



SEATTLE CITY COUNCIL

Legislative Summary

CB 119233

Record No.: CB 119233

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125566

In Control: City Clerk

File Created: 02/20/2018

Final Action: 04/20/2018

Title: AN ORDINANCE relating to the remediation of the South Park Landfill; authorizing the recording of environmental covenants or the equivalent on certain City-owned or controlled property; and authorizing the General Manager of Seattle Public Utilities to execute a legal agreement with other Potentially Liable Persons.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Herbold

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Att 1 - Seattle Public Utilities Environmental Covenant, Att 2 - Seattle Department of Transportation Environmental Covenant, Att 3 - South Park Landfill PLP Agreement

Drafter: bob.hennessey@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

Yes

No

| Version: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|----------|---|------------|------------------------------------|---|-----------|--------------|---------|
| 1 | Mayor | 04/03/2018 | Mayor's leg transmitted to Council | City Clerk | | | |
| 1 | City Clerk | 04/03/2018 | sent for review | Council President's Office | | | |
| | Action Text: The Council Bill (CB) was sent for review. to the Council President's Office | | | | | | |
| | Notes: | | | | | | |
| 1 | Council President's Office | 04/03/2018 | sent for review | Civil Rights, Utilities, Economic Development, and Arts Committee | | | |
| | Action Text: The Council Bill (CB) was sent for review. to the Civil Rights, Utilities, Economic Development, and Arts Committee | | | | | | |
| | Notes: | | | | | | |

- 1 Full Council 04/09/2018 referred Civil Rights,
Utilities,
Economic
Development, and
Arts Committee
- Action Text: The Council Bill (CB) was referred. to the Civil Rights, Utilities, Economic Development, and Arts Committee
- Notes:
- 1 Civil Rights, Utilities, 04/10/2018 pass Pass
Economic Development,
and Arts Committee
- Action Text: The Committee recommends that Full Council pass the Council Bill (CB).
In Favor: 3 Chair Herbold, Vice Chair Sawant, Member O'Brien
Opposed: 0
- 1 Full Council 04/16/2018 passed Pass
- Action Text: The Council Bill (CB) was passed by the following vote, and the President signed the Bill:
- Notes:
In Favor: 9 Councilmember Bagshaw, Councilmember González , Council
President Harrell, Councilmember Herbold, Councilmember Johnson,
Councilmember Juarez, Councilmember Mosqueda, Councilmember
O'Brien, Councilmember Sawant
Opposed: 0
- 1 City Clerk 04/18/2018 submitted for Mayor
Mayor's signature
- 1 Mayor 04/20/2018 Signed
- 1 Mayor 04/20/2018 returned City Clerk
- 1 City Clerk 04/20/2018 attested by City Clerk
- Action Text: The Ordinance (Ord) was attested by City Clerk.
- Notes:
-

CITY OF SEATTLE

ORDINANCE 125566

COUNCIL BILL 119233

AN ORDINANCE relating to the remediation of the South Park Landfill; authorizing the recording of environmental covenants or the equivalent on certain City-owned or controlled property; and authorizing the General Manager of Seattle Public Utilities to execute a legal agreement with other Potentially Liable Persons.

WHEREAS, the South Park Landfill (“Landfill”) is generally located in the area of 8100 and 8200 Second Avenue South, in Seattle’s South Park neighborhood; and

WHEREAS, The City of Seattle (“City”) was a historic operator of the Landfill and is a current owner of part of the Landfill property; and

WHEREAS, along with other Potentially Liable Persons, Seattle Public Utilities completed environmental studies and a cleanup plan under Agreed Order 6706, as authorized by Ordinance 123911; and

WHEREAS, the public has been able to review and comment on the environmental studies and cleanup plan; and

WHEREAS, the Washington Department of Ecology approved the studies, cleanup plan, and associated environmental covenants for properties within the South Park Landfill, taking into consideration public comments received during the public comment period; and

WHEREAS, the City and other Potentially Liable Persons are invited to execute a Consent Decree with the Washington Department of Ecology that requires implementation of the approved cleanup plan, including recording environmental covenants or their equivalent for properties within the South Park Landfill and adjacent rights-of-way, including property owned by Seattle Public Utilities and rights-of-way owned or controlled by Seattle Department of Transportation; and

1 WHEREAS, Seattle Public Utilities and other Potentially Liable Persons negotiated a legal
2 agreement among themselves, to facilitate cleanup work; NOW, THEREFORE,

3 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

4 Section 1. The City of Seattle is authorized to record the environmental covenant for the
5 portion of the South Park Landfill owned by Seattle Public Utilities (“Landfill”), in substantially
6 the form attached to this ordinance as Attachment 1.

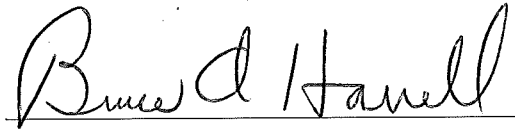
7 Section 2. The City of Seattle is hereby authorized to record environmental covenants or
8 equivalent instruments for rights of way that are owned or controlled by the Seattle Department
9 of Transportation and are impacted by the Landfill, in substantially the form attached to this
10 ordinance as Attachment 2.

11 Section 3. The General Manager of Seattle Public Utilities is authorized to execute a legal
12 agreement with other Potentially Liable Persons to coordinate cleanup-related work, to mutually
13 release a portion of cleanup-related claims, and to permanently allocate a portion of cleanup
14 costs, in substantially the form attached to this ordinance as Attachment 3.

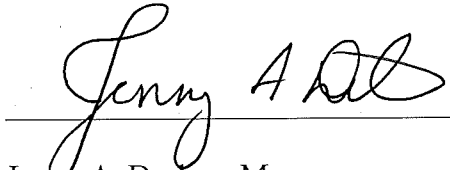
15

1 Section 4. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

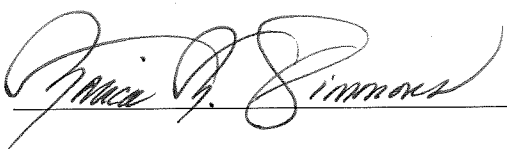
4 Passed by the City Council the 16th day of April, 2018,
5 and signed by me in open session in authentication of its passage this 16th day of
6 April, 2018.

7 
8 President _____ of the City Council

9 Approved by me this 20th day of April, 2018.

10 
11 Jenny A. Durkan, Mayor

12 Filed by me this 20th day of April, 2018.

13 
14 Monica Martinez Simmons, City Clerk

15 (Seal)
16
17
18

- 19 Attachments:
20 Attachment 1 – Seattle Public Utilities Environmental Covenant
21 Attachment 2 – Seattle Department of Transportation Environmental Covenant
22 Attachment 3 – South Park Landfill PLP Agreement

After Recording Return
Original Signed Covenant to:

Jerome Cruz
Toxics Cleanup Program
Department of Ecology
Northwest Regional Office
3190 - 160th Ave. SE
Bellevue, WA 98008-5452

Environmental Covenant

Grantor: City of Seattle

Grantee: State of Washington, Department of Ecology (hereafter "Ecology")

Brief Legal Description: PTN OF GOV'T LOT 4 STR 32-24-04

Tax Parcel Nos.: 7328400005 and 3224049110

Cross Reference: NONE

RECITALS

- a. This document is an environmental (restrictive) covenant (hereafter "Covenant") executed pursuant to the Model Toxics Control Act ("MTCA"), chapter 70.105D RCW, and Uniform Environmental Covenants Act ("UECA"), chapter 64.70 RCW.
- b. The Property that is the subject of this Covenant is part of a site commonly known as South Park Landfill (Facility Site ID # 2180). The Property is legally described in Exhibit A, and illustrated in Exhibit B, both of which are attached (hereafter "Property"). If there are differences between these two Exhibits, the legal description in Exhibit A shall prevail.
- c. The Property is the subject of remedial action conducted under MTCA. This Covenant is required because residual contamination remains on the Property after completion of remedial actions. Specifically, the following principal contaminants remain on the Property:

| Medium | Principal Contaminants Present ^[1] |
|---|--|
| Waste within the closed landfill | Aged municipal solid waste with soil. Arsenic and lead have been detected in soil. |
| Soil (landscaping above the landfill cap) | Various common urban hazardous substances, such as PAHs and metals, are present at concentrations above unrestricted land use cleanup levels (Methods A and B) but below industrial land use cleanup levels (Methods A and C). |
| Soil vapor | Landfill gas (Methane) |
| Groundwater | Vinyl Chloride, Iron, Manganese, Arsenic |

- d. It is the purpose of this Covenant to restrict certain activities and uses of the Property to protect human health and the environment and the integrity of remedial actions conducted at the site. Records describing the extent of residual contamination and remedial actions conducted are

^[1] For a full description of the contaminants of concern at the South Park Landfill Site, see Exhibit A to the Consent Decree (King County Cause No XXXXX), Draft Cleanup Action Plan, in Table 4.2.

available through Ecology. This includes but is not limited to the following documents (hereafter the "Site Documents"), which are incorporated herein:

- Cleanup Action Plan <citation to be completed>, including the Operations, Maintenance, and Monitoring Plan (OMMP) for South Park Landfill, which includes the following:
 - Attachment A.1: Landfill Cap Inspection and Maintenance Plan
 - Attachment A.2: Landfill Gas Monitoring and Contingency Plan
 - Attachment A.3: Groundwater Monitoring and Contingency Plan
 - Attachment A.4: Annual Report Checklist
 - Consent Decree <citation to be completed once entered by court>
 - RI/FS <citation to be completed>
- e. This Covenant grants Ecology certain rights under UECA and as specified in this Covenant. As a Holder of this Covenant under UECA, Ecology has an interest in real property, however, this is not an ownership interest which equates to liability under MTCA or the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 *et seq.* The rights of Ecology as an "agency" under UECA, other than its' right as a holder, are not an interest in real property.

COVENANT

City of Seattle ("City"), as Grantor and fee simple owner of the Property hereby grants to the Washington State Department of Ecology, and its successors and assignees, the following covenants. Furthermore, it is the intent of the Grantor that such covenants shall supersede any prior interests the City has in the property and run with the land and be binding on all current and future owners of any portion of, or interest in, the Property.

Section 1. General Restrictions and Requirements.

The following general restrictions and requirements shall apply to the Property:

- a. **Interference with Remedial Action.** The Grantor shall not engage in any activity on the Property that may impact or interfere with the remedial action and any operation, maintenance, inspection or monitoring of that remedial action without prior written approval from Ecology.
- b. **Protection of Human Health and the Environment.** The Grantor shall not engage in any activity on the Property that may threaten continued protection of human health or the environment without prior written approval from Ecology. This includes, but is not limited to, any activity that results in the release of residual contamination that was contained as a part of the remedial action or that exacerbates or creates a new exposure to residual contamination remaining on the Property.
- c. **Continued Compliance Required.** Grantor shall not convey any interest in any portion of the Property without providing for the continued adequate and complete operation, maintenance and monitoring of remedial actions and continued compliance with this Covenant.
- d. **Leases.** Grantor shall restrict any lease for any portion of the Property to uses and activities consistent with this Covenant and notify all lessees of the restrictions on the use of the Property.
- e. **Preservation of Reference Monuments.** Grantor shall make a good faith effort to preserve any reference monuments and boundary markers used to define the areal extent of

coverage of this Covenant. Should a monument or marker be damaged or destroyed, Grantor shall have it replaced by a licensed professional surveyor within 30 days of discovery of the damage or destruction.

Section 2. Specific Prohibitions and Requirements.

In addition to the general restrictions in Section 1 of this Covenant, the following additional specific restrictions and requirements shall apply to the Property.

