

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

Tahn Associates, LLC

AGREED ORDER

No. DE 19805

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TO: Tahn Associates, LLC  
Clara Chen (Agent)  
644 164th PI NE  
Bellevue, WA 98008

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## **I. INTRODUCTION**

The mutual objective of the State of Washington, Department of Ecology (Ecology) and Tahn Associates, LLC (PLP) under this Agreed Order (Order) is to enable a cleanup action to be selected for a facility where there has been a release or threatened release of hazardous substances. This Order requires the PLP to complete a Site Remedial Investigation (RI), Feasibility Study (FS), and prepare a preliminary draft Cleanup Action Plan (dCAP) for the Site generally located at 4701 Brooklyn Avenue NE in Seattle, Washington. Ecology believes the actions required by this Order are in the public interest.

## **II. JURISDICTION**

This Agreed Order is issued pursuant to the Model Toxics Control Act (MTCA), RCW 70A.305.050(1).

## **III. PARTIES BOUND**

This Agreed Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such party to comply with this Order. The PLP agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the PLP's responsibility under this Order. The PLP shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Order.

## **IV. DEFINITIONS**

Unless otherwise specified herein, the definitions set forth in RCW 70A.305 and WAC 173-340 shall control the meanings of the terms in this Order.

A. Site: Based upon factors currently known to Ecology, the Site is generally located at 4701 Brooklyn Avenue NE in Seattle, WA 98105, as shown in the Approximate Location Diagram (Exhibit A). The Site is defined by where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located. The Site constitutes a facility under RCW 70A.305.020(8).

B. Parties: Refers to the State of Washington, Department of Ecology and Tahn Associates, LLC.

C. Potentially Liable Persons (PLP): Refers to Tahn Associates, LLC.

D. Agreed Order or Order (AO): Refers to this Order and each of the exhibits to this Order. All exhibits are integral and enforceable parts of this Order. The terms “Agreed Order” or “Order” shall include all exhibits to this Order.

E. Trichloroethylene (TCE): TCE is a toxic organic chemical that can volatilize from contaminated soil or groundwater and potentially enter nearby buildings as a vapor. The presence of TCE in indoor air can result in health impacts to building occupants, the most urgent of which are to pregnant women. U.S. EPA has concluded that brief exposures to TCE in air may affect women in the first trimester of pregnancy by increasing the risk of heart malformations to a developing fetus.

F. Tetrachloroethylene (PCE): PCE is a toxic organic chemical that can volatilize from contaminated soil or groundwater and potentially enter nearby buildings as a vapor. The presence of PCE in indoor air can result in health impacts to building occupants.

G. Vinyl Chloride (VC): VC is a toxic organic chemical that can volatilize from contaminated soil or groundwater and potentially enter nearby buildings as a vapor. The presence of VC in indoor air can result in health impacts to building occupants.

H. 1,1-Dichloroethene and 1,2-Dichloroethene, known collectively as Dichloroethene (DCE): DCE is a toxic organic chemical that can volatilize from contaminated soil or groundwater and potentially enter nearby buildings as a vapor. The presence of DCE in indoor air can result in health impacts to building occupants.

I. The Property: refers to 4701 Brooklyn Ave NE Seattle, Washington 98105; King County tax parcel number 881740-0125.

## V. FINDINGS OF FACT

Ecology makes the following findings of fact, without any express or implied admissions of such facts by the PLP:

A. Based upon factors currently known to Ecology, the Site is generally located between Brooklyn Avenue NE and University Avenue NE in groundwater under Northeast 47th Street in Seattle, Washington. King County parcel number 881740-0125 (hereinafter the "Property"), which covers 0.38 acres, is located within the Site.

B. Carson Cleaners operated a dry-cleaning business on the Property from the early 1960s to approximately 2014. Carson Cleaners, Inc. is listed by the Washington State Secretary of State (UBI 600068512) as having been incorporated on March 24, 1972 and administratively dissolved on July 1, 2015.

C. Tahn Associates LLC is the current owner of the Property located at 4701 Brooklyn Ave NE in Seattle. Tahn Associates acquired the Property through a Special Warranty Deed dated November 29, 2012, from an ownership group listed as Gary W. Rickert, Medley (Rickert) Brewer, and the Wayne A. Rickert Testamentary Trust.

D. As part of an environmental cleanup of the former Chevron 90129 Site across the street from the Property, chlorinated solvents in the form of TCE at concentrations up to 2,200 micrograms per liter ( $\mu\text{g/L}$ ) were discovered in groundwater. PCE and TCE were also

discovered in groundwater in the southeastern portion of the Property and along the perimeter of NE 47th Street above MTCA Method A cleanup levels. Based on groundwater flow data derived from the Chevron 90129 Site investigations, Ecology finds credible evidence that chlorinated solvents were released from the former dry cleaners, which operated at the Property from the early 1960s until 2014.

E. Under Northeast 47th Street, TCE, PCE, DCE, and VC in groundwater are comingled with petroleum-related contamination from the Chevron 90129 release(s).

F. TCE, PCE, DCE, and VC are hazardous substances under WAC 173-340-200, and are present at concentrations which pose a threat to human health and the environment.

G. On November 7, 2019 Ecology issued a letter to the PLP requesting that the PLP draft and submit within 60 days, for Ecology's review, a Sampling and Analysis Plan for Vapor Intrusion for multiple residential and commercial buildings along NE 47th Street, between Brooklyn Ave. and University Way. The goal of the evaluation was to determine whether environmental contamination at the former dry-cleaners site has resulted in TCE concentrations from vapor intrusion above the short-term indoor air action levels. The letter requested that the PLP submit, in its evaluation, recommendations on what actions, if any, are necessary to reduce TCE concentrations to below the appropriate short-term indoor air action level.

H. The PLP submitted a draft Sampling and Analysis Plan (SAP) for Vapor Intrusion on January 20, 2020 and it was conditionally approved by Ecology on January 2, 2020; the final SAP was submitted on January 24, 2020. Following access agreements and site reconnaissance (which was delayed due to the COVID-19 pandemic), a Vapor Intrusion

Work Plan addendum was submitted on June 30, 2020 and approved by Ecology July 7, 2020. The PLP's consultant completed the sampling outlined by the Sampling and Analysis Plan for Vapor Intrusion, and submitted the final report on October 5, 2020. The preliminary results were below short-term indoor air action levels and do not indicate a short-term risk from exposure to TCE due to vapor intrusion. However, detections of chlorinated volatile organic compounds in indoor air warrant further investigation during the Remedial Investigation field activities.

