



CITY OF OREGON CITY

URBAN RENEWAL COMMISSION - REVISED

AGENDA

Commission Chambers, Libke Public Safety Facility, 1234 Linn Ave, Oregon City
Wednesday, May 04, 2022 at 5:30 PM

Ways to participate in this public meeting:

- *Attend in person, location listed above, and masks are required.*
- *Register to provide electronic testimony (email recorderteam@orccity.org or call 503-496-1505 by 3 p.m. on the day of the meeting to register).*
- *Email recorderteam@orccity.org (deadline to submit written testimony via email is 3 p.m. on the day of the meeting).*
- *Mail to City of Oregon City, Attn: City Recorder, P.O. Box 3040, Oregon City, OR 97045.*

5:30 PM - WORK SESSION

CALL TO ORDER

ROLL CALL

DISCUSSION ITEM

1. North End Development Proposal by Summit Development Group
2. North End Development Proposal by Summit Development Group – Additional Information

ADJOURNMENT

REGULAR MEETING - Immediately Following the Work Session If Needed

CALL TO ORDER

ROLL CALL

CITIZEN COMMENTS

DISCUSSION ITEM

1. Summit Development Group Request for Urban Renewal Commission Approval to Pursue Alternative Fundings Sources for the Proposed North End Development

COMMUNICATIONS

ADJOURNMENT

PUBLIC COMMENT GUIDELINES

Complete a Comment Card prior to the meeting and submit it to the City Recorder. When the Mayor/Chair calls your name, proceed to the speaker table, and state your name and city of residence into the microphone. Each speaker is given three (3) minutes to speak. To assist in tracking your speaking time, refer to the timer on the table.

As a general practice, the City Commission does not engage in discussion with those making comments.

Electronic presentations are permitted but shall be delivered to the City Recorder 48 hours in advance of the meeting.

ADA NOTICE

The location is ADA accessible. Hearing devices may be requested from the City Recorder prior to the meeting. Individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-657-0891.

Agenda Posted at City Hall, Pioneer Community Center, Library, City Website.

Video Streaming & Broadcasts: The meeting is streamed live on the Oregon City's website at www.orcity.org and available on demand following the meeting. The meeting can be viewed on Willamette Falls Television channel 28 for Oregon City area residents as a rebroadcast. Please contact WPMC at 503-650-0275 for a programming schedule.



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: Urban Renewal Commission **Agenda Date:** 5/4/2022
From: Urban Renewal Executive Director Tony Konkol

SUBJECT:

North End Development Proposal by Summit Development Group

STAFF RECOMMENDATION:

Work session discussion item.

EXECUTIVE SUMMARY:

Summit Development Group requested Urban Renewal Commission approval to pursue alternative funding sources from Federal, State and County agencies for the North End Development proposal at the April 20, 2022 meeting. The Urban Renewal Commission requested that a work session be held on May 4, 2022 for additional discussion of the request and to gain further understanding of the funding opportunities and commitments associated with applying for and receiving the alternative funding sources.

BACKGROUND:

The Summit Development Group is pursuing various forms of public funding to defray the cost of developing the former Rossman Landfill. The developer has determined that development of the site will require \$40 million in public funds.

The Summit Development Group has approached Clackamas County to discuss the following potential funding sources:

1. US EPA Brownfields Funding – application through Clackamas County
2. Clackamas County ARPA Funds, Road Funds, Lottery Funds

If the developer is successful in its pursuit of the Federal, State and/or County funding sources identified, it would ultimately reduce any potential future funding request from the Urban Renewal Commission. Federal, State and County agencies would be encouraged by Oregon City's willingness to work with the developer in the pursuit of these alternative public funding sources.

Attached to this staff report is the formal request from Summit Development Group (April 11, 2022) to approve staff to support its endeavor of pursuing alternative, supplemental sources of public funding.

Summit Development Group received land use approval from the City of Oregon for a mixed-use development Master Plan on the Rossman Landfill. The plan envisions a 20-year road map to redevelop the former landfill. Future development applications to implement the Master Plan (i.e. buildings, parking lots, etc.) will be reviewed through separate Detailed Development Plan submittals. On July 26, 2021 the Planning Commission voted 6-0 to approve the proposal with conditions.

Please find attached the Department of Environmental Quality Consent Order with OCLD Summit LLC that is designed to protect the public health, safety, and welfare and the environment; to facilitate productive reuse of property, and; to provide protection from potential liabilities in accordance with applicable law.

Summit Development has prepared the following responses to questions that have been raised concerning the request to pursue alternative funding sources and the overall project. Responses to additional questions concerning the environmental report for the property, existing permits and the regulatory obligations are being prepared and will be provided to the Urban Renewal Commission.