- a. Land use.** The remedial action for the Property is based on a cleanup designed for industrial property. As such, the Property shall be used in perpetuity only for industrial uses, as that term is defined in the rules promulgated under Chapter 70.105D RCW. Prohibited uses on the Property include but are not limited to residential uses, childcare facilities, K-12 public or private schools, parks, grazing of animals, growing of food crops, and non-industrial commercial uses.
- b. Containment of soil/solid wastes.** The remedial action for the Property is based on containing contaminated soil and landfill waste under a cap consisting of buildings, asphalt, concrete, soil layers with a visible barrier (non-paved areas), and soil with low permeability layer or an impermeable geomembrane at least 50 millimeters thick (stormwater conveyance and treatment facilities such as swales, ditches, or ponds). Exhibit C shows the extent of and type of the cap on the Property. The primary purpose of this cap is to prevent direct contact with the solid wastes and is an inherent element of the stormwater and landfill gas controls that are part of landfill closure. The following restrictions shall apply within the cap area illustrated in Exhibit C:

 - i. Any activity on the Property that will compromise the integrity of the cap including: drilling; digging; piercing the cap with sampling device, post, stake or similar device; grading; excavation; installation of underground utilities; removal of the cap; or, application of loads in excess of the cap load bearing capacity, is prohibited without prior written approval by Ecology. The Grantor shall report to Ecology within forty-eight (48) hours of the discovery of any damage to the cap. Unless an alternative plan has been approved by Ecology in writing, the Grantor shall promptly repair the damage and submit a report documenting this work to Ecology within thirty (30) days of completing the repairs.
 - ii. The Grantor shall not alter or remove the existing structures on the Property in any manner that would expose contaminated soil and landfill waste, result in a release to the environment of contaminants, or create a new exposure pathway, without prior written approval of Ecology.
 - iii. The Grantor covenants and agrees that it shall annually, or at other time as approved in writing by Ecology, inspect the cap and building floor or foundation and report within thirty (30) days of the inspection the condition of the cap and building floor or foundation and any changes to the cap and building floor and foundation that would impair its performance.
- c. Stormwater facilities.** To minimize the potential for mobilization of contaminants remaining in soil, waste materials, and groundwater on the Property, no stormwater infiltration facilities or unlined ponds shall be constructed on the portion of the Property that overlies refuse as detailed in Exhibit D. All stormwater catch basins, conveyance systems, and other appurtenances installed on the Property shall be of water-tight construction.
- d. Landfill Gas Controls and Protections.** The residual contamination on the Property includes biodegradable wastes/chemicals that may generate methane, a combustible gas. As such,

the following restrictions shall apply on the Property to minimize the potential for exposure to these vapors:

- i. Grantor shall equip all buildings on the Property with methane alarms operating 24 hours, 7 days per week. Grantor shall maintain the alarms in good working order, and will replace any alarm that fails within 7 days after discovery of the failure.
 - ii. No building or other enclosed structure shall be constructed on the Property unless approved by Ecology.
 - iii. Grantor shall ensure that any new building or other enclosed structure constructed on the Property will comply with all City Code requirements related to methane mitigation, and will contain, at a minimum, a sealed foundation and a gas venting system unless otherwise approved in writing by Ecology.
- e. **Landfill Gas Monitoring.** Grantor shall monitor landfill gas on the Property. The following monitoring is required:
- i. The Grantor will monitor indoor spaces using the methane alarms in 2(d) above to ensure that concentrations of methane gas in (a) buildings overlying refuse illustrated in Exhibit B do not exceed 1.25 percent by volume, or 25 percent of the lower explosive limit (LEL), and (b) buildings outside the area of the Property overlying refuse illustrated in Exhibit B do not exceed 100 parts per million by volume.
 - ii. The Grantor will monitor performance of the landfill gas controls installed on the Property as part of 2(d) above;
 - iii. The Grantor shall promptly report to Ecology any exceedance of methane gas allowable limits, and shall take immediate, appropriate action to respond to such exceedances.
- f. **Groundwater use.** The groundwater beneath the Property remains contaminated and shall not be extracted for any purpose other than temporary construction dewatering, investigation, monitoring or remediation. Drilling of a well for any water supply purpose is strictly prohibited. Groundwater extracted from the Property for any purpose shall be considered potentially contaminated and any discharge of this water shall be done in accordance with state and federal law.
- g. **Groundwater Monitoring.** Groundwater monitoring wells are located on the Property to monitor the performance of the remedial action. The Grantor shall maintain clear access to these devices and protect them from damage. The Grantor shall report to Ecology within 14 calendar days of the discovery of any damage to any monitoring device located on the Property. Unless Ecology approves of an alternative plan in writing, the Grantor shall arrange for the prompt repair of the damage and submission of a report documenting this work to Ecology within thirty (30) days of completing the repairs.

Section 3. Access.

- a. The Grantor shall maintain clear access to all remedial action components necessary to construct, operate, inspect, monitor and maintain the remedial action.
- b. The Grantor freely and voluntarily grants Ecology, its authorized representatives, and the Site Coordinator, upon reasonable notice, the right to enter the Property at reasonable times to evaluate the effectiveness of this Covenant and associated remedial actions, and enforce compliance with this Covenant and those actions, including the right to take samples, inspect any remedial actions conducted on the Property, and to inspect related records.
- c. No right of access or use by a third party to any portion of the Property is conveyed by this instrument.

Section 4. Notice Requirements.

a. Conveyance of Any Interest. The Grantor, when conveying any interest in any part of the property, including but not limited to title, easement, leases, and security or other interests, must:

- i. Provide written notice to Ecology of the intended conveyance at least thirty (30) days in advance of the conveyance.
- ii. Include in the conveying document a notice in substantially the following form, as well as a complete copy of this Covenant:

NOTICE: THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT GRANTED TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY ON [DATE] AND RECORDED WITH THE KING COUNTY RECORDER'S OFFICE UNDER RECORDING NUMBER [RECORDING NUMBER]. USES AND ACTIVITIES ON THIS PROPERTY MUST COMPLY WITH THAT COVENANT, A COMPLETE COPY OF WHICH IS ATTACHED TO THIS DOCUMENT.

- iii. Unless otherwise agreed to in writing by Ecology, provide Ecology with a complete copy of the executed document within thirty (30) days of the date of execution of such document.

b. Reporting Violations. Should the Grantor become aware of any violation of this Covenant, Grantor shall promptly report such violation in writing to Ecology.

c. Emergencies. For any emergency or significant change in site conditions due to Acts of Nature (for example, flood or fire) resulting in a violation of this Covenant, the Grantor is authorized to respond to such an event in accordance with state and federal law. The Grantor must notify Ecology in writing of the event and response actions planned or taken as soon as practical but no later than within 24 hours of the discovery of the event.

d. Notification procedure. Any required written notice, approval, reporting or other communication shall be personally delivered or sent by first class mail to the following persons. Any change in this contact information shall be submitted in writing to all parties to this Covenant. Upon mutual agreement of the parties to this Covenant, an alternative to personal delivery or first class mail, such as e-mail or other electronic means, may be used for these communications.

| | |
|---|---|
| City of Seattle Seattle Public Utilities Attn: Jeff Neuner P.O. Box 34018 Seattle, WA 98124-4018 206-684-7693 Jeff.Neuner@seattle.gov | Environmental Covenants Coordinator Washington State Department of Ecology Toxics Cleanup Program P.O. Box 47600 Olympia, WA 98504 – 7600 (360) 407-6000 ToxicsCleanupProgramHQ@ecy.wa.gov |
|---|---|

Section 5. Modification or Termination.

- a. Grantor must provide written notice and obtain approval from Ecology at least sixty (60) days in advance of any proposed activity or use of the Property in a manner that is inconsistent with this Covenant. For any proposal that is inconsistent with this Covenant and permanently modifies an activity or use restriction at the site:
- i. Ecology must issue a public notice and provide an opportunity for the public to comment on the proposal; and
 - ii. If Ecology approves of the proposal, the Covenant must be amended to reflect the change before the activity or use can proceed.
- b. If the conditions at the site requiring a Covenant have changed or no longer exist, then the Grantor may submit a request to Ecology that this Covenant be amended or terminated. Any amendment or termination of this Covenant must follow the procedures in MTCA and UECA and any rules promulgated under these chapters.

Section 6. Enforcement and Construction.

- a. This Covenant is being freely and voluntarily granted by the Grantor.
- b. Within ten (10) days of execution of this Covenant, Grantor shall provide Ecology with an original signed Covenant and proof of recording and a copy of the Covenant and proof of recording to others required by RCW 64.70.070.
- c. Ecology shall be entitled to enforce the terms of this Covenant by resort to specific performance or legal process. All remedies available in this Covenant shall be in addition to any and all remedies at law or in equity, including MTCA and UECA. Enforcement of the terms of this Covenant shall be at the discretion of Ecology, and any forbearance, delay or omission to exercise its rights under this Covenant in the event of a breach of any term of this Covenant is not a waiver by Ecology of that term or of any subsequent breach of that term, or any other term in this Covenant, or of any rights of Ecology under this Covenant.
- d. The Grantor shall be responsible for all costs associated with implementation of this Covenant. Furthermore, the Grantor, upon request by Ecology, shall be obligated to pay for Ecology's costs to process a request for any modification or termination of this Covenant and any approval required by this Covenant.
- e. This Covenant shall be liberally construed to meet the intent of MTCA and UECA.
- f. The provisions of this Covenant shall be severable. If any provision in this Covenant or its application to any person or circumstance is held invalid, the remainder of this Covenant or its application to any person or circumstance is not affected and shall continue in full force and effect as though such void provision had not been contained herein.
- g. A heading used at the beginning of any section or paragraph or exhibit of this Covenant may be used to aid in the interpretation of that section or paragraph or exhibit but does not override the specific requirements in that section or paragraph.
- h. This Covenant shall not be considered or interpreted to diminish the governmental or police powers of the State of Washington or the City of Seattle.

The undersigned Grantor warrants he/she holds the title to the Property and has authority to execute this Covenant.

EXECUTED this _____ day of _____, 20____.

CITY OF SEATTLE

by: _____

Title: _____

Exhibit A

LEGAL DESCRIPTION

The Land is located in King County, Washington, and is legally described as follows:

Parcel A:

Those portions of Blocks 6, 7, 17 and 18, First Addition to River Park, according to the Plat thereof recorded in Volume 8 of Plats, page 65, in King County, Washington, lying westerly and southwesterly of the westerly and southwesterly margin of that certain property conveyed by the State of Washington to the City of Seattle for road purposes by deed recorded under Recording No. 9012260159;

EXCEPT any portion thereof lying west of the west line of George Holt Donation Claim No. 51;

AND EXCEPT any portion thereof lying within 2nd Avenue South, conveyed to the City of Seattle by deed recorded under Recording No. 4192618;

AND EXCEPT any portion thereof lying within South Kenyon Street;

TOGETHER WITH vacated South Monroe, South Elmgrove and South Southern Streets adjoining, vacated pursuant to City of Seattle Ordinance No. 96804 and attaching thereto by operation of law.

Parcel B:

That portion of Government Lot 4, Section 32, Township 24 North, Range 4 East, W.M., in King County, Washington, described as follows:

A strip of land, 60 feet in width, lying between lines, the west line being 60 feet west of, as measured at right angles to and parallel with the following described east line:

Beginning on the north line of said Section 32, 264 feet east from the northwest corner thereof;

thence south 15031'06" east, 547.61 feet;

thence easterly to intersect a point on a line drawn south 02°03'26" west from a point on the north line of said section, 73.81 feet west of the west line of George Holt Donation Claim No. 51, said point being 516.36 feet south of said north line;

thence continuing easterly on said line to the west line of said Donation Claim and the TRUE POINT OF BEGINNING of east line description;

thence south along the west line of said Donation Claim to an intersection with a line distant 30 feet south of and parallel with the south line of Block 6, First Addition to River Park, according to the plat thereof recorded in Volume 8 of Plats, page 65, in King County, Washington, and the terminus of east line description.