## **VI. ECOLOGY DETERMINATIONS**

Ecology makes the following determinations, without any express or implied admissions of such determinations (and underlying facts) by the PLP.

A. Tahn Associates, LLC is an "owner or operator" as defined in RCW 70A.305.020(22) of a portion of a "facility" as defined in RCW 70A.305.020(8).

B. Based upon all factors known to Ecology, a "release" or "threatened release" of "hazardous substance(s)" as defined in RCW 70A.305.020(32) and (13), respectively, occurred at the Site.

C. Based upon credible evidence, Ecology issued a PLP Notice letter to Tahn Associates, LLC dated April 16, 2019, pursuant to RCW 70.105D.040, .020(26) (now codified at RCW 70A.305.040 and .020(26)), and WAC 173-340-500. By letter dated July 29, 2019, Tahn Associates, LLC voluntarily waived its rights to notice and comment and accepted Ecology's determination that Tahn Associates, LLC is a PLP under RCW 70A.305.040.

D. Pursuant to RCW 70A.305.030(1) and .050(1), Ecology may require the PLP to investigate or conduct other remedial actions with respect to any release or threatened

release of hazardous substances, whenever it believes such action to be in the public interest. Based on the foregoing facts, Ecology believes the remedial actions required by this Order are in the public interest.

E. Under WAC 173-340-430, an interim action is a remedial action that is technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance, that corrects a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed, or that is needed to provide for completion of a site hazard assessment, remedial investigation/feasibility study, or design of a cleanup action plan. Either party may propose an interim action under this Order. If the Parties are in agreement concerning the interim action, the Parties will follow the process in Section VII.H. If the Parties are not in agreement, Ecology reserves its authority to require interim action(s) under a separate order or other enforcement action under RCW 70A.305, or to undertake the interim action itself.

## **VII. WORK TO BE PERFORMED**

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that the PLP take the following remedial actions at the Site and that these actions be conducted in accordance with WAC 173-340:

A. The PLP shall prepare a Work Plan to conduct a Remedial Investigation (RI). After approval of the Sampling and Analysis Plan and RI Work Plan by Ecology, the PLP shall implement the plans and complete the investigations in accordance with the requirements of WAC 173-340-350. The PLP shall conduct a Feasibility Study (FS) according to the requirements of WAC 173-340-350(8); the FS shall include a reasonable number and type of cleanup options alternatives for the cleanup action at the Site. The PLP

shall provide Ecology with an Agency Review Draft RI Report and an Agency Review Draft FS Report. These Reports may be submitted together as an Agency Review Draft RI/FS Report. After Ecology has approved the RI and FS Report, the PLP will prepare a preliminary DCAP. All deliverables will be prepared in accordance with Exhibit B, "Scope of Work."

B. The schedule for the work to be performed is described in Exhibit C, "Schedule of Deliverables."

C. At the time of the entry of this Agreed Order, Chevron Environmental Management Company and FH Brooklyn, LLC (Chevron PLPs) are performing a remedial investigation of petroleum-related release(s) to groundwater in the vicinity of the Property, under an Agreed Order for the Chevron 90129 Site. Because releases from the Chevron 90129 Site are comingled with the TCE, PCE, DCE, and VC in the groundwater along NE 47<sup>th</sup> Street, the remedial alternatives developed by PLP must be compatible with the remedial action(s) to be carried out by Chevron PLPs for the remediation of the petroleum-related contamination. PLP and Chevron PLPs shall consult in a good faith effort to generate remedial alternatives that are compatible with each other, and to the extent practicable, optimize the effectiveness of both cleanup actions.

D. All plans or other deliverables submitted by PLP for Ecology's review and approval under the Scope of Work and Schedule of Deliverables (Exhibits B and C) shall, upon Ecology's approval, become integral and enforceable parts of this Order.

E. If PLP learns of a significant change in conditions at the Site, including but not limited to a statistically significant increase in contaminant and/or chemical concentrations in soil, groundwater, surface water, or air, PLP, within seven (7) days of

learning of the change in condition, shall notify Ecology in writing of said change and provide Ecology with any reports or records (including laboratory analyses, sampling results) relating to the change in conditions.

F. The PLP shall submit Quarterly Progress Reports. Progress reports shall be submitted to Ecology until satisfaction of the AO in accordance with Section IX (Satisfaction of Order). Progress Reports shall be submitted to the Ecology project coordinator by the (fifteenth) 15th of the month following the reporting period. If this day is a weekend or holiday, deliverables will be submitted to Ecology on the next business day. At a minimum, progress reports shall contain the following information regarding the preceding reporting period:

1. A description of the actions which have been taken to comply with the AO.
2. Summaries of sampling and testing reports and other data reports received by the PLP.
3. Summaries of deviations from approved work plans.
4. Summaries of contacts with representatives of the local community, public interest groups, press, and federal, state, or tribal governments.
5. Summaries of problems or anticipated problems in meeting the schedule or objectives set forth in the SOW and Work Plan.
6. Summaries of solutions developed and implemented or planned to address any actual or anticipated problems or delays.
7. Changes in key personnel.
8. A description of work planned for the next reporting period.

G. Depending on the results of further sampling, Ecology may determine that an Interim Action is required to reduce TCE, PCE, and VC concentrations to below the appropriate short-term indoor air action level. If an Interim Action is required, the PLP will prepare an Interim Action Work Plan in accordance with the schedule and as specified in Exhibit B, Scope of Work. Ecology will provide public notice and opportunity to comment on the Interim Action Work Plan in accordance with WAC 173-340-600(16). The PLP shall not conduct the interim action until Ecology approves the Interim Action Work Plan. Upon approval by Ecology, the Interim Action Work Plan becomes an integral and enforceable part of this Order, and the PLP is required to conduct the interim action in accordance with the approved Interim Action Work Plan.