1. *I would like to have 3rd party/neutral information about what the extent of the brownfield issues are.*

Department of Environmental Quality for the State of Oregon has entered into a Consent Order with OCLD Summit LLC. The Findings of Fact (Section 3 of the Consent Order) and the Scope of Work from the Consent Order (Exhibit C of the Consent Order) identifies brownfield issues and addresses the responsibilities:

- A. Respondents' obligations and responsibilities include:
 1. Design and implement (or if voluntarily assumed by a property Owner, oversee) the landfill gas management systems, cathodic protection systems, impervious surfaces/landfill cover on the Parcels
 2. Require that landfill gas management systems associated with initial building and site development by parties other than Respondents are designed and implemented, to the extent feasible, by an engineering firm selected by Respondents
 3. Design and construct all common areas on the Parcels
 4. Select and contract with an Administrator

In general, the issues are production of methane gas from the decomposition, and the requirement to design and install a subgrade system which collects and exhausts this gas.

Avoiding the production of leachate as water runs through the landfill material and transports those chemicals into the ground water system. This is addressed by creating

an impervious surface over the entire site, flowing through planters for preliminary treatment, and then installing large, subgrade stormwater vaults to manage the collection and distribution into the City system.

The other issues associated with a landfill, not just brownfield, are addressing the corrosive nature of the landfill material and potential, future settlement.

2. What is involved in applying for alternative public funding – what is the grantor asking for.

Each grant or forgivable loan has a different purpose and specific requirements. Some are for infrastructure, some are for addressing environmentally blighted sites, some are for economic stimulus.

As an example, the EPA Federal Brownfield Program, which received \$1.5B in the Bipartisan Infrastructure Bill, has a grant for up to \$10M for Multipurpose Grants to, “Remove barriers to brownfields reuse and spur new redevelopment to transform communities into sustainable and environmentally just places.”

The developer will need to hire grant writers and consultants to address these applications, and ultimately review with the County for submission. The developer is requesting the opportunity to work with City staff to ensure they are aware and can provide input to the degree they determine is necessary.

3. Are these types of funding always tied to development?

Many, but not all, are tied to redevelopment of the brownfield sites. Some are tied only to the scope of work, so for instance infrastructure grants going towards new roads, paths, trails.

If the City had the staff and funds, they could pursue these grants themselves. However, the ultimate design of these systems is tied to the development being executed, and the PPA is binding the State and the developer to long term obligations.

4. What is Summits approach to this process?

Identify the shortfall to development realization based on the impacts of a brownfield, landfill. *Completed*

Identify the potential sources of these funds at the Federal, State and County levels. *Completed*

Complete the General Development Plan (Mater Plan) entitlements which will ultimately drive the design of many of these systems. *Completed*

Engage elected officials on every level to support this transformative development. *Ongoing*

Identify the party (Clackamas County) who will be submitting these applications.
Completed

Contract with grant writers and lobbyists to complete the applications and lay the groundwork for approval at the various levels of government. Understand all these grants and forgivable loan programs have due dates. *Pending*

5. *Please describe the number of piles necessary for redevelopment of the site.*

The number of piles is determined by the load of the structures, and how frequent they have to be placed to support the structural slab. Eric McDonnell of Homes, our structural engineer, estimated the pile count in 2020. His estimate was (798), less than half of what Home Depot installed due to the weight they are placing on the slab. The parking garage is on native soil acting as a retaining wall for the trash pile, and the parking lots do not require piles due to limited loads. The piles would be for the building pads (which are not on the podium) and the utilities.

6. *What guarantee is provided that this development will not diminish the water quality in the cove?*

As clarified by Eric Aronson of Aronson Environmental, our environmental consultant who has been involved with the landfill for decades, and Brett Shipton of NV5, our geotechnical engineer:

The waste does extend below the shallow groundwater table – the landfill was built by excavating below the historic water table (they were dewatering the shallow aquifer during landfill operations) and waste was placed into channels dug into the underlying clay; the water table subsequently rose and it has been documented that there is a shallow groundwater mound beneath the waste.

The pilings would only be driven through the shallow silt and into the gravel, both of which constitute the shallow groundwater aquifer. The shallow aquifer is NOT used as a drinking water source, and DEQ has prohibited installation of any drinking water wells within this aquifer. The regional drinking water source is the MUCH deeper aquifer within the Columbia River Basalt. Siltstone is present between the shallow and deep aquifer.

The shallow aquifer and the deep drinking water aquifer are not hydraulically connected; DEQ requested evaluation of potential connections in the 1990s to address this potential concern.

The Home Depot was constructed using approximately 1700 pilings driven through the waste and into the compact gravels. Groundwater monitoring during and after construction was conducted to assess whether the pilings caused degradation of groundwater quality in the shallow aquifer; DEQ determined that no significant impacts occurred as a result of The Home Depot construction.