Parcel C:

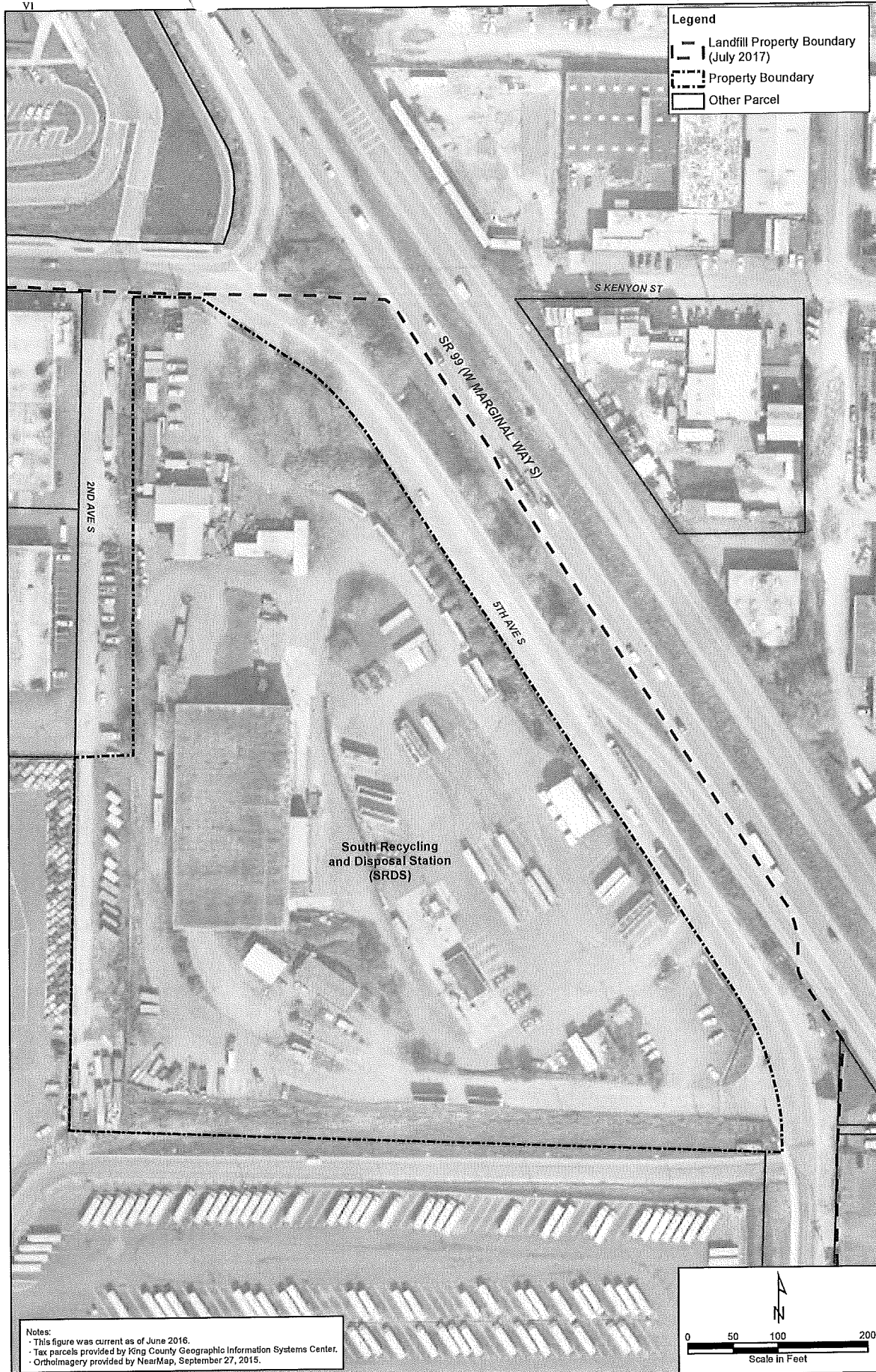
That portion of Government Lots 2 and 4, Section 32, Township 24 North, Range 4 East, W.M., in King County, Washington, described as follows:

A strip of land, 30 feet in width, lying between lines, the south line being 30 feet south of, as measured at right angles to and parallel with the following described north line:

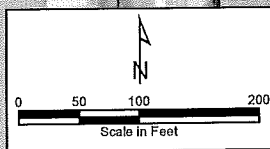
Beginning at the intersection of the west line of George Holt Donation Claim No. 51, with the south line of Block 6, First Addition to River Park, according to the plat thereof recorded in Volume 8 of Plats, page 65, in King County, Washington;

thence easterly, along the south line of said Block 6, to the southeast corner of Lot 1, said Block 6, and the terminus of north line description;

EXCEPT that portion thereof, if any, lying within 5th Avenue South.



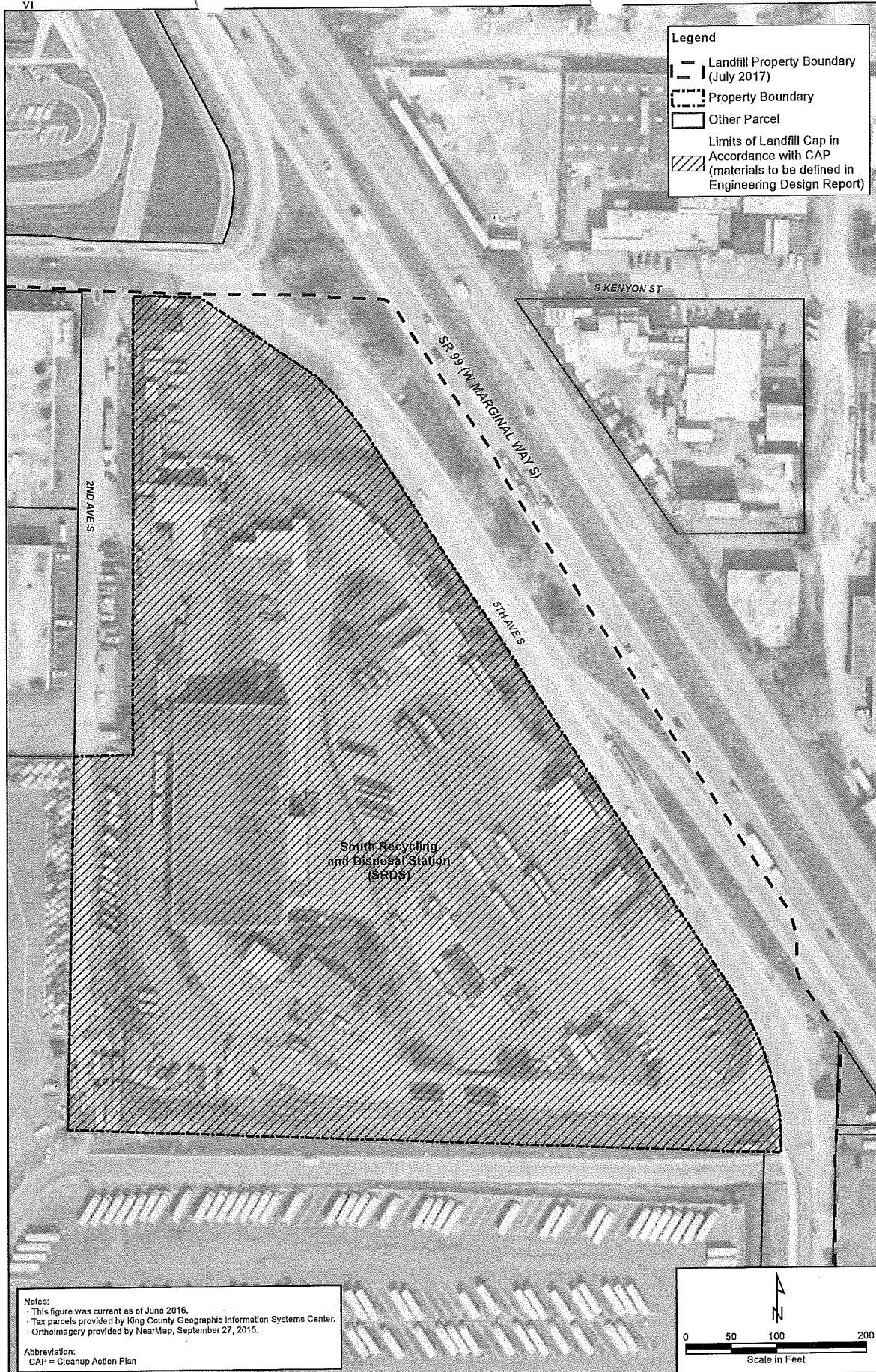
Notes:
 - This figure was current as of June 2016.
 - Tax parcels provided by King County Geographic Information Systems Center.
 - Orthoimagery provided by NearMap, September 27, 2015.



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South Park Landfill
 Seattle, Washington

Exhibit B
 Property Boundary—SRDS Parcel



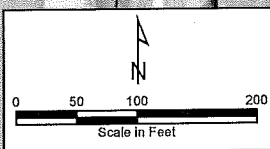
Legend

- Landfill Property Boundary (July 2017)
- Property Boundary
- Other Parcel
- Limits of Landfill Cap in Accordance with CAP (materials to be defined in Engineering Design Report)

Notes:

- This figure was current as of June 2016.
- Tax parcels provided by King County Geographic Information Systems Center.
- Orthorectification provided by NearMap, September 27, 2015.

Abbreviation:
CAP = Cleanup Action Plan

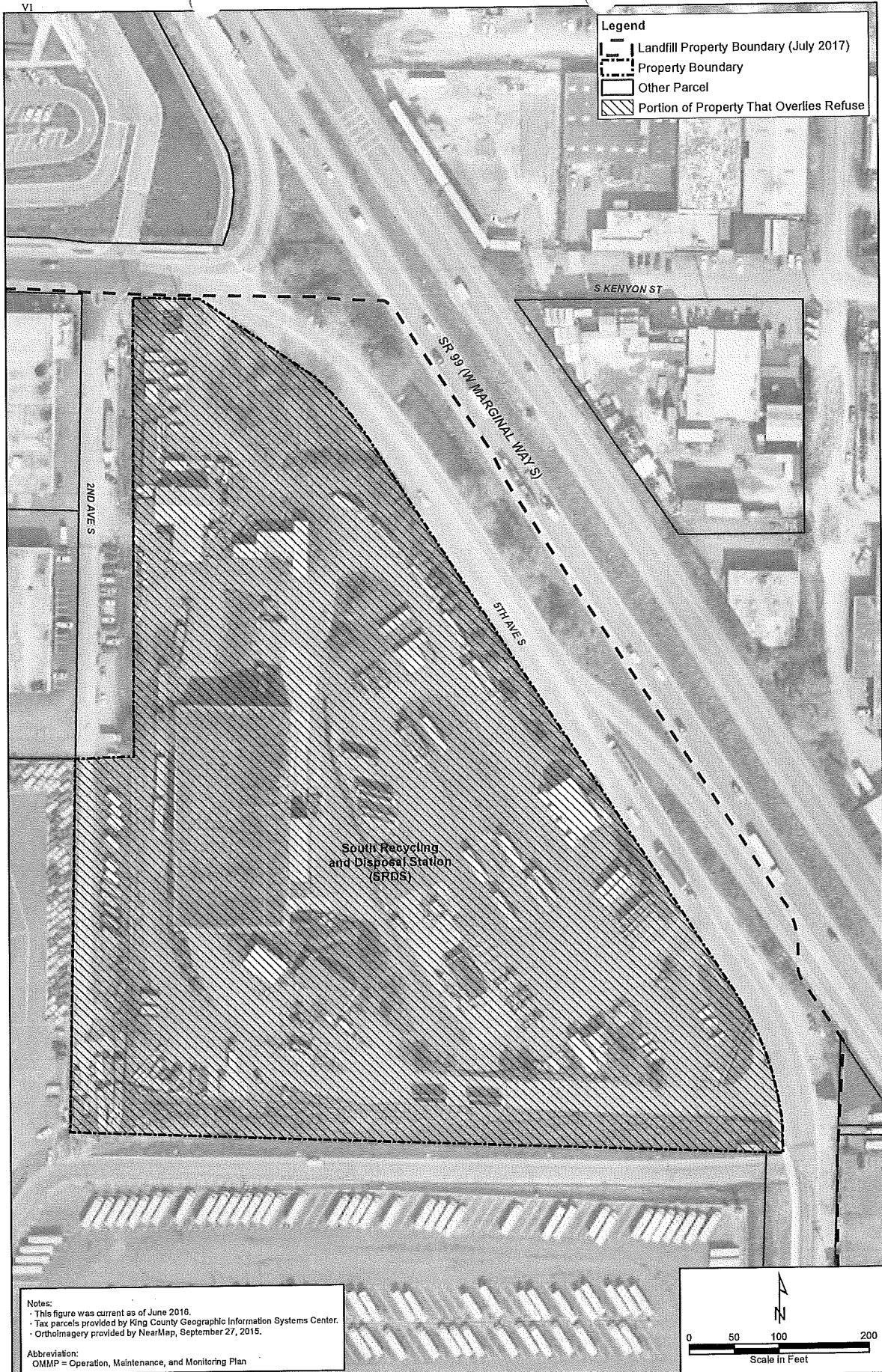


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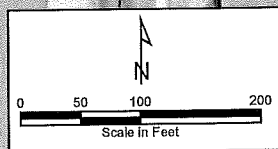
South Park Landfill
Seattle, Washington

Exhibit C
Landfill Cap Boundary—SRDS Parcel



Notes:
 - This figure was current as of June 2016.
 - Tax parcels provided by King County Geographic Information Systems Center.
 - Orthorectification provided by NearMap, September 27, 2015.