H. If the Parties agree on an additional interim action under Section VI.E, the PLP shall prepare and submit to Ecology an Interim Action Work Plan, including a scope of work and schedule, by the date determined by Ecology. Ecology will provide public notice and opportunity to comment on the Interim Action Work Plan in accordance with WAC 173-340-600(16). The PLP shall not conduct the additional interim action until Ecology approves the Interim Action Work Plan. Upon approval by Ecology, the Interim Action Work Plan becomes an integral and enforceable part of this Order, and the PLP is required to conduct the interim action in accordance with the approved Interim Action Work Plan.

I. If Ecology determines that the PLP has failed to make sufficient progress or failed to implement the remedial action required by this Order, in whole or in part, Ecology may, after notice to the PLP, perform any or all portions of the remedial action or at Ecology's discretion allow the PLP opportunity to correct. In an emergency, Ecology is not required to provide notice to the PLP, or an opportunity for dispute resolution. The PLP shall

reimburse Ecology for the costs of doing such work in accordance with Section VIII.A (Remedial Action Costs). Ecology reserves the right to enforce requirements of this Order under Section X (Enforcement).

J. Except where necessary to abate an emergency situation or where required by law, the PLP shall not perform any remedial actions at the Site outside those remedial actions required by this Order to address the contamination that is the subject of this Order, unless Ecology concurs, in writing, with such additional remedial actions pursuant to Section VIII.J. (Amendment of Order). In the event of an emergency, or where actions are taken as required by law, PLP must notify Ecology in writing of the event and remedial action(s) planned or taken as soon as practical but no later than within twenty-four (24) hours of the discovery of the event.

## **VIII. TERMS AND CONDITIONS**

### **A. Payment of Remedial Action Costs**

The PLP shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under RCW 70A.305, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). As of July 30, 2020, Ecology has accumulated three thousand seven hundred fifty-nine dollars and fifty-three cents (\$3,759.53) in remedial action costs related to this Site. For all Ecology costs incurred, PLP shall pay the required amount within thirty (30) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by

involved staff members on the project. A general statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

In addition to other available relief, pursuant to RCW 19.16.500, Ecology may utilize a collection agency and/or, pursuant to RCW 70A.305.060, file a lien against real property subject to the remedial actions to recover unreimbursed remedial action costs.

**B. Designated Project Coordinators**

The project coordinator for Ecology is:

Dale Myers  
Washington Department of Ecology  
Northwest Regional Office  
Toxics Cleanup Program

Until May 1, 2021:  
3190 160th Avenue SE  
Bellevue, WA 98008  
Telephone: (425) 649-4446  
damy461@ecy.wa.gov

After May 1, 2021:  
15700 Dayton Avenue N  
Shoreline, WA 98133  
Telephone: (206) 594-0087  
damy461@ecy.wa.gov

The project coordinators for PLP:

Halah Voges  
Principal Engineer  
Anchor QEA  
1201 3<sup>rd</sup> Ave., Suite 2600  
Seattle, WA 98101  
Telephone: (206) 903-3303  
hvoges@anchorqea.com

Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and the PLP, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Order.

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

### **C. Performance**

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

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

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

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

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

**D. Access**

Ecology or any Ecology authorized representative shall have access to enter and freely move about all property at the Site that the PLP either owns, controls, or has access rights to at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the PLPs' progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by the PLP. The PLP shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by the PLP where remedial activities or investigations will be performed pursuant to this Order. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by the PLP unless an emergency prevents such notice. All persons who access the Site pursuant to this Section shall comply with any applicable health and safety plan(s). Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access.

**E. Sampling, Data Submittal, and Availability**

With respect to the implementation of this Order, the PLP shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology. Pursuant to WAC 173-340-840(5), all sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with Section VII (Work to be Performed), Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and/or any subsequent procedures specified by Ecology for data submittal.

If requested by Ecology, the PLP shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the PLP pursuant to implementation of this Order. The PLP shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow the PLP and/or their authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII.D (Access), Ecology shall notify the PLP prior to any sample collection activity unless an emergency prevents such notice.

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

**F. Public Participation**

A Public Participation Plan is required for this Site. Ecology shall review any existing Public Participation Plan to determine its continued appropriateness and whether it requires amendment, or if no plan exists, Ecology shall develop a Public Participation Plan alone or in conjunction with the PLP.

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

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

2. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before meetings related to remedial action work to be performed at the Site with the interested public and local governments. Likewise, Ecology shall notify the PLP prior to the issuance of all press releases and fact sheets related to the Site, and before meetings related to the Site with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by the PLP that do not receive prior Ecology approval, the PLP shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

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

4. When requested by Ecology, arrange and/or contribute to information repositories to be located at:

Ecology's Northwest Regional Office  
3190 160th Avenue SE  
Bellevue, WA 98008

After May 1, 2021

Ecology's Northwest Regional Office  
15700 Dayton Ave North  
Shoreline, WA 98133

At a minimum, copies of all public notices, fact sheets, and documents relating to public comment periods shall be promptly placed in this repository.

**G. Retention of Records**

During the pendency of this Order, and for ten (10) years from the date of completion of work performed pursuant to this Order, the PLP shall preserve all records, reports, documents, and underlying data in its possession relevant to the implementation of this Order and shall insert a similar record retention requirement into all contracts with project contractors and subcontractors. Upon request of Ecology, the PLP shall make all records available to Ecology and allow access for review within a reasonable time.

Nothing in this Order is intended to waive any right the PLP may have under applicable law to limit disclosure of documents protected by the attorney work-product privilege and/or the attorney-client privilege. If the PLP withholds any requested records based on an assertion of privilege, the PLP shall provide Ecology with a privilege log specifying the records withheld and the applicable privilege. No Site-related data collected pursuant to this Order shall be considered privileged.

**H. Resolution of Disputes**

1. In the event that the PLP elects to invoke dispute resolution the PLP must utilize the procedure set forth below.

a. Upon the triggering event (receipt of Ecology's project coordinator's written decision or an itemized billing statement), the PLP has

- fourteen (14) calendar days within which to notify Ecology's project coordinator in writing of its dispute (Informal Dispute Notice).
- b. The Parties' project coordinators shall then confer in an effort to resolve the dispute informally. The parties shall informally confer for up to fourteen (14) calendar days from receipt of the Informal Dispute Notice. If the project coordinators cannot resolve the dispute within those fourteen (14) calendar days, then within seven (7) calendar days Ecology's project coordinator shall issue a written decision (Informal Dispute Decision) stating: the nature of the dispute; the PLP's position with regard to the dispute; Ecology's position with regard to the dispute; and the extent of resolution reached by informal discussion.
  - c. The PLP may then request regional management review of the dispute. This request (Formal Dispute Notice) must be submitted in writing to the Northwest Region Toxics Cleanup Section Manager within seven (7) calendar days of receipt of Ecology's Informal Dispute Decision. The Formal Dispute Notice shall include a written statement of dispute setting forth: the nature of the dispute; the disputing Party's position with respect to the dispute; and the information relied upon to support its position.
  - d. The Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute (Decision on Dispute) within thirty (30) calendar days of receipt of the Formal

Dispute Notice. The Decision on Dispute shall be Ecology's final decision on the disputed matter.