Similar as to what was done for the Home Depot project, DEQ is requiring (and Summit Development Group has committed to) conducting groundwater monitoring to assess whether development of the site has impacted groundwater in the shallow aquifer. [This assessment is part of the Scope of Work that is part of the PPA]. The developer is responsible for addressing 'exacerbated conditions', which would include any significant degradation of groundwater quality that results from construction of the landfill. [Significant is defined as exceeding applicable regulatory values].

There is research that says driving cylindrical piles create a seal when driven through a clay layer with a thickness of 2 or more pile diameters. This sealing ability would preserve the integrity of such a layer acting as an aquitard such as the clay and silt that is present beneath the waste. For a 12-inch diameter pile this would mean we would only need a 2-foot-thick layer of silt or clay. The silt and clay beneath the waste is thicker than this. I am sure some leachate is flowing through the silt and clay at present but driving piles through the silt and clay (which is sufficiently thick) that underlies waste and into the gravel will not make things worse than they are presently. Regarding the surcharge, the waste has pockets of saturated zones, but is not below groundwater. And flow of water from these saturated zones will take the path of least resistance, which will be laterally not downward because of the relatively impermeable silt and clay that underlies the landfill waste.

The development of the property will cover most of the site with an impervious surface and will block any surface water from infiltrating in the waste thus significantly decreasing the volume of future leachate. The groundwater table is beneath the waste; we did encounter pockets of wet zones in the waste, but this is perched water from precipitation and not groundwater. These wet zones will eventually disappear once surface of the site is impervious, which will improve the situation significantly.

OPTIONS:

1. Review and discuss the April 11, 2022 Summit Development Group request

BUDGET IMPACT:

Amount:

FY(s):

Funding Source(s):

472521001027- 50-Comm
CHICAGO TITLE

Clackamas County Official Records
Sherry Hall, County Clerk

2021-063747

Item #1.

06/30/2021 03:37:02 PM

D-OD Cnt=1 Stn=74 MELISSA
\$360.00 \$16.00 \$10.00 \$62.00

\$448.00

Space above this line for Recorder's use.

After recording, return to:

Grantee

Oregon DEQ
700 NE Multnomah, Ste. 600
Portland, OR 97232
Attention: Anna Coates

Grantor

OCLD SUMMIT LLC
1705 Willamette Falls Drive
West Linn, OR 97068

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

In the Matter of:

DEQ No. 20-02

OCLD SUMMIT LLC

Respondent

ORDER ON CONSENT

Pursuant to ORS 465.260(4) and 465.327, the Director, Oregon Department of Environmental Quality ("DEQ"), issues this Order on Consent ("Consent Order") to OCLD SUMMIT LLC. ("Respondent"). This Consent Order contains the following provisions:

ORDER ON CONSENT

Oregon DEQ PPA No. 20-02

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Exhibit A: Vicinity Map

Exhibit B: Property Legal Descriptions – Parcel I and Parcel II

Exhibit C: Scope of Work

Exhibit D: Easement & Equitable Servitudes (As to Form) – Parcel I and Parcel II

ORDER ON CONSENT

Exhibit E: Notice of Partial Assignment and Assumption of Prospective Purchaser Agreement (for Parcel I)

Exhibit F: Notice of Transfer of Property Subject to Prospective Purchaser Agreement

Exhibit G: Trust Fund Agreement (As to Form)

1. Purpose

The mutual objectives of DEQ and Respondent (collectively "Parties") are: (a) to protect public health, safety, and welfare and the environment in accordance with applicable provisions of ORS 465.200 through 465.420, and regulations promulgated thereto; (b) to facilitate productive reuse of property; and (c) to provide Respondent with protection from potential liabilities in accordance with applicable law. The mutual intent of the Parties is that Associated Parties (as defined in Paragraph 2.B.(3) of this Consent Order), also be provided with protection from potential liabilities in accordance with applicable law.

2. Stipulations

A. Respondent consents and agrees:

- (1) To issuance of this Consent Order;
- (2) To perform and comply with all provisions of this Consent Order;
- (3) In any proceeding brought by DEQ to enforce this Consent Order, to not challenge DEQ's jurisdiction to issue and enforce this Consent Order;
- (4) To waive any right Respondent might have, before commencement of action by DEQ to enforce this Consent Order, to seek judicial review or review by the Environmental Quality Commission of this Consent Order;
- (5) To not litigate, in any proceeding brought by DEQ to enforce this Consent Order or to assess penalties for noncompliance with this Consent Order, any issue other than Respondent's compliance with this Consent Order; and
- (6) To not assert, in any proceeding brought by DEQ to enforce this Consent Order or to assess penalties for noncompliance with this Consent Order, that performance of any interim or removal measures or phase of work by Respondent discharges Respondent's duty to fully perform all remaining provisions of this Consent Order.