Abbreviation:
 OMMP = Operation, Maintenance, and Monitoring Plan



After Recording Return
Original Signed Covenant to:

Jerome Cruz
Toxics Cleanup Program
Department of Ecology
Northwest Regional Office
3190 - 160th Ave. SE
Bellevue, WA 98008-5452

Environmental Covenant

Grantor: City of Seattle

Grantee: State of Washington, Department of Ecology (hereafter "Ecology")

Brief Legal Description: Rights of Way adjacent to South Park Landfill

Tax Parcel Nos.: 7328400005 and 3224049110 (adjacent ROWs)

Cross Reference: NONE

RECITALS

- a. This document is an environmental (restrictive) covenant (hereafter "Covenant") executed pursuant to the Model Toxics Control Act ("MTCA"), chapter 70.105D RCW, and Uniform Environmental Covenants Act ("UECA"), chapter 64.70 RCW to impose restriction and condition on property owned in fee by the City and that is designated for use as Rights of Ways ("ROWs").
- b. The Right of Way Properties ("Property" or "Properties") owned and controlled by the City of Seattle that is the subject of this Covenant is adjacent to a site commonly known as South Park Landfill (Facility Site ID # 2180). The Properties are legally described in Exhibit A, and illustrated in Exhibit B, both of which are attached. If there are differences between these two Exhibits, the legal description in Exhibit A shall prevail.
- c. The Property is the subject of remedial action conducted under MTCA. This Covenant is required because residual contamination remains on the Property after completion of remedial actions. Specifically, the following principal contaminants remain on the Property:

| Medium | Principal Contaminants Present ^[1] |
|----------------------------------|--|
| Waste within the closed landfill | Aged municipal solid waste with soil. Arsenic and lead have been detected in soil. |
| Soil | Various common urban hazardous substances, such as PAHs and metals, are present at concentrations above unrestricted land use cleanup levels (Methods A and B) but below industrial land use cleanup levels (Methods A and C). |
| Soil vapor | Landfill gas (Methane) |
| Groundwater | Vinyl Chloride, Iron, Manganese, Arsenic |

^[1] For a full description of the contaminants of concern at the South Park Landfill Site, see Exhibit A to the Consent Decree (King County Cause No XXXXX), Draft Cleanup Action Plan, in Table 4.2.

d. It is the purpose of this Covenant to restrict certain activities and uses of the Property to protect human health and the environment and the integrity of remedial actions conducted at the site. Records describing the extent of residual contamination and remedial actions conducted are available through Ecology. This includes but is not limited to the following documents (hereafter the "Site Documents"), which are incorporated herein:

- Cleanup Action Plan, including the Operations, Maintenance, and Monitoring Plan (OMMP) for South Park Landfill, which includes the following:
 - Attachment A.1: Landfill Cap Inspection and Maintenance Plan
 - Attachment A.2: Landfill Gas Monitoring and Contingency Plan
 - Attachment A.3: Groundwater Monitoring and Contingency Plan
 - Attachment A.4: Annual Report Checklist
- Consent Decree
- RI/FS

e. This Covenant grants Ecology certain rights under UECA and as specified in this Covenant. As a Holder of this Covenant under UECA, Ecology has an interest in real property, however, this is not an ownership interest which equates to liability under MTCA or the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 *et seq.* The rights of Ecology as an "agency" under UECA, other than its' right as a holder, are not an interest in real property.

COVENANT

City of Seattle ("City"), as Grantor and fee simple owner of the Property hereby grants to the Washington State Department of Ecology, and its successors and assignees, the following covenants. Furthermore, it is the intent of the Grantor that such covenants shall supersede any prior interests the City has in the property and run with the land and be binding on all current and future owners of any portion of, or interest in, the Property.

Section 1. General Restrictions and Requirements.

The following general restrictions and requirements shall apply to the Property:

- a. **Interference with Remedial Action.** The Grantor shall not engage in any activity on the Property that may impact or interfere with the remedial action and any operation, maintenance, inspection or monitoring of that remedial action without prior written approval from Ecology.
- b. **Protection of Human Health and the Environment.** The Grantor shall not engage in any activity on the Property that may threaten continued protection of human health or the environment without prior written approval from Ecology except for those activities consistent with the provisions of Section 2 of this Covenant. This includes, but is not limited to, any activity that results in the release of residual contamination that was contained as a part of the remedial action or that exacerbates or creates a new exposure to residual contamination remaining on the Property.
- c. **Continued Compliance Required.** Grantor shall not convey any interest in any portion of the Property without providing for the continued adequate and complete operation, maintenance and monitoring of remedial actions and continued compliance with this Covenant.

d. Leases. Grantor shall restrict any lease for any portion of the Property to uses and activities consistent with this Covenant and notify all lessees of the restrictions on the use of the Property.

e. Preservation of Reference Monuments. Grantor shall make a good faith effort to preserve any reference monuments and boundary markers used to define the areal extent of coverage of this Covenant. Should a monument or marker be damaged or destroyed, Grantor shall have it replaced by a licensed professional surveyor within 30 days of discovery of the damage or destruction.

Section 2. Specific Prohibitions and Requirements.

In addition to the general restrictions in Section 1 of this Covenant, the following additional specific restrictions and requirements shall apply to the Property:

a. Land use. The remedial action for the Property is based on a cleanup designed for industrial property. As such, the Property shall be used in perpetuity only for ROW and industrial uses, as that term is defined in the rules promulgated under Chapter 70.105D RCW. Prohibited uses on the Property include but are not limited to residential uses, childcare facilities, K-12 public or private schools, parks, grazing of animals, growing of food crops, and non-industrial commercial uses.

b. Containment of soil/solid wastes. The remedial action for the Property is based on containing contaminated soil and landfill waste under a cap consisting of asphalt, concrete and soil layers. The primary purpose of this cap is to prevent direct contact with the solid wastes and is an inherent element of the stormwater and landfill gas controls that are part of landfill closure. The following restrictions shall apply within the ROW area:

- i. Any activity on the Property that will compromise the integrity of the cap, which includes the substrate, including: drilling; digging; piercing the cap with sampling device, post, stake or similar device; grading; excavation; installation of underground utilities; removal of the cap; or, application of loads in excess of the cap load bearing capacity, is prohibited without prior written approval by Ecology, EXCEPT that the City is authorized to conduct routine operation and maintenance activities on the ROW and utilities located within the ROW provided that any impact to the cap, if any, resulting from such routine operation and maintenance is repaired promptly. The Grantor shall report to Ecology within forty-eight (48) hours of the discovery of or causation of any damage to the cap. Unless an alternative plan has been approved by Ecology in writing, the Grantor shall promptly repair the damage and submit a report documenting this work to Ecology within thirty (30) days of completing the repairs.
- ii. The Grantor shall not alter or remove the existing structures on the Property in any manner that would expose contaminated soil and landfill waste, result in a release to the environment of contaminants, or create a new exposure pathway, without prior written approval of Ecology, EXCEPT that the City is authorized to conduct routine operation and maintenance activities on the ROW and utilities located within the ROW provided that any impact to the cap, if any, resulting from such routine operation and maintenance is repaired promptly.
- iii. The Grantor covenants and agrees that it shall annually, or at other time as approved in writing by Ecology, inspect the cap and building floor or foundation and report within

thirty (30) days of the inspection the condition of the cap and building floor or foundation and any changes to the cap and building floor and foundation that would impair its performance.

c. Stormwater facilities. To minimize the potential for mobilization of contaminants remaining in soil, waste materials, and groundwater on the Property, no stormwater infiltration facilities or unlined ponds shall be constructed on the portion of the Property that overlies refuse as detailed in Exhibit D. All stormwater catch basins, conveyance systems, and other appurtenances installed on the Property shall be of water-tight construction.

d. Groundwater use. The groundwater beneath the Property remains contaminated and shall not be extracted for any purpose other than temporary construction dewatering, investigation, monitoring or remediation. Drilling of a well for any water supply purpose is strictly prohibited. Groundwater extracted from the Property for any purpose shall be considered potentially contaminated and any discharge of this water shall be done in accordance with state and federal law.

e. Groundwater Monitoring. Groundwater monitoring wells are located on the Property to monitor the performance of the remedial action. The Grantor shall maintain clear access to these devices and protect them from damage. The Grantor shall report to Ecology within 14 calendar days of the discovery of any damage to any monitoring device located on the Property. Unless Ecology approves of an alternative plan in writing, the Grantor shall arrange for the prompt repair of the damage and submission of a report documenting this work to Ecology within thirty (30) days of completing the repairs.

Section 3. Access.

a. The Grantor shall maintain clear access to all remedial action components necessary to construct, operate, inspect, monitor and maintain the remedial action.

b. The Grantor freely and voluntarily grants Ecology, its authorized representatives, and the Site Coordinator, upon reasonable notice, the right to enter the Property at reasonable times to evaluate the effectiveness of this Covenant and associated remedial actions, and enforce compliance with this Covenant and those actions, including the right to take samples, inspect any remedial actions conducted on the Property, and to inspect related records.

c. No right of access or use by a third party to any portion of the Property is conveyed by this instrument.

Section 4. Notice Requirements.

a. Conveyance of Any Interest. The Grantor, when conveying any interest in any part of the property, including but not limited to title, easement, leases, and security or other interests, must:

- i.** Provide written notice to Ecology of the intended conveyance at least thirty (30) days in advance of the conveyance.
- ii.** Include in the conveying document a notice in substantially the following form, as well as a complete copy of this Covenant:

NOTICE: THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT GRANTED TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY ON [DATE] AND RECORDED WITH THE KING COUNTY

**RECORDER'S OFFICE UNDER RECORDING NUMBER [RECORDING NUMBER].
USES AND ACTIVITIES ON THIS PROPERTY MUST COMPLY WITH THAT
COVENANT, A COMPLETE COPY OF WHICH IS ATTACHED TO THIS
DOCUMENT.**

- iii. Unless otherwise agreed to in writing by Ecology, provide Ecology with a complete copy of the executed document within thirty (30) days of the date of execution of such document.
- b. **Reporting Violations.** Should the Grantor become aware of any violation of this Covenant, Grantor shall promptly report such violation in writing to Ecology.
- c. **Emergencies.** For any emergency or significant change in site conditions due to Acts of Nature (for example, flood or fire) resulting in a violation of this Covenant, the Grantor is authorized to respond to such an event in accordance with state and federal law. The Grantor must notify Ecology in writing of the event and response actions planned or taken as soon as practical but no later than within 24 hours of the discovery of the event.
- d. **Notification procedure.** Any required written notice, approval, reporting or other communication shall be personally delivered or sent by first class mail to the following persons. Any change in this contact information shall be submitted in writing to all parties to this Covenant. Upon mutual agreement of the parties to this Covenant, an alternative to personal delivery or first class mail, such as e-mail or other electronic means, may be used for these communications.

| | |
|---|---|
| City of Seattle Seattle Public Utilities Attn: Jeff Neuner P.O. Box 34018 Seattle, WA 98124-4018 206-684-7693 Jeff.Neuner@seattle.gov | Environmental Covenants Coordinator Washington State Department of Ecology Toxics Cleanup Program P.O. Box 47600 Olympia, WA 98504 – 7600 (360) 407-6000 ToxicsCleanupProgramHQ@ecy.wa.gov |
|---|---|

Section 5. Modification or Termination.