2. The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

3. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Order, unless Ecology agrees in writing to a schedule extension.

4. In case of a dispute, failure to either proceed with the work required by this Order or timely invoke dispute resolution may result in Ecology's determination that insufficient progress is being made in preparation of a deliverable, and may result in Ecology undertaking the work under Section VII (Work to be Performed) or initiating enforcement under Section X (Enforcement).

**I. Extension of Schedule**

1. PLP's request for an extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the deadline for which the extension is requested, and good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify:

- a. The deadline that is sought to be extended;
- b. The length of the extension sought;
- c. The reason(s) for the extension; and

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

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

- a. Circumstances beyond the reasonable control and despite the due diligence of the PLP including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by the PLP;
- b. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty; or
- c. Endangerment as described in Section VIII.K (Endangerment).

However, neither increased costs of performance of the terms of this Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of the PLP.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give the PLP written notification of any extensions granted pursuant to this Order. A requested extension shall not be effective until approved by Ecology. Unless the extension is a substantial change, it shall not be necessary to amend this Order pursuant to Section VIII.J (Amendment of Order) when a schedule extension is granted.

4. At PLP's request, an extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding (ninety) 90 days only as a result of:

- a. Delays in the issuance of a necessary permit which was applied for in a timely manner;
- b. Other circumstances deemed exceptional or extraordinary by Ecology; or
- c. Endangerment as described in Section VIII.K (Endangerment).

**J. Amendment of Order**

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement.

Except as provided in Section VIII.L (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and the PLP. Ecology will provide its written consent to a formal amendment only after public notice and opportunity to comment on the formal amendment.

When requesting a change to the Order, PLP shall submit a written request to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request is received. If Ecology determines that the change is substantial, then the Order must be formally amended. Reasons for the disapproval of a proposed change to this Order shall be stated in writing. If Ecology does not agree to a proposed change, the disagreement may be addressed through the dispute resolution procedures described in Section VIII.H (Resolution of Disputes).

**K. Endangerment**

In the event Ecology determines that any activity being performed at the Site under this Order is creating or has the potential to create a danger to human health or the

environment on or surrounding the Site, Ecology may direct the PLP to cease such activities for such period of time as it deems necessary to abate the danger. The PLP shall immediately comply with such direction.

In the event the PLP determines that any activity being performed at the Site under this Order is creating or has the potential to create a danger to human health or the environment, the PLP may cease such activities. The PLP shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction, the PLP shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with the PLP's cessation of activities, it may direct the PLP to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this Section, the PLP's obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended in accordance with Section VIII.I (Extension of Schedule) for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Order shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

**L. Reservation of Rights**

This Order is not a settlement under RCW 70A.305. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any of Ecology's rights or authority. Ecology will not, however, bring an action against the PLP to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not

take additional enforcement actions against the PLP regarding remedial actions required by this Order, provided the PLP complies with this Order.

Ecology nevertheless reserves its rights under RCW 70A.305, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health or 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.

By entering into this Order, the PLP does not admit to any liability for the Site. Although the PLP is committing to conducting the work required by this Order under the terms of this Order, the PLP expressly reserves all rights available under law, including but not limited to the right to seek cost recovery or contribution against third parties, and the right to assert any defenses to liability in the event of enforcement.

**M. Transfer of Interest in Property**

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by the PLP without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to the PLP's transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the PLP shall provide a copy of this Order to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, the PLP shall notify Ecology of said transfer. Upon transfer of any interest, the PLP shall notify all transferees of the restrictions on the

activities and uses of the property under this Order and incorporate any such use restrictions into the transfer documents.

**N. Compliance with Applicable Laws**

1. *Applicable Laws.* All actions carried out by the PLP pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits or approvals, except as provided in RCW 70A.305.090. At this time, no federal, state, or local requirements have been identified as being applicable to the actions required by this Order. PLP has a continuing obligation to identify additional applicable federal, state, and local requirements which apply to actions carried out pursuant to this Order, and to comply with those requirements. As additional federal, state, and local requirements are identified by Ecology or PLP, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order, and PLP must implement those requirements.

2. *Relevant and Appropriate Requirements.* All actions carried out by PLP pursuant to this Order shall be done in accordance with relevant and appropriate requirements identified by Ecology. At this time, no relevant and appropriate requirements have been identified as being applicable to the actions required by this Order. If additional relevant and appropriate requirements are identified by Ecology or PLP, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order and PLP must implement those requirements.

3. Pursuant to RCW 70A.305.090(1), the PLP may be exempt from the procedural requirements of RCW Chapters 70A.15, 70A.205, 70A.300, 77.55, 90.48, and 90.58 and of any laws requiring or authorizing local government permits or approvals. However, the PLP shall comply with the substantive requirements of such permits or

approvals. For permits and approvals covered under RCW 70A.305.090(1) that have been issued by local government, the Parties agree that Ecology has the non-exclusive ability under this Order to enforce those local government permits and/or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this Section.

4. The PLP has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70A.305.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or the PLP determines that additional permits or approvals addressed in RCW 70A.305.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify the other party of its determination. Ecology shall determine whether Ecology or the PLP shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the PLP shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by the PLP and on how the PLP must meet those requirements. Ecology shall inform the PLP in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The PLP shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

Pursuant to RCW 70A.305.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW

70A.305.090(1) would result in the loss of approval from a federal agency that is necessary for the state to administer any federal law, the exemption shall not apply and the PLP shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70A.305.090(1), including any requirements to obtain permits or approvals.