B. DEQ and Respondent stipulate:

- (1) For the purposes of this Consent Order, the "Facility," as defined in ORS 465.200(13), means: (a) the Property; and (b) the full extent of existing known or

unknown contamination by hazardous substances of any media on, above, or below the Property, or that has migrated, might have migrated, or hereafter migrates to anywhere from the Property.

- (2) For the purposes of this Consent Order, "Existing Hazardous Substance Releases" means: (a) any release of hazardous substances, as now or later defined in ORS 465.200, at the Facility existing as of the date of Respondent's acquisition of ownership or operation of a Parcel (defined in Subsection 3.C of this Consent Order), including, without limitation, methane (defined as a Hazardous Substance under OAR 340-122-0115(30)), or any other hazardous substance generated from material disposed of at the Facility as of the date of Respondent's acquisition of ownership or operation of a Parcel; (b) any spill or release of oil or hazardous material, as defined in ORS 466.605, at the Facility existing as of the date of Respondent's acquisition of ownership or operation of a Parcel; and (c) the entry of oil into the waters of the state, as defined in ORS 468B.300, from the Facility before the date of Respondent's acquisition of ownership or operation of a Parcel.
- (3) For purposes of this Consent Order, Associated Parties means Respondent's or any future owner's respective members, managers, partners, shareholders, employees, officers, directors, investors, mortgagees or lenders, and agents.
- (4) The property proposed for acquisition is part of a larger property known as the Rossman's Landfill, which is currently regulated under DEQ's Solid Waste Disposal Site Closure Permit No. 115 ("Permit"). The Property is listed on the DEQ's Environmental Cleanup Site Information database as Site No. 674. This Consent Order is intended to define the obligations of the Respondent with respect to both the Permit and the development of the Property.
- (5) Respondent's planned development, as summarized in Subsection 3.F, and any future development or modifications on the Property, is subject to this Consent Order. Respondent's development requires a landfill gas management system to manage landfill gas for the Property. Individual buildings and structures will have independent landfill gas management systems that interconnect with a larger landfill gas management system for the Property. DEQ's authority to require maintenance, repairs, modifications, or improvements of or to the landfill gas management systems

ORDER ON CONSENT

on the Property is agreed to through Subsection 5.A (Measures to Be Undertaken) of this Consent Order and the attached Exhibit C (Scope of Work, also referred to herein as “SOW”), and also shall be memorialized in an Easement & Equitable Servitudes (“EES”) in a form substantially similar as Exhibit D (Easement & Equitable Servitudes (As to Form) – Parcel I and Parcel II, also referred to herein as “EES”) and required to be recorded under Subsection 5.D of this Consent Order. Compliance with all Measures to be Undertaken, including the Scope of Work, and all required actions and restrictions on use imposed by the EES, are enforceable requirements of this Consent Order.

- (6) For purposes of this Consent Order, “landfill gas management systems” includes both (a) the engineering measures and controls incorporated into the construction of buildings, structures, and common spaces to prevent or minimize exposure to hazardous substances, and (b) the monitoring systems used to assess the performance of the engineering measures and controls. Details for engineering and monitoring requirements are set forth in Exhibit C (Scope of Work) and include Description of Engineering Measures (Section II: Landfill Cover Improvement; Methane Protection and Monitoring Systems for Building; Perimeter and Common Space Landfill Gas Management Systems; Removal, Management and Disposal of Waste Materials); Construction and Development Tasks (Section III: Preliminary Engineering Design Report; Environmental Engineering Design Report; Environmental Monitoring Plan or Plans; Construction Quality Assurance Plan, Refuse Handling & Material Disposal Plan and Construction Health/Safety Plan; Construction Completion Letter Report(s); Operation Maintenance and Monitoring Plan); Operation and Maintenance/ Monitoring Tasks (Section IV); and Future Repairs, Modifications and Improvements (Section V).

3. Findings of Fact

DEQ makes the following findings without admission of any such facts by Respondent:

- A. OCLD SUMMIT LLC is an Oregon limited liability company.
- B. All exhibits attached to this Consent Order are incorporated by reference.
- C. The property proposed for acquisition, currently owned by Park Place Development, Inc., is approximately 77 acres comprised of two parcels. “Parcel I” is an approximately 61.97