- a. Grantor must provide written notice and obtain approval from Ecology at least sixty (60) days in advance of any proposed activity or use of the Property in a manner that is inconsistent with this Covenant. For any proposal that is inconsistent with this Covenant and permanently modifies an activity or use restriction at the site:
- i. Ecology must issue a public notice and provide an opportunity for the public to comment on the proposal; and
 - ii. If Ecology approves of the proposal, the Covenant must be amended to reflect the change before the activity or use can proceed.
- b. If the conditions at the site requiring a Covenant have changed or no longer exist, then the Grantor may submit a request to Ecology that this Covenant be amended or terminated. Any amendment or termination of this Covenant must follow the procedures in MTCA and UECA and any rules promulgated under these chapters.

Section 6. Enforcement and Construction.

- a. This Covenant is being freely and voluntarily granted by the Grantor.
- b. Within ten (10) days of execution of this Covenant, Grantor shall provide Ecology with an original signed Covenant and proof of recording and a copy of the Covenant and proof of recording to others required by RCW 64.70.070.
- c. Ecology shall be entitled to enforce the terms of this Covenant by resort to specific performance or legal process. All remedies available in this Covenant shall be in addition to any and all remedies at law or in equity, including MTCA and UECA. Enforcement of the terms of this Covenant shall be at the discretion of Ecology, and any forbearance, delay or omission to exercise its rights under this Covenant in the event of a breach of any term of this Covenant is not a waiver by Ecology of that term or of any subsequent breach of that term, or any other term in this Covenant, or of any rights of Ecology under this Covenant.
- d. The Grantor shall be responsible for all costs associated with implementation of this Covenant. Furthermore, the Grantor, upon request by Ecology, shall be obligated to pay for Ecology's costs to process a request for any modification or termination of this Covenant and any approval required by this Covenant.
- e. This Covenant shall be liberally construed to meet the intent of MTCA and UECA.
- f. The provisions of this Covenant shall be severable. If any provision in this Covenant or its application to any person or circumstance is held invalid, the remainder of this Covenant or its application to any person or circumstance is not affected and shall continue in full force and effect as though such void provision had not been contained herein.
- g. A heading used at the beginning of any section or paragraph or exhibit of this Covenant may be used to aid in the interpretation of that section or paragraph or exhibit but does not override the specific requirements in that section or paragraph.
- h. This Covenant shall not be considered or interpreted to diminish the governmental or police powers of the State of Washington or the City of Seattle.

The undersigned Grantor warrants he/she holds the title to the Property and has authority to execute this Covenant.

EXECUTED this _____ day of _____, 20__.

CITY OF SEATTLE

by: _____

Title: _____

Exhibit A

LEGAL DESCRIPTIONS

Segment 1, First legal description: *5th Ave S from S Kenyon south to (almost) S Sullivan. (the westerly 20 feet, from S. Sullivan St., to 667.7 feet north)*

Portion of Government Lots 2 and 3 of the northwest quarter of Section 32, Township 24 North, Range 4 East, W.M., described as follows:

A strip of land 20 feet in width, the east line being 30 feet west of, as measured at right angles to and parallel with, the following described line: Beginning at the northwest corner of the A. Hograve Donation Claim No. 37; thence south along the west line of said Donation Claim to an intersection with the westerly production of the centerline of South Sullivan Street; EXCEPT the north 30 feet thereof heretofore accepted for General Corporate purposes under City of Seattle Ordinance No. 94258; ALSO,

Portion of the south one-half of the northwest quarter and of Government Lot 3 in Section 32, Township 24 North, Range 4 East, W.M., described as follows:

Beginning at the intersection of the westerly production of the centerline of South Sullivan Street, as shown on the Plat of South Park, as recorded in Volume 4 of Plats at Page 87, Records of King County, Washington, with the west line of the A. Hograve Donation Claim; thence north 89° 46' 10" west, along said westerly production, a distance of 50.00 feet to the true point of beginning; thence continuing north 89° 46' 10" west a distance of 657.35 feet to a point on the northeasterly line of Occidental Avenue South; thence northwesterly along said northeasterly line, the same being the arc of a curve to the right having a radius of 841.54 feet and an initial radial bearing of south 29° 22' 05" west, an arc distance of 404.62 feet; thence southeasterly along the arc of a curve to the left having a radius of 450.00 feet and an initial radial bearing of south 56° 54' 59" west, an arc distance of 445.21 feet to a point of tangency; thence south 89° 46' 10" east along said tangent line a distance of 575.27 feet; thence south 0° 36' 58" west, parallel with the west line of said A. Hograve Donation Claim a distance of 70.00 feet to the true point of beginning.

Segment 1/Second Legal Description: *Portion of 5th Ave S. - the easterly 30 feet, from S. of S. Sullivan St. northerly to 667 feet, is platted right of way;*

A strip of land, 30.00 feet in width, lying between lines and lines extended, the west line being 30.00 feet west of, as measured at right angles to and parallel with the following described east line: Beginning at the northwest corner of the A. Hograve Donation Claim No. 37; thence south

along the west line of said Donation Claim to an intersection with the westerly production of the centerline of South Sullivan Street; containing an area of 23,013 square feet, more or less.

Segment 2: S Sullivan starting at 5th Ave S west to Occidental

The east 50 feet of portion of Government Lot 3, in the northwest one-quarter of Section 32, Township 24 North, Range 4 East, W.M., lying between the production west of the center line of South Sullivan Street as shown on the plat of South Park as recorded in Volume 4 of Plats, page 87, Records of King County, Washington, and a line 30 feet north of and parallel with the north line of South Cloverdale Street; except portion thereof deeded for Secondary State Highway No. 1-K, recorded under King County Auditor's File No. 5489079; Also, portion of said Government Lot 3 lying between the north line of South Cloverdale Street and a line 30 feet north of and parallel therewith and between the east line of said Government Lot 3 and a line drawn north at right angles to said parallel line, opposite Highway Engineer's Station U-22 + 40 on the "U" line of said highway; for street purposes; together with the right to make all necessary slopes for cuts or fills upon the abutting property in the reasonable original grading of the street to be established over and across the lands described above;

Segment 3: Occidental Ave S north to northerly boundary of Rainier NW

Those portions of the northeast quarter of the southeast quarter and of the East half of the northeast quarter of Section 31, Township 24 North, Range 4 East, W.M., and these portions of the northeast quarter of the southeast quarter, the West half of the northwest quarter and the southeast quarter of the northwest quarter of Section 32, said Township and Range, lying within the R-Line right of way of State Highway Route No. 509, within the P^t Ave. S. widening right of way of said Highway, within the Olson Place Widening right of way of said Highway, within the V-Line right of way of said Highway within the U-Line right of way of said Highway and within the X-Line right of way of said Highway, all as shown hatched on Exhibit "A",

Segment 4: 2nd Ave S within the landfill

The East 60 feet of that portion of Government Lot 4, Section 32, Township 24 North, Range 4 East, W.M., described as follows: Beginning on the North line of said Section 264 feet East from the Northwest corner thereof; thence South 16° 31' 06" East 547.61 feet; thence Easterly to intersect a point on a line drawn South 2° 03' 26" West from a point on the North line of said Section, 73.81 feet West of the West line of Geo. Holt Donation Claim No. 51 (said point being 516.36 feet South of said North line); thence continuing Easterly on said line to the West line of said Donation Claim; thence North along said West line of the Donation Claim to the North line of the Section; thence Westerly of the North line of the Section to the point of Beginning. (Por. T.L. 5 and 6)

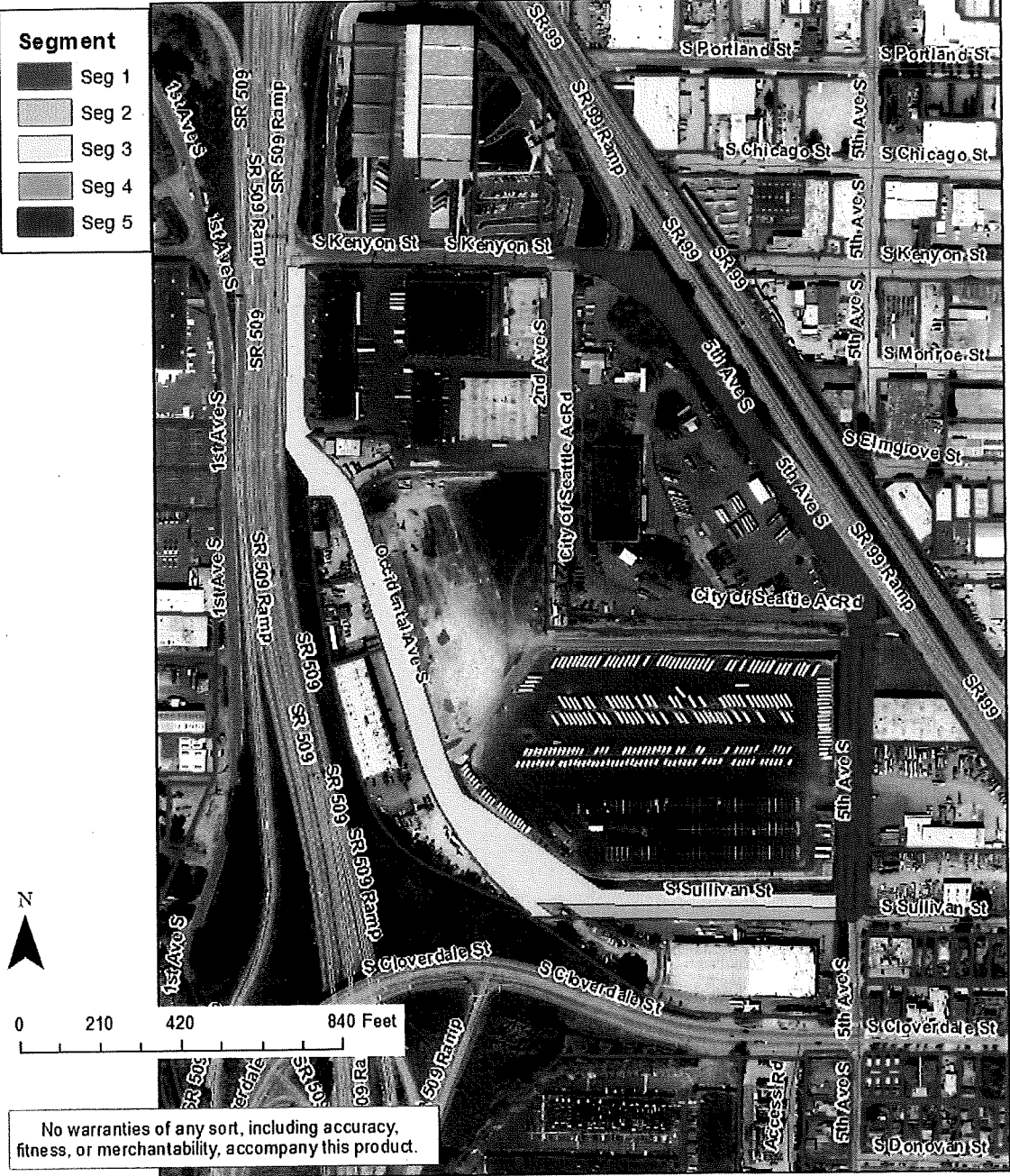
Segment 5: Kenyon St from 5th Ave west to 5R509

That portion of Section Twenty-nine (29), Township Twenty-four (24) North, Range Four (4) East, W.M., described as follows:

Beginning at the intersection of the Southeast margin of County road as established by dedication dated May 27, 1892, Volume 7 of Road Books, Page 578, County Auditor's records, and the south line of said section (said point of intersection being distant 263.12 feet east of the southwest corner of said section); thence northeasterly along said southeasterly margin a distance of one and five one-hundredths (1.05) feet; thence south eighty-nine degrees, sixteen minutes, and thirty-one seconds east (S. 89° 16' 31" E.) a distance of thirty and seventeen one-hundredths (30.17) feet to center line of slough extending over and across said section; thence south sixteen degrees, fifty-three minutes and twenty-five seconds east (S. 16° 53' 25" E.) along said center line a distance of seventy-three one-hundredths (0.73) feet to a point on the south line of said section; thence west along said south line to point of beginning.