**O. Indemnification**

The PLP agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action (1) for death or injuries to persons, or (2) for loss or damage to property, to the extent arising from or on account of acts or omissions of the PLP, its officers, employees, agents, or contractors in entering into and implementing this Order. However, the PLP shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action to the extent arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in entering into or implementing this Order.

**IX. SATISFACTION OF ORDER**

The provisions of this Order shall be deemed satisfied upon the PLP's receipt of written notification from Ecology that the PLP has completed the remedial activity required by this Order, as amended by any modifications, and that the PLP has complied with all other provisions of this Agreed Order.

**X. ENFORCEMENT**

Pursuant to RCW 70A.305.050, this Order may be enforced as follows:

A. The Attorney General may bring an action to enforce this Order in a state or federal court.

B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.

C. A liable party who refuses, without sufficient cause, to comply with any term of this Order will be liable for:

1. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply.

2. Civil penalties of up to twenty-five thousand dollars (\$25,000) per day for each day it refuses to comply.

D. This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under RCW 70A.305.070.

Effective date of this Order: \_\_\_\_\_

**TAHN ASSOCIATES, LLC**

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

\_\_\_\_\_  
Date: 04/05/2021

\_\_\_\_\_  
Date: \_\_\_\_\_

By: 

ROBERT W. WARREN  
SECTION MANAGER  
TOXICS CLEANUP PROGRAM  
NORTHWEST REGIONAL OFFICE  
15700 DAYTON AVENUE N  
SHORELINE, WA 98133  
TELEPHONE: (206) 594-0087

Title: Partner  
TAHN ASSOCIATES, LLC



Brooklyn Ave NE

NE 47th St



### Former Carson Cleaners: Exhibit A

4701 Brooklyn Ave NE, Seattle WA  
CSID: 14878



50 Feet

**EXHIBIT B – SCOPE OF WORK (SOW)**  
**Carson Cleaners Cleanup Site**  
**4701 Brooklyn Ave NE, Seattle, WA**

**PURPOSE**

The work under this Agreed Order (AO) involves conducting a Remedial Investigation and Feasibility Study (RI/FS), including interim action(s) if necessary, and preparing a preliminary draft Cleanup Action Plan (dCAP) for the Site located in the vicinity of 4701 Brooklyn Ave NE, Seattle, Washington 98105 (the Site). The purpose of the RI/FS and preliminary dCAP is to provide sufficient data, analysis, and evaluations to enable the Washington State Department of Ecology (Ecology) to select a final cleanup alternative for the Site.

The Potentially Liable Person (PLP) will coordinate with Ecology throughout the work under this AO, and will keep Ecology informed of any changes, issues, or problems as they develop.

The SOW is divided into seven major tasks as follows:

- Task 1. RI Work Plan
- Task 2. Interim Action(s)
- Task 3. Remedial Investigation
- Task 4. Feasibility Study
- Task 5. SEPA Compliance
- Task 6. Public Participation
- Task 7. Preliminary dCAP

To assist with preparation of these documents, Ecology’s Toxics Cleanup Program (TCP) has developed checklists,<sup>1</sup> which the PLP shall use for the following remedial action reports and plans:

- Remedial Investigation Report Checklist
- Feasibility Study Report Checklist
- Cleanup Action Plan Checklist

**Policy 840 Environmental Information Management System (EIM)**

Ecology has updated Policy 840 related to data submittal requirements for TCP sites. Policy 840 requires environmental monitoring data collected at TCP sites as

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<sup>1</sup> The PLP can download each checklist directly from the following website:  
<https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Cleanup-report-checklists-and-templates>

part of site investigations and cleanups to be submitted into EIM at the time of submittal for Ecology review of any report containing this data.

### **Environmental Data Validation**

Environmental data validation must be performed using Ecology's TCP SAP/QAPP, Data Validation and EIM Data QA Fields (Ecology September 25, 2019). Data validation shall be performed at Quality Assurance Level 2 (EAP2) with Third Party Data Validation.

Following Ecology's Lean Process, there are five mandatory Key project Meetings:

1. Kickoff Meeting held prior to commencement of AO negotiations with the principal contacts for PLP and Ecology. Establish communication protocols, expectations related to Key Project Documents and the timing and purpose of Key Project Meetings.
2. RI Planning and Scoping Meeting with Ecology Cleanup Project manager and PLP consultants.
3. RI Pre-Report Meeting occurs after the completion of RI field activities and prior to writing the RI Report.
4. FS Planning Meeting to discuss overall approach and contents of the FS. If appropriate, this meeting may be combined with the RI pre-report check-in.
5. dCAP Planning Meeting held prior to writing the Preliminary dCAP to discuss the contents of the dCAP and to identify the preferred Remedial Alternative.

### **TASK 1. RI WORK PLAN**

The PLP shall prepare a Remedial Investigation Work Plan (Work Plan). The Work Plan shall include an overall description and schedule of all RI activities. The Work Plan shall clearly describe the project management strategy for implementing and reporting on RI activities. The responsibility and authority of all organizations and key personnel involved in conducting the RI will be outlined.

The second Key Project Meeting will be held prior to submittal of the RI Work Plan. The purpose of the Remedial Investigation Planning Meeting is to review requirements for the Work Plan and plan Remedial Investigation field work, discuss the preliminary Conceptual Site Model, and identify project data needs. The parties will also discuss the potential need for an interim action, based on the outcome of indoor air sampling events.

The RI Work Plan shall describe general facility information; site history and conditions; including previous operations; past field investigations, including any data collection and analysis of soils, air, groundwater, surface water, and sediments; a conceptual site model showing contaminants, migration pathways in all environmental media, potential receptors, and screening levels based on the conceptual site model; geology and groundwater system characteristics; past, current, and future land use; identification of natural resources and

ecological receptors; hazardous substances and their sources, etc., in compliance with Washington Administrative Code (WAC) 173-340-350 and WAC 173-204-550.

As part of the project background, existing environmental data on site soil, groundwater, and vapor will be compiled and evaluated for data gaps. The data gaps will be used as the basis for conducting additional site investigations. The Work Plan will also identify specific data collection procedures in a SAP, QAPP, and Inadvertent Discovery Plan<sup>2</sup> as part of the Work Plan in compliance with WAC 173-340-820 and WAC 173-204-600. The PLP will also submit a copy of the Health and Safety Plan (HASP) for the project.

