties for matters addressed by the Agreement. The state does not have the authority to settle with any person potentially liable under MTCA except in accordance with RCW 70.105D.040(4). Ecology's signature on this Agreement in no way constitutes a covenant not to sue or a compromise of any Ecology rights or authority.

Ecology reserves all rights under MTCA, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health and the environment, and to issue orders requiring such remedial actions. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances at the Site.

### Effective Date, Modifications, and Severability

The effective date of this Agreement shall be the date on which this Agreement is signed by the Toxics Cleanup Program's Section Manager or delegated representative. This Agreement may be amended by mutual agreement of Ecology and the Customer. Amendments shall be in writing and shall be effective when signed by the Toxics Cleanup Program's Section Manager or delegated representative. If any provision of this Agreement proves to be void, it shall in no way invalidate any other provision of this Agreement.

### Termination of Agreement

Either party may terminate this Agreement without cause by sending written notice by U.S. mail to the other party. The effective date of termination shall be the date Ecology sends notice to the Customer or the date Ecology receives notice from the Customer, whichever occurs first. Unless otherwise directed, issuance of a No Further Action opinion, either for the Site as a whole or for a portion of the real property located within the Site, shall constitute notice of termination by Ecology.

Under this Agreement, the Customer is only responsible for costs incurred by Ecology before the effective date of termination. However, termination of this Agreement shall not affect any right Ecology may have to recover its costs under MTCA or any other provision of law.

### Representations and Signatures

The undersigned representative of the Customer hereby certifies that he or she is fully authorized to enter into this Agreement and to execute and legally bind the Customer to comply with the Agreement.

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY



Signature

Nicholas M. Acklam for Rebecca S. Lawson

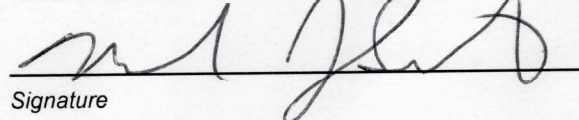
Printed Name

Section Manager, Southwest Regional Office  
Toxics Cleanup Program Section

Date: 03/10/2021

Federal Way Public Schools

Name of Customer



Signature

Michael Swartz

Printed Name of Signatory

Capital Projects Director

Title of Signatory

Date: March 4, 2021

If you need this document in an alternative format, please call the Toxics Cleanup Program at 360-407-7170. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.

ECY 070-324 (revised July 2008)