Exhibit B

Roads Within South Park Landfill



SOUTH PARK LANDFILL SITE PLP AGREEMENT FOR SITE COORDINATOR AND ECOLOGY OVERSIGHT COSTS

This SOUTH PARK LANDFILL SITE PLP AGREEMENT ("Agreement") is made and entered into by and between THE CITY OF SEATTLE ("City"), SOUTH PARK PROPERTY DEVELOPMENT, LLC ("SPPD"), and KING COUNTY ("County"). The City, SPPD, and County may be referred to herein collectively as the "Participants" or "the Group" or individually as a "Participant."

RECITALS

A. The Washington State Department of Ecology ("Ecology") has identified the Participants as Potentially Liable Persons ("PLPs") under the Washington Model Toxics Control Act ("MTCA") with respect to contamination at the South Park Landfill Site. (Ecology has also identified Harsch Investment Properties, LLC ("Harsch"), and 7901 LLC ("7901") as PLPs for the landfill, but Harsch and 7901 are not parties to this PLP Agreement.)

B. The South Park Landfill Property consists of separate parcels with different ownership, together with certain portions of adjacent public right of way: SPPD owns tax parcel # 3224049005; Harsch owns tax parcel # 3224049007; 7901 owns tax parcel # 3224049077, and the City owns tax parcel # 7328400005. See Exhibit 1 - Map.

C. Ecology has invited the Participants to execute a Consent Decree to implement an approved Cleanup Action Plan ("CAP") for a portion of the Landfill Property, specifically the Settlement Area, as this term is defined in the Consent Decree;

D. Without admitting any fact, responsibility, fault, or degree of liability in connection with the Site as defined in the Consent Decree, the Participants wish to cooperate with each other to perform work required by Ecology to implement an approved CAP for the Settlement Area consistent with the requirements of the expected Consent Decree;

E. The Participants share a common interest in the efficient investigation and cleanup of the Settlement Area and, to that end, wish to assign among themselves responsibility for the performance of certain tasks and the payment of certain remedial action costs anticipated to be required by Ecology in the Consent Decree;

In consideration of the foregoing, the mutual covenants and agreements contained herein, and other good and valuable consideration, the Participants hereto, intending to be legally bound, agree as follows:

AGREEMENT

Based on the Recitals above, which are hereby incorporated into this Agreement, the Participants agree as follows:

1. Definitions. In addition to the definitions set forth above and elsewhere in this Agreement, the following capitalized terms and phrases shall have the following meanings for purposes of this Agreement:
 - 1.1. "Site" means the South Park Landfill and the areal extent of contaminated soil and groundwater associated with the South Park Landfill as set forth in the South Park Landfill Remedial Investigation/Feasibility Study and incorporated into the Final Consent Decree (if any inconsistencies in the characterization of "Site" are found between the RI/FS and Consent Decree, the Consent Decree shall govern).
 - 1.2. "Consent Decree" means the final Consent Decree negotiated between the Participants and Ecology, finalized following the public comment period, and entered by the Court, that requires implementation of the Final Cleanup Action Plan for the Settlement Area.
 - 1.3. "Final Cleanup Action Plan" or "Final CAP" means the final Cleanup Action Plan approved by Ecology following the public comment period.
 - 1.4. "Landfill Site Coordinator" means the position described in Section 2.1.
 - 1.5. "Coordinator's Work" means the Landfill Site Coordinator's work described in Sections 2.11 through 2.1.7 and refers only to long-term landfill monitoring and reporting as specified in the Final Cleanup Action Plan and Consent Decree.
 - 1.6. "Landfill Property" has the meaning given to that term in the Final CAP. If there are any inconsistencies in the characterization of the Landfill Property between this Agreement and the Final CAP, the Final CAP shall govern.
 - 1.7. "Settlement Area" is the area described in the Settlement Area Diagram to be attached to the Consent Decree. The Settlement Area is a portion of the Site.
2. Coordination and Cooperation. For consideration set forth in this Agreement, the Participants agree to sign the Consent Decree for the implementation of the Final CAP at the Settlement Area. All Participants further agree to participate in good faith in the implementation of the Final CAP consistent with the terms of this Agreement. If for any reason, a Participant is invited by Ecology to sign the Consent Decree but fails to sign the Consent Decree, that Participant shall be deemed to have voided its participation in this Agreement, and all rights, benefits and obligations established by and for that Participant in this Agreement shall be void. All Participants that sign the

Consent Decree shall continue to be bound by this Agreement. All Participants acknowledge that failure of any Participant to sign the Consent Decree does not relieve that Participant of its obligations under MTCA, and may result in additional orders or involvement by Ecology.

2.1 Landfill Site Coordinator for long-term monitoring and reporting to Ecology. The Participants anticipate the Consent Decree will require a Landfill Site Coordinator ("Site Coordinator" or "Coordinator") to conduct the following work ("Coordinator's Work"). However, the City may elect to perform the field monitoring activities required in sections 2.1.1 and 2.1.2 below with internal City staff and submit the monitoring data to the Coordinator for evaluation and preparation of the required reports.

2.1.1 on-going monitoring of landfill gas in perimeter probes as specified in the Final CAP;

2.1.2 on-going groundwater monitoring as specified in the Final CAP;

2.1.3 annual inspections of the integrity of the landfill caps as specified in the Final CAP;

2.1.4 annual inspections of surface water drainage effectiveness as specified in the Final CAP;

2.1.5 creating and submitting an annual report to Ecology of data/information related to 2.1.1 through 2.1.4, along with any other information required in the Final CAP;

2.1.6 coordinating and submitting data required for Ecology five-year site reviews; and

2.1.7 coordinating and submitting monthly or quarterly progress reports, if Ecology requires joint reporting by the City and SPPD.

2.2 Participant Process for Annual Reporting and Five-Year Reviews. To facilitate the Site Coordinator's submittal of annual reports and five-year review data to Ecology ("Site Reports"), the Participants agree as follows:

2.2.1 The Site Coordinator may request Ecology-required information from Participants for use in Site Reports. Participants will provide any responsive information they may have to the Site Coordinator within twenty (20) business days of the request.

2.2.2 The Site Coordinator will submit draft and draft final Site Reports to the Participants. Participants will have ten (10) business days to submit comments on draft Site Reports and five (5) business days to submit comments on draft final Site Reports. A Participant who fails to submit comments by the respective deadline will be deemed to have waived its right to submit comments.

2.2.3 The Site Coordinator will endeavor to incorporate Participant comments unless it is not practicable to do so. A Participant who disputes incorporation of Participant comments may meet with the Site Coordinator within ten business days of the dispute arising to attempt to resolve the dispute. The disputing Participant shall inform the other Participants about the meeting as soon as practicable. Any Participant may participate in that meeting. If the dispute cannot be resolved, the disputed comments will not be incorporated into the Site Reports, the disputing Participant may submit the disputed comments individually to Ecology, and will send to the other Participants a copy of the disputed comments as soon as practicable.

2.3 Payment for the Coordinator. It is anticipated Ecology will require the Coordinator's Work for an indefinite amount of time, but likely for a minimum of twenty years. The Participants agree to the following roles and responsibilities for hiring and paying for the costs of the Coordinator's Work.

2.3.1 The City agrees to hire the Landfill Site Coordinator through a competitive procurement process in accordance with applicable laws, regulations and City of Seattle contracting policies. The City further agrees to manage the contract of the Coordinator.

2.3.2 SPPD and the County agree to cash out their respective portions of future costs of the Coordinator's Work by SPPD paying to the City \$354,938 (Three-Hundred and Fifty-Four Thousand, Nine-Hundred and Thirty-Eight Dollars). SPPD shall pay this amount either (a) in its entirety 30 days after entry of the Consent Decree, or earlier, or (b) in three annual payments, adjusted to Net Present Value. If the latter, the first payment of \$118,313 (One-Hundred And Eighteen Thousand, Three-Hundred And Thirteen Dollars) is due and payable 30 days after entry of the Consent Decree requiring the Landfill Site Coordinator. The second payment of \$121,682 (One-Hundred And Twenty-One Thousand, Six Hundred And Eighty-Two Dollars) is due and payable on or before the first anniversary of the entry of the Consent Decree. The third payment of \$125,517 (one-hundred and twenty-five thousand, five hundred and seventeen dollars) is due and payable on or before the second anniversary of the entry of the Consent Decree. Except as provided in Section 2.5.2, these payments will completely satisfy SPPD and the County's payment obligations for the Coordinator's Work, even if actual costs are higher than estimated.

2.4 Ecology Oversight Costs. Ecology Oversight Costs shall mean the costs that the Department of Ecology is authorized to collect from the PLPs pursuant to WAC 173-340-550 for the oversight of the investigation, design and implementation of the Final CAP for the Settlement Area. The City shall pay 100% of Ecology Oversight Costs to Ecology in accordance with Ecology's and the City's accounting procedures for such costs as required by the Consent Decree. The City may seek Dispute Resolution as provided under the Consent Decree and seek any relief or remedy provided by the

Consent Decree if the City believes the invoiced amount of Ecology Oversight Costs is in error.

2.5 Progress Reporting. It is anticipated the Consent Decree will require monthly or quarterly progress reporting, in addition to the annual reporting and five-year reviews. The Participants will be responsible for developing and submitting individual progress reports for their respective properties, unless Ecology requires joint reporting. If Ecology requires joint reporting, the Participants agree to the following:

2.5.1 The City shall pay 60 percent of Site Coordinator costs to develop joint progress reports.

2.5.2 SPPD's share of the Site Coordinator costs to develop joint progress reports shall be a one-time cash settlement of \$24,048, payable by SPPD to the City, which shall be due and payable upon the later of either (a) 30 days after the entry of the Consent Decree or (b) 30 days after Ecology notifies the parties that it is requiring joint reporting. Except as provided in Section 2.3.2, this payment will completely satisfy SPPD and the County's payment obligations for the Coordinator's Work, even if actual costs are higher than estimated.

2.5.3. The Site Coordinator may request Ecology-required information from Participants for use in Progress Reports. Participants will provide any responsive information they may have to the Site Coordinator within five (5) business days of the request for monthly reports and within twenty (20) business days of the request for quarterly reports.

2.5.4 The Site Coordinator will submit draft and final joint reports to the Participants. Participants will have three (3) business days to submit comments on draft monthly progress reports and three (3) business days to submit comments on draft quarterly progress reports.

2.5.5 Section 2.2.3 shall govern disputes regarding Participant comments about joint monthly or quarterly progress reports.

2.5 Other MTCA Obligations Not Affected. The provisions in Sections 2.2 and 2.3 relate only to the costs of the Coordinator's Work, and do not apply to each Participant's obligations to perform remedial actions on its own property. Except as expressly stated otherwise in this Agreement or in prior Site-related agreements between or among Participants, each Participant is responsible for constructing and maintaining the remedial action elements and systems located on that Participant's property. In the event that the monitoring and inspection data submitted to Ecology by the Coordinator triggers a requirement by Ecology to undertake additional remedial actions, redesign, reconstruction, maintenance, repairs, or other work ("Additional Work"), the individual Participant(s) who owns or operates the property on which such Additional Work is to be undertaken, or has otherwise affirmatively agreed to be responsible for the remedial element(s) needing Additional Work, shall be responsible

for the costs of performing the Additional Work necessary to fulfill Ecology's requirements.