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acre parcel with a current street address of 1105 Abernethy Drive, Oregon City, Oregon (Tax Lot 902). For Parcel I, Respondent OCLD Summit LLC intends to assign its rights and obligations under this Consent Order to affiliated limited liability companies both existing and to be formed under the laws of Oregon or Delaware prior to the acquisition of Parcel I. Respondent OCLD Summit LLC and the assignee will provide DEQ notice of such assignment prior to such purchase using a form substantially similar to Exhibit E (Notice of Partial Assignment and Assumption of Prospective Purchaser Agreement – Parcel I) of this Consent Order. That assignment and acquisition is expected to occur on or before December 31, 2023. Upon submission of such notice to DEQ, the assignee shall be considered a “Respondent” under this Consent Order, and all rights and obligations of “Respondent” under this Consent Order related to Parcel I shall inure to such assignee. Respondent OCLD Summit LLC, acting in its current capacity as an Oregon limited liability company, intends to purchase Parcel II soon after entering this Consent Order. “Parcel II” is an approximately 14.8 acre parcel located in Clackamas County, Oregon (Tax Lot 1200). Both Parcel I and Parcel II are located in Section 29, Township 2 South, Range 2 East of the Willamette Meridian. Parcel I and Parcel II shall hereinafter each be referred to as a “Parcel” and collectively, as the “Property.” The general location of the Property and each Parcel is shown in the Vicinity Map, Exhibit A (Vicinity Map) to this Consent Order. The legal descriptions of Parcel I and Parcel II are set forth in Exhibit B (Property Legal Descriptions – Parcel I and Parcel II) to this Consent Order.

- D. Rossman’s Landfill received waste from 1964 through 1983. The landfill was closed in 1983 in compliance with a site development plan approved by DEQ, and is currently regulated as a closed landfill under the Permit. A solid waste closure permit was originally issued in 1992. The most recent Permit renewal in 2016 expires April 30, 2026. The Permit is anticipated to be renewed for successive ten (10) year permit terms until terminated by DEQ. Park Place Development, Inc. currently owns the Property, and is the current permittee under the Permit. Conditions of the Permit include but are not limited to ongoing measures related to ground water monitoring, methane monitoring, and methane extraction as needed to protect public health and the environment.
- E. A Prospective Purchaser Agreement between DEQ and Trail’s End Golf Center, Inc., DEQ No. 99-07) dated August 10, 1999 was recorded on the Property on August 30,

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1999 (Recording No. 99-085769).

- F. The Property is currently vacant except for a golf driving range and the storage of equipment and other items. Respondent intends to redevelop Parcel I as a retail and entertainment complex, which may include recreational facilities, hotels, retail stores, financial services, restaurants and mixed-use residential. Respondent intends to redevelop Parcel II for retail and commercial use. Respondent intends to sell or lease portions of the Property to future owners or occupants. Respondent's proposed development and obligations under this Consent Order will facilitate productive reuse of a closed landfill site, mitigate the environmental impacts of the former landfill site, and provide a source of funding for post-closure landfill requirements under Oregon law for Rossman's Landfill.
- G. Investigations of Rossman's Landfill indicate presence of various contaminants in groundwater, in most cases below health-based reference levels, as well as landfill gas (primarily methane), which is a hazardous substance under Oregon cleanup laws. Landfill gas monitoring has detected hazardous substances that include methane; chlorobenzene; 1,2,-dichloro,1,1,2,2-tetrafluoroethane; vinyl chloride; 1,4-dichlorobenzene; and dichlorodifluoromethane. Methane is the only constituent of interest identified in the landfill gas. Groundwater monitoring wells have detected groundwater contaminants that include: vinyl chloride; 1,2, dichloroethene; 2-butanone (MEK); trichloroethene (TCE); benzene; chlorobenzene; 1,4-dichlorobenzene; methyl-iso-butylketone; methylene chloride; acetone; copper; iron; lead; manganese; nickel; arsenic; vanadium; and zinc.
- H. Pursuant to ORS 465.255(1)(b), Respondent could become liable to DEQ and other persons for releases of hazardous substances at or from the Property by becoming the owner or operator of the Property with actual or constructive knowledge of the releases.
- I. On January 28, 2020, OCLD LLC applied to DEQ for a "prospective purchaser agreement" under ORS 465.327 and agreed to reimburse DEQ's costs of technical review and agreement preparation. Subsequently, OCLD LLC informed DEQ that the purchasing entity for Parcel II would be OCLD Summit LLC, and as explained in Subsection 3.B, an entity affiliated with OCLD Summit LLC is expected to take title to Parcel I on or before December 31, 2023. This Consent Order is intended to protect Respondent and

ORDER ON CONSENT

Associated Parties from potential liability for Existing Hazardous Substance Releases in return for Respondent undertaking certain obligations as described in this Consent Order. In determining to propose this Consent Order, DEQ considered reasonably anticipated future land uses at the Property and surrounding properties and consulted with Oregon City.

- J. On February 1, 2021, DEQ published notice of this proposed Consent Order and provided opportunity for public comment in accordance with ORS 465.320(1) and 465.327(3). The comment period ended on March 3, 2021 at 5:00 p.m. Comments were received and considered by DEQ, as documented in the administrative record.