The SAP identifies the proposed number and location of all environmental samples and methods, including soil borings, groundwater monitoring wells, soil, groundwater, stormwater, catch basin, and vapor, approximate depths, and includes a quality assurance project plan. The SAP will describe the sampling objectives, the rationale for the sampling approach (based upon the identified data gaps), and plans for data use, and shall provide a detailed description of sampling tasks. The SAP shall describe specifications for sample identifiers; sampling equipment; the type, number, and location of samples to be collected; the analyses to be performed; descriptions of sampling equipment and methods to be used; sample documentation; sample containers, collection and handling; data and records management; and schedule.

The QAPP will be prepared in accordance with the Guidance for Preparation of Quality Assurance Project Plans, EPA Region 10, Quality Data Management Program, QA/R-5 and requirements of the EPA Contract Laboratory Program. The QAPP will also follow Ecology's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies (Revised Dec. 2016).<sup>3</sup> Laboratories must meet the accreditation standards established in WAC 173-50.

The SAP, QAPP, and Inadvertent Discovery Plan will be submitted to Ecology for review and approval. As with all environmental work at the Site, work may not begin without written approval from Ecology. The plan shall provide seven (7) days' notice to Ecology prior to beginning sampling. Ecology may obtain split samples.

The PLP or their contractors shall submit all new sampling data generated under this SAP and any other recently collected data to Ecology for entry into the Environmental Information Management System (EIM) in accordance with WAC 173-340-840(5) and Ecology's Toxics Cleanup Program Policy 840: Data Submittal Requirements. Only validated data will be entered into the EIM database and must be entered within 60 days of submittal.

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<sup>2</sup> Ecology has a template available online, at <https://fortress.wa.gov/ecy/publications/documents/ecy070560.pdf>. The publication number and Ecology logo should be removed from the template when it is modified for a specific project.

<sup>3</sup> Available at: <https://ecology.wa.gov/About-us/How-we-operate/Scientific-services/Quality-assurance/Quality-assurance-for-NEP-grantees>

RI tasks and subtasks will include, but are not limited to: sampling and analysis of soil, ground water, vapor, surface water, sediment, and catch basin sampling and stormwater analysis, as necessary to address data gaps identified in the Work Plan. In addition, the following must be included in the Work Plan:

- Develop a preliminary conceptual site model for the Site including evaluation of all potential pathways and potential receptors that may exist for contaminants of concern at the Site.
- Define the nature and extent of contamination based on screening levels protective of all receptors at and downgradient of the Site.

The PLP will provide Ecology with an Agency Review Draft Work Plan. Once Ecology reviews and approves the Work Plan, it will be considered the Final Work Plan. The Work Plan shall not be implemented until approved by Ecology. Once approved by Ecology, the PLP will implement the Final Work Plan according to the schedule contained in Exhibit C. Ecology expects one iteration between preliminary draft and final draft of RI Work Plan, Remedial Investigation, Feasibility Study, and draft Cleanup Action Plan.

The PLP shall prepare two (2) copies of the Agency Review Draft RI Work Plan and submit them, along with one electronic copy each in Word (.docx) and Adobe (.pdf) formats, to Ecology for review and comment. After incorporating Ecology's comments on the Agency Review Draft Work Plan and after Ecology approval, the PLP shall prepare three (3) copies of the Final Work Plan and submit them, along with one electronic copy each in Word (.docx) and Adobe (.pdf) formats, to Ecology.

## **TASK 2. INTERIM ACTION(S)**

Interim actions are remedial actions implemented prior to completion of the RI/FS:

- that are technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance;
- that correct a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed; or
- that are needed to provide for completion of the remedial investigation/feasibility study or design of the cleanup action.

Interim actions will be implemented in accordance with WAC 173-340-430 and the AO, and will be designed in a manner that will not foreclose reasonable alternatives for any final cleanup action that may be required.

As detailed in the AO, if required by Ecology, or if proposed by the PLP and approved by Ecology, the PLP will implement an interim action pursuant to WAC 173-340-430. Based upon information in the Agency Review Draft RI Report or pre-Report sampling, interim action(s) may be needed to expedite source removal or containment at the Site.

The scope of the interim actions may include, but are not limited to, typical source control or containment elements such as:

- Soil or sediment removal
- Groundwater remediation
- Vapor mitigation
- Repair, slip lining, replacement, or closure of stormwater conveyances or other structures such as conduit, vaults, catch basins, etc.
- Removal of underground storage tanks and pipes
- Removal of old drain fields or former surface impoundments
- Proper abandonment of old wells
- Removal of contaminated building or other structural material
- Construction of a treatment facility

If an interim action is to be performed, the PLP will prepare and submit for Ecology approval an Agency Review Draft Interim Action Work Plan (dIAWP) with detail commensurate with the work to be performed. The Agency Review dIAWP shall include, as appropriate:

- Description of the interim action including its purpose, general requirements, and relationship to the (final) cleanup action (to the extent known);
- Summary of relevant RI/FS information, including at a minimum existing site conditions and alternative interim actions considered;
- Information regarding design and construction requirements, including a proposed schedule and personnel roles and responsibilities;
- Compliance Monitoring Plan;
- SAP/QAPP/ Inadvertent Discovery Plan;
- Permits required;
- Health and Safety Plan.

The PLP will prepare and submit an environmental checklist for the interim action, and will assist Ecology with presentations at any additional meetings or hearings that might be necessary for SEPA compliance or as part of the Public Participation Plan.

The PLP will incorporate Ecology's required changes into the dIAWP and provide Ecology with a Public Review dIAWP. After a public notice and comment period for the Public Review dIAWP and SEPA determination, Ecology will approve the dIAWP (if appropriate) and the document will be considered Final. Once approved by Ecology, the PLP will implement the interim action according to the schedule contained in the Final IAWP.

The PLP shall prepare two (2) copies of the Agency Review dIAWP and submit them, along with one electronic copy each in Word (.docx) and Adobe (.pdf) formats, to Ecology for review. The PLP shall incorporate Ecology's comments and then prepare two (2)

copies of the Public Review dIAWP and submit them, along with one electronic copy each in Word (.docx) and Adobe (.pdf) formats, to Ecology. After the public notice and comment period, incorporating Ecology's and the public's comments on the Public Review dIAWP, and after Ecology approval, the PLP shall prepare three (3) copies of the Final IAWP submit them, along with one electronic copy each in Word (.docx) and Adobe (.pdf) formats.