3. Enforcement Not Precluded. Nothing in this Agreement precludes any Participant from bringing an action to enforce the terms and conditions of this Agreement. Any Participant may bring an action to recover costs arising from the failure of any other Participant to fulfill any obligation imposed by this Agreement.

4. Dispute Resolution. Upon receiving written notice of a dispute arising under this Agreement, the Participants shall meet and confer within fifteen (15) days to discuss the dispute and attempt to reach a resolution. If, after meeting to confer with each other and using their best efforts, the Participants cannot resolve a dispute, then within fifteen (15) days of any Participant so requesting, the disputing Participants shall jointly select a mediator to assist them. If the Participants do not jointly select a mediator within fifteen (15) days, any Participant may ask JAMS or its successor entity to provide the names of one or more neutrals suitable for the dispute, and the Participants shall accept the neutral who has the earliest availability to conduct mediation. The disputing Participants shall engage in mediation in a reasonably prompt manner, but no longer than forty-five (45) days after selection of the mediator. The costs of mediation shall be shared equally by the disputing Participants. All Participants shall continue to fulfill their obligations under this Agreement during the dispute resolution process. If the dispute is not resolved within sixty (60) days after selection of the mediator, then any disputing Participant may seek to resolve the matter by initiating an action in King County Superior Court.

5. Terms Run With the Land. The Participants intend that all rights and obligations of the Participants under this Agreement will be binding on, and will be of benefit to, each of the Participants' successors, assigns, heirs and estates, including any future owner or lessee of the Participant's property (collectively, "Successors") subject to the termination provisions of Section 10. The Participants shall give written notice to any Successor that this Agreement runs with the land and creates rights, obligations and benefits associated with the land. In addition, within ten (10) days after the Effective Date of this Agreement, SPPD and the City shall record with the King County Recorder's Office a duly executed Memorandum of Agreement in the form attached hereto as Exhibit 2. Any Participant that fails to record the Memorandum of Agreement within the time provided shall be deemed to have voided its participation in this Agreement, and all rights, benefits and obligations established by and for that Participant in this Agreement shall be void, subject to the default process outlined in Paragraph 11.

6. No Action or Defense Created. Nothing contained in the text of this Agreement shall be used in any manner in any proceeding by any Participant as a basis to establish that any other Participant has an obligation to defend, indemnify, contribute to, or otherwise compensate that Participant in connection with any costs, expenses, fees or liabilities that result from or arise in connection with the Site, except to the extent of the other Participant's obligations under this Agreement. Further, nothing contained in

the text of this Agreement shall be used by any Participant to resist any such claim by any other Participant with respect to liabilities not allocated herein. This Agreement shall be deemed neutral on such issue(s) in all respects. This Paragraph 6 shall not impair the Participants' rights to bring any action or assert any claim against any other Participant to enforce the terms of this Agreement.

7. Denial of Liability. Each Participant understands and agrees that by entering into this Agreement it does not admit liability or fault for any or all of the facts, legal contentions, and occurrences alleged against it with respect to the Site, whether contained by way of finding, conclusion, or otherwise in the Consent Decree. Neither this Agreement nor any information submitted nor any action taken by any Participant pursuant to this Agreement shall constitute, be interpreted, construed, or used as evidence of any admission of liability, law or fact, or as evidence of a waiver of any right or defense, or asserted as an estoppel against any Participant by any Participant, or by any person not a Participant. This Paragraph 7 shall not impair the Participants' rights to bring any action or assert any claim against any other Participant to enforce the terms of this Agreement.

8. Relationship of Participants. Each Participant represents that it has sought and obtained any appropriate legal advice it deems necessary prior to entering into this Agreement. Nothing herein shall be deemed to create a partnership, joint venture, or a principal and agent relationship between or among the Participants.

9. Effective Date. The effective date of this Agreement ("Effective Date") shall be the date upon which this Agreement is executed by all Participants.

10. Termination. This Agreement shall terminate upon the Court's termination of the Consent Decree requiring implementation of the Final CAP. This Agreement may be terminated earlier by mutual written agreement of all Participants that have executed it.

11. Effect of Default. In the event any one or more of the Participants (i) fails to make a proper, timely payment required by this Agreement or the Consent Decree, (ii) materially breaches any other term or condition of this Agreement or the Consent Decree, (iii) unreasonably interferes or fails or refuses to cooperate with the Coordinator or another Participant in performance of the Coordinator's Work, or (iv) otherwise unreasonably delays or hinders implementation of or compliance with the terms of this Agreement or the Consent Decree, such Participant shall be considered to be in default under this Agreement ("Defaulting Participant"). If within twenty (20) days after receiving written notice of a default from any other Participant(s) the Defaulting Participant fails to cure any material breach of this Agreement, or fails to reasonably cooperate or allow timely performance of the Coordinator's Work and/or compliance with the Consent Decree, the non-Defaulting Participant(s) may assume control of implementing the Coordinator's Work (to the extent required to cure the Defaulting Participant's default) twenty-one (21) days after the allegedly Defaulting Participant receives notice of a default, and shall be entitled to reimbursement from the Defaulting Participant for the costs necessary to fund the work required to cure the Defaulting

Participant's default. If the allegedly Defaulting Participant disputes that it is in default, the Dispute Resolution process described in Paragraph 4 shall be utilized; provided, however, that during the pendency of the Dispute Resolution process the non-Defaulting Participant(s) may take such actions as are necessary to maintain compliance with the Consent Decree. The non-Defaulting Participant also may seek any other remedies available at law that are not precluded by this Agreement.

12. **Survival.** The provisions of Section 5 (Terms Run With the Land), Section 6 (No Action or Defense Created), Section 7 (Denial of Liability), and Section 15 (Governing Law) shall remain in full force and effect without regard to whether this Agreement is terminated.

13. **Notices.** All notices required under this Agreement shall be personally delivered or mailed by certified mail, postage prepaid, return receipt requested; sent by overnight carrier; or machine confirmed facsimile to the following addresses, or to such other address as any Participant shall specify by written notice so given. All notices sent in the manner set forth above shall be deemed given upon receipt.

| For City of Seattle | For SPPD |
|--|--|
| <p>PAYMENTS SHALL BE DIRECTED TO:</p> <p>Seattle Public Utilities P.O. Box 94647 Seattle, WA 98124</p> <p>Payments shall reference "SOUTH PARK LANDFILL SITE PLP AGREEMENT FOR SITE COORDINATOR"</p> <p>ALL OTHER NOTICES TO:</p> <p>Jeff Neuner Seattle Public Utilities 700 Fifth Avenue, Ste. 4900 PO Box 34018</p> <p>Seattle, WA 98124-4018 Telephone: (206) 684-7693 Fax: (206) 684-0206 email: jeff.neuner@seattle.gov</p> <p>With a copy to:</p> | <p>Robert Howie, Jr. 165 N.E. Juniper Street, Suite 100 Issaquah, WA 98027 Telephone: (425) 837-9720 Fax: (425) 837-1585 email: rhowie@seaconllc.com</p> <p>With a copy to</p> <p>Joshua Lipsky Cascadia Law Group PLLC 1201 Third Avenue, Suite 320 Seattle, WA 98101 Telephone: (206) 292-6300 Fax: (206) 292-6301 email: jlipsky@cascadialaw.com</p> |

| | |
|---|--|
| <p>Tad H. Shimazu PO Box 94769 600 Fourth Avenue, 4th Floor Seattle, WA 98124-4769 Telephone: (206) 233-2151 Fax: (206) 684-8284 email: tad.shimazu@seattle.gov</p> | |
| <p>For King County</p> <p>Joe Hicker Capital Project Manager King County Administration Building 500 Fourth Ave, Suite 820 Seattle, WA 98104 Telephone: (206) 477-9370 Fax: (206) 205-5070 email: joe.hicker@kingcounty.gov</p> <p>With a copy to:</p> <p>Andrew Marcuse Senior Deputy Prosecuting Attorney King County Prosecuting Attorney's Office, Civil Division <u>516 Third Avenue, Suite W400</u> <u>Seattle, Washington 98104</u> Telephone: (206) 477-1120 Fax: (206) 296-0191 email: Andrew.Marcuse@kingcounty.gov</p> | |

14. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
15. Governing Law. This Agreement shall be governed by the laws of the State of Washington.
16. Authority of Participants. Each Participant represents and warrants that it has all

requisite power and authority (corporate, public, or otherwise) to enter into and be bound by the terms and conditions of this Agreement and to carry out its respective obligations hereunder and the execution and delivery of this Agreement and the performance of each Participant's obligations hereunder have been duly authorized by all necessary action (corporate, public, or otherwise).

17. Negotiation and Construction. The captions, headings, and other formatting in this Agreement are for convenience only and do not in any way limit or amplify the provisions of the Agreement. This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the Participants, and the language in all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against any Participant.

SO AGREED.

CITY OF SEATTLE

By: _____

Its: _____

Date: _____

**SOUTH PARK PROPERTY
DEVELOPMENT, LLC**

By: _____

Its: _____

Date: _____

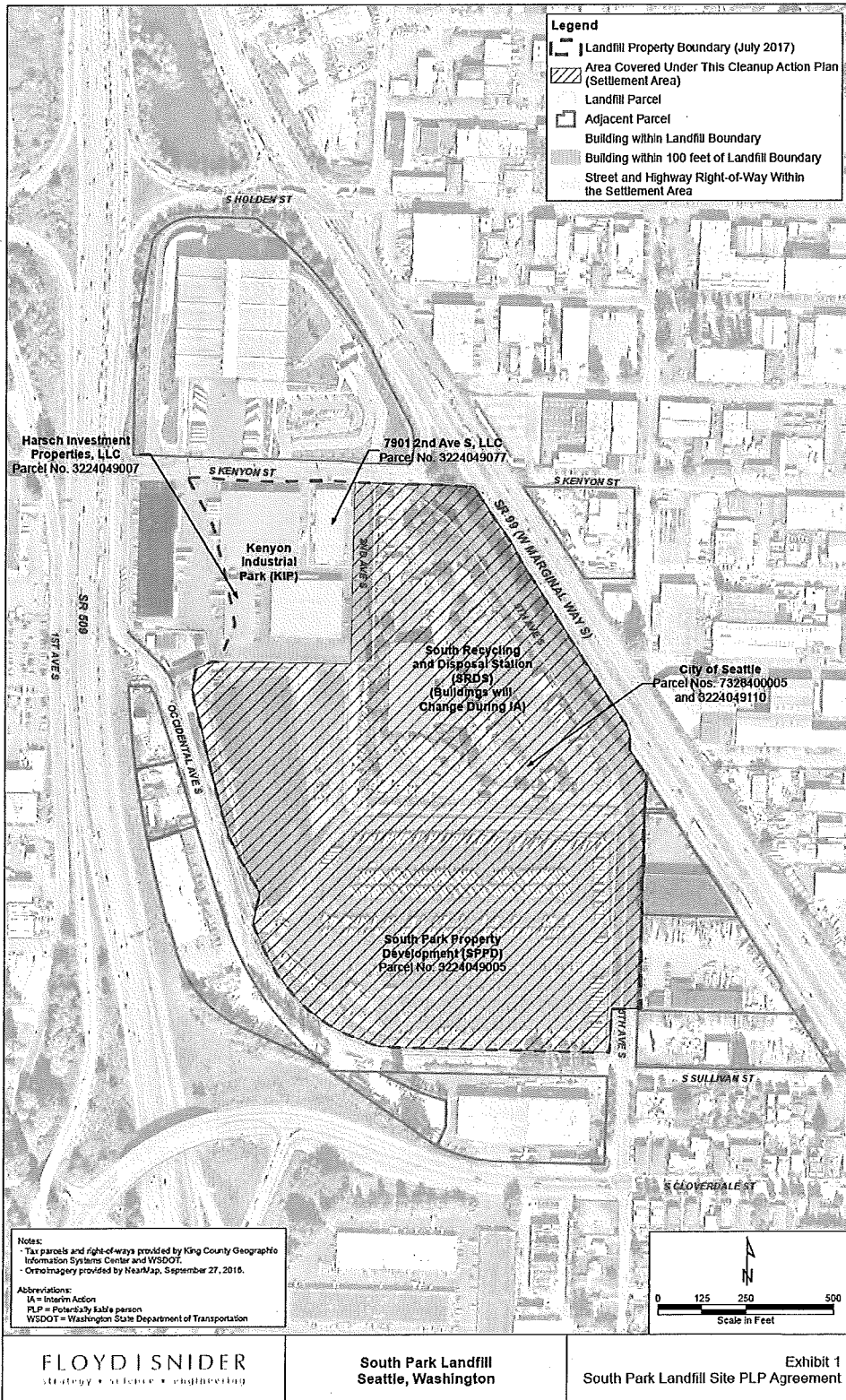
KING COUNTY

By: _____

Its: _____

Date: _____

EXHIBIT 1 – MAP



11203-Projects-COS-SPPD-WAD-CAP-0117-CAP-02-Exhibit 1-Exhibit 1 South Park Landfill Site PLP Agreement.mxd 11/29/2017