4. Conclusions of Law and Determinations

Based on the above findings of fact and the administrative record, DEQ determines that:

- A. Respondent is a “person” within the meaning of ORS 465.200(21).
- B. The contaminants described in Subsection 3.F are “hazardous substances” within the meaning of ORS 465.200(16).
- C. The presence of hazardous substances in soil gas and groundwater constitutes a “release” or “threat of release” into the environment within the meaning of ORS 465.200(22).
- D. The Property described in Subsection 3.B is a “facility” within the meaning of ORS 465.200(13).
- E. Respondent is not currently liable under ORS 465.255, 466.640, or 468B.310 for the Existing Hazardous Substance Releases.
- F. Remedial action is necessary at the Property to protect human health or the environment.
- G. A substantial public benefit will result from this Consent Order.
- H. The release from liability set forth in Subsection 8.A satisfies the criteria set forth in ORS 465.327(1).

Based upon the above Stipulations, Findings of Fact, Conclusions of Law and Determinations, DEQ ORDERS:

5. Work to be Performed

A. Measures to be Undertaken

- (1) Respondent will perform the Measures to be Undertaken for the Property in accordance with the terms and schedule set forth in Exhibit C (Scope of Work), and the terms and schedules set forth in DEQ-approved work plans. All work under this

ORDER ON CONSENT

Consent Order is the responsibility of Respondent and not the permittee under the Permit. Exhibit C (Scope of Work) is outlined in more detail at Section 2.B.(6) above and includes a range of tasks including Engineering Measures for the development (Section II); Construction/Development Tasks (Section III); Operation and Maintenance/Monitoring Tasks (Section IV); and: obligations for Future Repairs, Modifications, and Improvements (Section V).

- (2) Respondent shall transfer the performance of the obligations under Section IV of the SOW to a qualified third party (the "Administrator") subject to approval by DEQ of the Administrator. Future Administrators shall also be subject to approval by DEQ under the process for approving a Supervising Contractor set forth in Paragraphs 7.B.(2) & (3) of this Consent Order. Notwithstanding the foregoing, Respondent remain responsible for all obligations under this Consent Order
- (3) Respondent shall cause certain funds as set forth below to be deposited into trust pursuant to a Trust Fund Agreement in substantially the same form as shown on Exhibit G (Trust Fund Agreement), attached hereto, to fund solid waste post-closure care tasks under the Permit or applicable provisions of ORS chapter 459 that are not associated with the proposed development of the Property. Such tasks include, but are not limited to: (a) groundwater monitoring, (b) landfill gas monitoring and reporting, and (c) operation (if necessary) of the existing soil vapor extraction system located on Metro's Oregon City Solid Waste Transfer Station property. After the acquisition of Parcel II by Respondent OCLD Summit LLC, upon the earlier of (a) fourteen (14) days following a sale by OCLD Summit LLC of any or all of Parcel II or (b) April 30, 2026 ("Parcel II Trust Funding Date"), OCLD Summit LLC shall deposit funds into the trust fund established by the Trust Fund Agreement (the "Trust Fund") in an amount agreed upon by DEQ ("Parcel II Trust Fund Amount"); the Parcel II Trust Fund Amount will be calculated using the DEQ Municipal Solid Waste Reference Rate ("Reference Rate") at the time of the Parcel II Trust Funding Date to adjust for the estimated future cost of two hundred forty-nine thousand dollars (\$249,000.00) to the net present value. If Respondent or its assignee, as explained in Subsections 3.C and 3.I above, purchases all or any portion of Parcel I, Respondent or its assignee shall within fourteen (14) days of such acquisition deposit into the Trust

ORDER ON CONSENT

Fund an amount agreed upon by DEQ ("Parcel I Trust Fund Amount"); that Parcel I Trust Fund Amount will be calculated using the Reference Rate at the time of the Parcel Trust Funding Date, but not less than the net present value of one million, forty-four thousand, and five hundred dollars (\$1,044,500.00). Funds in the Trust Fund Agreement shall not be used to pay for any work that is not required under the Permit or applicable solid waste statutes or rules.

- (4) Except as otherwise provided in this Consent Order, the permittee under the Permit (currently Park Place Development, Inc.) will be responsible for performing all activities required under the Permit and under the oversight of DEQ's Solid Waste Program. Respondent's payment of the amounts set forth in Paragraph 5.A.(3), as applicable, shall be Respondent's only obligation to DEQ under or related to the Permit and any renewal thereof; provided that, Respondent shall cooperate with any activity of the permittee and its agents to comply with the Permit requirements applicable to the Property.