Upon successful completion of the work, an Agency Review Draft Interim Action Report will be prepared as a separate deliverable. The PLP shall prepare two (2) copies of the Agency Review Draft Interim Action Report and submit them, along with one electronic copy each in Word (.docx) and Adobe (.pdf) formats, to Ecology for review and approval. After incorporating Ecology's comments on the Agency Review Draft Interim Action Report and after Ecology approval, the PLP shall prepare two (2) copies of the Final Interim Action Report (IAR) and submit them, along with one electronic copy each in Word (.docx) and Adobe (.pdf) formats, to Ecology.

### **TASK 3. REMEDIAL INVESTIGATION**

The PLP will conduct an RI that meets the requirements of WAC 173-340-350(7) and WAC 173-204-550 according to the RI Work Plan approved by Ecology. The RI will determine the nature and extent of contamination exceeding preliminary Model Toxics Control Act (MTCA) cleanup levels, and any other regulatory requirements. The RI will provide sufficient data and information to define the nature and extent of contamination.

Field sampling and analysis will be completed in general accordance with the SAP, QAPP, and Inadvertent Discovery Plan. Deviation(s) from the approved plans must be communicated to Ecology immediately and documented as required by Ecology.

At the time of the entry of this Agreed Order, Chevron Environmental Management Company (CEMC) and FH Brooklyn, LLC (Chevron PLPs) are performing a remedial investigation of petroleum-related release(s) to groundwater in the vicinity of the Property, under an Agreed Order for the Chevron 90129 Site. The Chevron 90129 plume comingles with the Site's chlorinated solvent plume. PLP shall make a good faith effort to coordinate with Chevron PLPs to utilize the same monitoring wells where practicable, and to allow Chevron PLPs access to monitoring wells where practicable, in order to avoid excessive well drilling in the area.

The PLP shall provide interim data reports and updates to Ecology as new site data and information become available. Laboratory analysis data shall also be provided in electronic format when it has been validated. Raw laboratory data will be provided to Ecology upon request.

Prior to submittal of the Agency Review Draft RI Report, a third Key Project Meeting will be held. During this Remedial Investigation Pre-Report Check-In, Ecology and the PLP will review available data and an updated conceptual site model and discuss the content and organization of the Draft RI Report. Ecology expects one iteration between preliminary

drafts and final drafts of the Remedial Investigation, Feasibility Study, and draft Cleanup Action Plan.

The PLP shall compile the results of the Site investigation into an Agency Review Draft RI Report. The RI Report must incorporate and discuss results from indoor air sampling events conducted prior to the effective date of this Order and during the effective period of this Order. If the PLP conducts an interim action, the RI Report must include as an appendix the Final Interim Action Report. Electronic survey data for monitoring locations, electronic lab data, and GIS maps of contaminant distribution shall also be provided for both the Agency Review Draft RI Report and Public Review Draft RI Reports. The RI Report will not be considered Final until after a public review and comment period.

The PLP shall prepare two (2) copies of the Agency Review Draft RI Report and submit them, along with one electronic copy each in Word (.docx) and Adobe (.pdf) formats, to Ecology for review and comment. After incorporating Ecology's comments on the Agency Review Draft RI Report, the PLP shall prepare three (3) copies of a Public Review Draft RI Report and submit them, along with one electronic copy each in Word (.docx) and Adobe (.pdf) formats, to Ecology for distribution and public comment. The Agency Review Draft RI Report and/or Public Review Draft RI Reports may be submitted in conjunction with the Agency Review Draft FS Report and/or Public Review Draft FS Reports, discussed in Task 4 below.

If the data collected during this investigation is insufficient to define the full nature and extent of contamination, and to select a cleanup action plan an additional phase of investigation shall be conducted to define the extent of contamination.

#### **TASK 4. FEASIBILITY STUDY**

The PLP will use the information obtained in the RI to complete the Feasibility Study consistent with WAC 173-340-350(8) according to the approved Work Plan Schedule (Exhibit C).

Prior to beginning the FS, a fourth Key Project Meeting will be held to review applicable or relevant and appropriate requirements (ARARs), potential remedial alternatives, and points of compliance. If appropriate, this Key Project Meeting may be held in conjunction with the RI Pre-Report Planning Key Project Meeting.

The remedial alternatives developed by PLP must be compatible with the remedial action(s) to be carried out by the Chevron PLPs for the remediation of the petroleum-related contamination. PLP and the Chevron PLPs shall consult in a good faith effort to generate remedial alternatives that are compatible with each other, and to the extent practicable, optimize the effectiveness of both cleanup actions.

The Agency Review Draft FS Report will provide a detailed analysis of each remedial alternative according to the applicable requirements of WAC 173-340-350. The remedial

alternatives will take into account the results of any interim action, and will be evaluated for compliance with the applicable requirements of WAC 173-340-360 and WAC 173-204-570.

The remedial alternative that is judged to best satisfy the evaluation criteria will be identified. Justification for the selection will be provided, and the recommended remedial alternative further developed, in the FS Report.

The PLP shall prepare two (2) copies of an Agency Review Draft FS Report and submit them, along with one electronic copy in Word (.docx) and Adobe (.pdf) formats, to Ecology for review and comment.

After incorporating Ecology's comments on the Agency Review Draft FS Report, the PLP will prepare three (3) copies of a Public Review Draft FS Report and submit them, along with one electronic copy in Word (.docx) and Adobe (.pdf) formats, to Ecology for distribution and public comment.

The FS Report will not be considered final until after the public review and comment period. After that period, the PLP will incorporate Ecology's and the public's comments on the Public Review Draft FS Report and, after Ecology approval, will prepare three (3) copies of the Final FS Report and submit them along with one electronic copy in Word (.docx) and Adobe (.pdf) formats.

#### **TASK 5. SEPA COMPLIANCE**

The PLP shall be responsible for preparing and submitting a draft and final environmental checklist. If the result of the threshold determination is a determination of significance (DS), the PLP shall be responsible for the preparation of an agency review draft and draft-final Environmental Impact Statements. The PLP shall assist Ecology with coordinating SEPA public involvement requirements with MTCA public involvement requirements whenever practicable, such that public comment periods and meetings or hearings, as applicable, can be held concurrently.