EXHIBIT 2 – MEMORANDUM OF AGREEMENT

When Recorded Return to:

| | |
|--|--|
| (Space above this line for recorder's use only) | |
| DOCUMENT TITLE: | Memorandum of Agreement |
| REFERENCE NUMBER(S) OF RELATED DOCUMENTS: | N/A |
| Additional reference numbers on page(s) of document. | |
| GRANTOR: | City of Seattle and South Park Property Development, LLC |
| GRANTEE: | City of Seattle and South Park Property Development, LLC |
| ABBREVIATED LEGAL DESCRIPTION: | Ptn. of NW¼ Sec. 32, T. 24 N., R. 4 E.W.M. |
| Additional legal in Exhibits A and B of document. | |
| ASSESSOR'S TAX PARCEL NOS. | 3224049005 and 7328400005 |

**Memorandum of Agreement
Regarding South Park Landfill Site PLP Agreement for Site Coordinator and Ecology Oversight Costs**

This Memorandum dated _____ between the City of Seattle (City), South Park Property Development, LLC (SPPD), and King County (County), is a record of the South Park Landfill Site PLP Agreement for Site Coordinator and Ecology Oversight Costs (PLP Agreement) between those same entities of even date. Together, the City, SPPD, and the County are sometimes referred to herein individually as a “party” and collectively as the “parties.”

1. The PLP Agreement concerns the South Park Landfill Property (Landfill Property) in Seattle, Washington, which is part of the South Park Landfill Site (Site).
2. The City owns real property within the Landfill Property as described in Exhibit A, attached hereto and by this reference incorporated herein. SPPD owns real property within the Landfill Property as described in Exhibit B, attached hereto and by this reference incorporated herein. The County previously owned real property within the Landfill Property.

3. The Washington Department of Ecology (Ecology) has named each of the parties a potentially liable person (PLP) under the Model Toxics Control Act, RCW 70.105D, with respect to the Site.
4. Ecology and the parties intend to negotiate a Consent Decree pursuant to which the parties will implement the final Cleanup Action Plan for a portion of the Landfill Property, known as the Settlement Area.
5. In the PLP Agreement, the parties exchanged certain promises regarding their obligations with respect to the Consent Decree, including but not limited to the following:
 - a. To participate in good faith in the implementation of the final Cleanup Action Plan.
 - b. To designate and compensate a Landfill Site Coordinator to conduct work as specified in the PLP Agreement.
 - c. To provide information to the Landfill Site Coordinator within the time specified in the PLP Agreement.
 - d. To pay Ecology for its oversight costs.
 - e. To assume responsibility for constructing and maintaining remedial action elements and systems on each party's property.

The parties further agreed that all of their rights and obligations under the PLP Agreement will be binding on, and will be of benefit to, each of the parties' successors, assigns, heirs and estates, including any future owner or lessee of the real property described in Exhibit A or Exhibit B.

All parties agree that the sole purpose of this Memorandum is to give record notice of the PLP Agreement, which contains additional terms, conditions, duties, rights, and obligations not enumerated in this Memorandum. This Memorandum is for information purposes only and nothing contained herein may be deemed in any way to modify or vary any of the terms, conditions, duties, rights, or obligations of the PLP Agreement. If there is any inconsistency between the terms of the PLP Agreement and this Memorandum, the terms of the PLP Agreement shall control.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE FOLLOWS.

Dated this _____ day of _____, 2017.

CITY OF SEATTLE:

**SOUTH PARK PROPERTY
DEVELOPMENT, LLC**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

KING COUNTY

By: _____

Name: _____

Title: _____

STATE OF WASHINGTON }

ss.

COUNTY OF _____

On this day personally appeared before me _____, to me known to be the [Title] of South Park Property Development, LLC, the entity that executed the foregoing instrument, and acknowledged that he/she signed the same as his/her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this _____ day of _____, 2017.

Printed Name _____
NOTARY PUBLIC in and for the State of Washington,
residing at _____
My Commission Expires _____

STATE OF WASHINGTON }
COUNTY OF _____ } ss.

On this day personally appeared before me _____, to me known to be the _____ [Title] of the City of Seattle, the government entity that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such government entity, for the uses and purposes therein mentioned, and on oath stated that he/she was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this _____ day of _____, 2017.

Printed Name _____
NOTARY PUBLIC in and for the State of Washington,
residing at _____
My Commission Expires _____

STATE OF WASHINGTON }
COUNTY OF _____ } ss.

On this day personally appeared before me _____, to me known to be the _____ [Title] of King County, the government entity that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such government entity, for the uses and purposes therein mentioned, and on oath stated that he/she was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this _____ day of _____, 2017.

Printed Name _____
NOTARY PUBLIC in and for the State of Washington,
residing at _____
My Commission Expires _____

EXHIBIT A

EXHIBIT A

LEGAL DESCRIPTION OF CITY OF SEATTLE PROPERTY

The Land is located in King County, Washington, and is legally described as follows:

Parcel A:

Those portions of Blocks 6, 7, 17 and 18, First Addition to River Park, according to the Plat thereof recorded in Volume 8 of Plats, page 65, in King County, Washington, lying westerly and southwesterly of the westerly and southwesterly margin of that certain property conveyed by the State of Washington to the City of Seattle for road purposes by deed recorded under Recording No. 9012260159;

EXCEPT any portion thereof lying west of the west line of George Holt Donation Claim No. 51;
AND EXCEPT any portion thereof lying within 2nd Avenue South, conveyed to the City of Seattle by deed recorded under Recording No. 4192618;

AND EXCEPT any portion thereof lying within South Kenyon Street;

TOGETHER WITH vacated South Monroe, South Elmgrove and South Southern Streets adjoining, vacated pursuant to City of Seattle Ordinance No. 96804 and attaching thereto by operation of law.

Parcel B:

That portion of Government Lot 4, Section 32, Township 24 North, Range 4 East, W.M., in King County, Washington, described as follows:

A strip of land, 60 feet in width, lying between lines, the west line being 60 feet west of, as measured at right angles to and parallel with the following described east line:

Beginning on the north line of said Section 32, 264 feet east from the northwest corner thereof; thence south 15031'06" east, 547.61 feet;

thence easterly to intersect a point on a line drawn south 02°03'26" west from a point on the north line of said section, 73.81 feet west of the west line of George Holt Donation Claim No. 51, said point being 516.36 feet south of said north line;

thence continuing easterly on said line to the west line of said Donation Claim and the TRUE POINT OF BEGINNING of east line description;

thence south along the west line of said Donation Claim to an intersection with a line distant 30 feet south of and parallel with the south line of Block 6, First Addition to River Park, according to the plat thereof recorded in Volume 8 of Plats, page 65, in King County, Washington, and the terminus of east line description.

Parcel C:

That portion of Government Lots 2 and 4, Section 32, Township 24 North, Range 4 East, W.M., in King County, Washington, described as follows:

A strip of land, 30 feet in width, lying between lines, the south line being 30 feet south of, as measured at right angles to and parallel with the following described north line:

Beginning at the intersection of the west line of George Holt Donation Claim No. 51, with the south line of Block 6, First Addition to River Park, according to the plat thereof recorded in Volume 8 of Plats, page 65, in King County, Washington;
thence easterly, along the south line of said Block 6, to the southeast corner of Lot 1, said Block 6, and the terminus of north line description;
EXCEPT that portion thereof, if any, lying within 5th Avenue South.

EXHIBIT B

That Portion Of Government Lots 2 Through 4, Inclusive, And Of The Southwest Quarter Of The Northwest Quarter Of Section 32, Township 24 North, Range 4 East, Willamette Meridian, In King County, Washington, Described As Follows:

Beginning At A Point On The West Line Of George Holt's Donation Claim No. 51, As Established By Superior Court Case No. 14450, Which Is 400 Feet North Of The Southwesterly Corner Thereof;

Thence South Along Said West Line 400 Feet To The South Line Of Said Donation Claim;
Thence East Along Said South Line To The West Line Of A. Hograve's Donation Claim No. 37;

Thence South Along The Last Described West Line To The Production West Of The Centerline Of Sullivan Street;

Thence West Along Said Produced Line To The East Line Of 1st Avenue South, As Established By Ordinance No. 21498;

Thence North Along Said East Line 39.56 Feet; Thence North $66^{\circ}52'24''$ East 562.14 Feet;

Thence North $16^{\circ}56'06''$ West 861.57 Feet;

Thence North $24^{\circ}43'54''$ East 35.17 Feet;

Thence North $64^{\circ}24'54''$ East 98 Feet;

Thence Easterly Along A Straight Line To The Point Of Beginning; Except That Portion Thereof Described As Follows:

Beginning At The Intersection Of A Line 794 Feet West Of And Parallel With The West Line Of A. Hograve's Donation Claim No. 37 And The Production West Of The Centerline Of Sullivan Street;

Thence West Along Said Produced Line To The East Line Of 1st Avenue South, As Established By Ordinance No. 21498;

Thence North Along Said East Line 39.56 Feet; Thence North $66^{\circ}52'24''$ East 562.14 Feet;

Thence Southeasterly Along A Straight Line To The Point Of Beginning; And Except Those Portions Conveyed To The City Of Seattle By Deeds Recorded Under Recording Numbers 5947050 And 6240807; And

Except That Portion Lying Southwesterly Of The Northeasterly Line Of Occidental Avenue South (Road No. 51) And

Except That Portion Thereof Described As Follows:

That Portion Of Government Lot 4, Section 32, Township 24 North, Range 4 East, Willamette Meridian, In King County, Washington, Described As Follows:

Beginning At A Point On The West Line Of Geo. Holt Donation Claim No. 51 Which Is 516.36 Feet South Of The North Line Of Section 32, Township 24 North, Range 4 East, Willamette Meridian, In King County, Washington;

Thence South $02^{\circ}03'26''$ West Along Said Line 400 Feet;

Thence North $89^{\circ}53'36''$ East Along The South Line Of Said Donation Claim 73.16 Feet;

Thence South $00^{\circ}35'49''$ West Along A Line Parallel To And 794 Feet West Of The West Line Of A. Hograve Donation Claim No. 37, A Distance Of 350 Feet;

Thence Westerly To A Concrete Monument On The East Line Of Chas. Prentice Track;

Thence North $16^{\circ}56'06''$ West 705.57 Feet;

Thence North $24^{\circ}43'54''$ East 35.17 Feet;

Thence North $64^{\circ}14'54''$ East 98 Feet;

Thence Easterly To The Point Of Beginning.