B. Modification of SOW or Related Work Plans

- (1) If DEQ determines that modification to the work specified in the SOW and/or in work plans developed pursuant to the SOW is necessary to protect public health and the environment, DEQ may require that such modification be incorporated in the SOW and/or such work plans. DEQ may only require modifications pursuant to this paragraph if they relate to Respondent's development, and any such modifications shall be consistent with the Permit.
- (2) Subject to dispute resolution under Subsection 7.M., Respondent will modify the SOW and/or work plans as required by DEQ and implement any work required by the modifications. Before invoking dispute resolution under Subsection 7.M., Respondent and DEQ will make a good-faith effort to resolve any dispute regarding DEQ-requested modifications by informal discussions for no more than 30 days following notice from DEQ of a requested modification.

C. Additional Measures

Respondent may elect at any time during the term of this Consent Order to undertake measures beyond those required under this Consent Order necessary to address the release or threatened release of hazardous substances at the Property. Such additional

measures are subject to prior approval by DEQ. DEQ's approval will be granted if DEQ determines that the additional measures will not threaten human health or the environment.

D. Site Restrictions and Periodic Reviews

- (1) Within 30 days of the acquisition of a Parcel, the acquiring Respondent will record with the County Clerk, Clackamas County, an Easement and Equitable Servitudes for the acquired Parcel in substantially the same form as Exhibit D (Easements and Equitable Servitudes (As to Form) – Parcel I and Parcel II). The acquiring Respondent will provide DEQ a file-stamped copy of the EES within five working days of receiving confirmation of recording.
- (2) Property subject to the EES may be freely alienated at any time after recording, provided the deed or other instrument of conveyance refers to the EES. The EES contains additional requirements for conveyances of the Property subject to this Consent Order.

6. Public Participation

Upon issuance of this Consent Order, DEQ will provide public notice of the Consent Order through issuance of a media release, at a minimum to a local newspaper of general circulation, and also by posting notice on the DEQ Public Notice webpage, describing the measures required under this Consent Order. Copies of the Consent Order will be made available to the public by posting to the Environmental Cleanup Site Information database. DEQ will provide Respondent a draft of such media release and consider any comments by Respondent on the draft media release, before issuance.

7. General Provisions

A. Project Managers

- (1) To the extent possible, all reports, notices, and other communications required under or relating to this Consent Order must be directed to:

DEQ Project Manager:

Anna Coates
 Department of Environmental Quality
 Northwest Region – Environmental Cleanup
 700 NE Multnomah St., Suite 600
 Portland, OR 97232
 Phone: (503) 229-5213
 Email: anna.coates@deq.state.or.us

Respondent's Project Manager

Seth Henderson
 OCLD SUMMIT LLC
 1705 Willamette Falls Drive
 West Linn, OR 97068
 Phone: (503) 720-3601
 Email: shenderson@sdgpd.com

- (2) Notices to Respondent's Project Manager shall be directed to the Administrator upon DEQ's approval of the Administrator under Paragraph 5.A.(2).
- (3) The Project Managers or their respective designees must be available and have the authority to make day-to-day decisions necessary to complete the work required under this Consent Order.
- (4) Communications related to the Permit shall be addressed to the Materials Management/Solid Waste staff with a copy to the DEQ Project Manager as specified above in Paragraph 7.A.(1).

DEQ Permit Contact:

Bob Schwarz
 Department of Environmental Quality
 Northwest Region – Materials Management
 700 NE Multnomah St., Suite 600
 Portland, OR 97232
 Phone: (503) 229-5128
 Email: bob.schwarz@deq.state.or.us

B. Supervising Contractor

- (1) All aspects of the SOW to be performed by Respondent pursuant to this Consent Order must be performed under the direction and supervision of a qualified employee or contractor in compliance with applicable state and federal laws, regulations, and guidance.
- (2) If a supervising contractor is needed, Respondent will notify DEQ in writing of the name, title, and qualifications of any proposed supervising contractor at least 30 days prior to initiating work. DEQ may for good cause disapprove the proposed contractor. In the event of such disapproval, DEQ will notify Respondent in writing of the reasons for its disapproval within 14 days of receipt of the initial notice from

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Respondent. Respondent, within 14 days of receiving DEQ's notice of disapproval, will notify DEQ of the name, title, and qualifications of an alternative supervising contractor, subject to DEQ's right to disapprove under the terms and schedule specified above. DEQ approves Aronson Environmental, LLC as a qualified supervising contractor for Respondent for purposes of this Consent Order.

- (3) If Respondent proposes to change a supervising contractor or the Administrator, Respondent will notify DEQ in accordance with the provisions of the preceding paragraph. DEQ may disapprove such contractor or Administrator, under the terms and schedule specified in the preceding paragraph.