#### **TASK 6. PUBLIC PARTICIPATION**

The PLP shall assist Ecology in preparing a draft Public Participation Plan that complies with the provisions of WAC 173-340-600(9).

The PLP shall support Ecology in presenting the Public Review Draft RI Report, Public Review Draft FS Report, any IAWP, and SEPA evaluations at public meetings or hearings. The PLP will assist Ecology with presentations at any additional meetings or hearings that might be necessary for SEPA compliance or as part of the Public Participation Plan.

After the public comment periods are completed, at Ecology's request, the PLP shall prepare an Agency Review Draft Responsiveness Summary that addresses public

comments and if necessary, prepare a second Public Review Draft RI/FS Report that addresses public comments. The PLP shall prepare two (2) copies of the Agency Review Draft Responsiveness Summary and if necessary, second Public Review Draft RI/FS Report and submit them to Ecology for review and approval, including one electronic copy each in Word (.docx) and Adobe (.pdf) formats, to Ecology.

After incorporating Ecology's comments and after Ecology approval, the PLP shall prepare three (3) copies of the Final Responsiveness Summary after public comments are incorporated and submit them to Ecology for distribution, along with one electronic copy each in Word (.docx) and Adobe (.pdf) formats.

#### **TASK 7. PRELIMINARY DRAFT CLEANUP ACTION PLAN**

Upon Ecology approval of the Public Review Draft FS Report, the fifth Key Project Meeting will be held to discuss the contents of the dCAP and to identify the preferred remedial alternative.

The PLP will prepare an Agency Review preliminary dCAP in accordance with WAC 173-340-380. The Agency Review preliminary dCAP will include a general description of the proposed remedial actions, an inadvertent discovery plan, cleanup standards developed from the RI/FS and rationale regarding their selection, a schedule for implementation, description of any institutional controls proposed, and a summary of applicable local, state, and federal laws pertinent to the proposed cleanup actions. The Agency Review preliminary dCAP will include a description of how the preferred remedial alternative will interact with the work to be performed for the Chevron 90129 remediation. It will describe the measures taken by PLP and Chevron PLPs to avoid complications between the remedies, and to optimize the effectiveness of the remedies where practicable, through collaboration.

The PLP will prepare two (2) copies of the Agency Review preliminary dCAP and submit them, along with one electronic copy in Word (.docx) and Adobe (.pdf) formats, for Ecology review.

**EXHIBIT C – SCHEDULE OF DELIVERABLES (SOD)**  
**Carson Cleaners Cleanup Site**  
**4701 Brooklyn Ave NE, Seattle, WA**

The schedule for notifications to Ecology or submission of major deliverables to Ecology for this Schedule of Deliverables (SOD) is described below. If the date for submission of any item or notification required by this SOD occurs on a weekend, state or federal holiday, the date for submission of that item or notification is extended to the next business day following the weekend or holiday. Where a deliverable due date is triggered by Ecology notification, comments or approval, the starting date for the period shown is the date Tahn Associates, LLC received such notification, comments or approval by certified mail, return receipt requested, or by electronic mail during business hours to Tahn Associates' project coordinator. Where triggered by Ecology's receipt of a deliverable, the starting date for the period shown is the date Ecology receives the deliverable by certified mail, return receipt requested, the date of Ecology signature on a hand-delivery form, or by electronic mail during business hours to Ecology's Site manager.

Table 1 - Schedule for Submission of Major Deliverables

Table 2 - Schedule for Submission of Interim Action Deliverables (applicable if an Interim Action is proposed)

**Table 1****Schedule for Submission of Major Deliverables**

	<i><b>Deliverable</b></i>	<i><b>Due Date<sup>a</sup></b></i>
1.	Agency Review Draft Remedial Investigation (RI) Work Plan	No later than 90 days after the AO <sup>b</sup> effective date
2.	Final Remedial Investigation Work Plan	30 days after receipt of Ecology comments
3.	Remedial Investigation Field Investigations Completed	365 days after Final Remedial Investigation Work Plan
4.	Remedial investigation validated data uploaded to EIM	60 days after Remedial Investigation Field Investigations Completed
5.	Agency Review Draft Remedial Investigation Report	90 days following receipt of remedial investigation validated data
6.	Public Review Draft Remedial Investigation Report	30 days after receipt of Ecology comments
7.	Final Remedial Investigation Report	30 days after receipt of Ecology comments, subsequent to public comment <sup>c</sup>
8.	Agency Review Draft Feasibility Study Report	90 days following Ecology approval of Public Review Remedial Investigation Report
9.	Public Review Draft Feasibility Study Report	30 days after receipt of Ecology comments
10.	Final Feasibility Study Report	30 days after receipt of Ecology comments, subsequent to public comment <sup>c</sup>
11.	Agency Review preliminary Draft Cleanup Action Plan (DCAP)	90 days following approval of Public Review Feasibility Study

<sup>a</sup> Due dates shown are for initial draft and final deliverables. Documents become final only upon approval by Ecology.

<sup>b</sup> AO (Agreed Order) is effective upon signature by both Ecology and PLP.

<sup>c</sup> These public comment periods can be combined.

**Table 2**

**Schedule for Submission of Interim Action Deliverables**

**(Only applicable if an Interim Action is proposed and determined to be appropriate by Ecology in accordance with WAC 173-340-430)**

	<i><b>Deliverable</b></i>	<i><b>Due Date<sup>a</sup></b></i>
1.	Agency Review Draft Interim Action Work Plan (IAWP)	As agreed to by the parties, if an Interim Action is determined to be appropriate by Ecology
2.	Public Review Draft Interim Action Work Plan and SEPA Checklist for the interim action	30 days after receipt of Ecology comments
3.	Final Interim Action Work Plan	30 days after public notice and comment period closes
4.	Implement Final Interim Action Work Plan	Initiated no later than 30 days following Ecology approval of Final Interim Action Work Plan, subsequent to public comment.
5.	Agency Review Draft Interim Action Report	In accordance with the schedule in the Interim Action Work Plan.
6.	Final Interim Action Report	30 days after Ecology's approval of the Agency Review Draft Interim Action Report

<sup>a</sup> Due dates shown are for initial draft and final deliverables. Documents become final only upon approval by Ecology.

<sup>b</sup> AO (Agreed Order) is effective upon signature by both Ecology and PLP.