C. DEQ Approvals

- (1) Where DEQ review and approval is required for any plan or activity under this Consent Order, Respondent may not proceed to implement the plan or activity prior to DEQ approval. Any DEQ delay in granting or denying approval correspondingly extends the time for completion by Respondent. Prior approval is not required in emergencies, provided Respondent notifies DEQ immediately after the emergency and evaluate the impact of their actions.
- (2) After review of any plan, report, or other item required to be submitted for DEQ approval under this Consent Order, DEQ will: (a) approve the submission in whole or in part; or (b) disapprove the submission in whole or in part, and notify Respondent of its deficiencies and/or request modifications to cure the deficiencies.
- (3) DEQ approvals, rejections, or identification of deficiencies will be given in writing within the time specified in the SOW or as soon as practicable, and will state DEQ's reasons with reasonable specificity.
- (4) In the event of DEQ disapproval or request for modification of a submission, Respondent will, within 30 days of receipt of the DEQ notice or such longer time as may be specified in the notice, correct the deficiencies and resubmit the revised report or other item for approval.
- (5) In the event of two deficient submittals of the same deliverable that are deficient for the same reasons due to Respondent's failure to cure the original deficiency, DEQ may modify the submission to cure the deficiency.
- (6) In the event of approval or modification of a submission by DEQ, Respondent will

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implement the actions required by the plan, report, or other item, as so approved or modified, or invoke dispute resolution under Subsection 7.M.

D. Access to Property

Access to the Property shall be governed by Section 4 of the EES.

E. Records

- (1) In addition to those reports and documents specifically required under this Consent Order, Respondent will provide to DEQ, within 10 days of DEQ's written request, copies of Quality Assurance/Quality Control (QA/QC) memoranda and audits, raw data, final plans, task memoranda, field notes (not made by or at the direction of Respondent's attorney), and laboratory analytical reports relating to Respondent's activities under this Consent Order.
- (2) Respondent will preserve all records and documents in possession or control of Respondent or their employees, agents, or contractors that relate in any way to Respondent's activities under this Consent Order, for at least five years after certification of completion under Section 12. Upon DEQ's request, Respondent will provide to DEQ, or make available for copying by DEQ, copies of non-privileged records. For a period of 10 years after certification of completion, Respondent will provide DEQ 60 days notice before destruction or other disposal of such records or documents. Ten years after certification of completion, Respondent shall have no further obligation to preserve documents or records.
- (3) Subject to Paragraph 7.E.(4), Respondent may assert a claim of confidentiality under the Oregon Public Records Law regarding any document or record submitted to or copied by DEQ pursuant to this Consent Order. DEQ will treat documents and records for which a claim of confidentiality has been made in accordance with ORS 192.311 through 192.431. If Respondent does not make a claim of confidentiality at the time the documents or records are submitted to or copied by DEQ, the documents or records may be made available to the public without notice to Respondent.
- (4) Respondent will identify to DEQ (by addressor-addressee, date, general subject matter, and distribution) any document, record, or item withheld from DEQ on the basis of attorney-client or attorney work product privilege, except to the extent that such identifying information is itself subject to a privilege. Respondent may not assert

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attorney-client or work product privilege with respect to any records required to be submitted under Paragraph 7.E.(1). DEQ reserves its rights under law to obtain documents DEQ asserts are improperly withheld by a Respondent.

F. Notice and Samples

If DEQ conducts any sampling or analysis in connection with this Consent Order, DEQ will, except in an emergency, make every reasonable effort to notify Respondent of any excavation, drilling, sampling, or other fieldwork at least 30 days before such activity. Upon Respondent's verbal request, DEQ will make every reasonable effort to provide a split or duplicate sample to Respondent or allow Respondent to take a split or duplicate of any sample taken by DEQ, and will provide Respondent with copies of all analytical data for such samples. Respondent will provide DEQ with copies of all analytical data from such samples as soon as practicable.

G. Quality Assurance

- (1) Respondent will conduct all sampling, sample transport, and sample analysis in accordance with QA/QC provisions approved by DEQ as part of any work plan developed under the SOW. Respondent will make every reasonable effort to ensure that each laboratory used by Respondent for analysis performs such analyses in accordance with such provisions.
- (2) If DEQ conducts sampling or analysis in connection with this Consent Order, DEQ will conduct sampling, sample transport, and sample analysis in accordance with the QA/QC provisions of the approved work plan. Upon written request, DEQ will provide Respondent with copies of DEQ's records regarding such sampling, transport, and analysis.

H. Progress Reports

Respondent will deliver letter progress reports to DEQ as set forth in the Exhibit C (Scope of Work). DEQ may approve less frequent reporting, if warranted. Progress reports may be submitted in electronic form. If submitted in hard-copy written form, two copies must be provided to DEQ.

I. Other Applicable Laws

- (1) Subject to ORS 465.315(3), all activities under this Consent Order must be performed

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in accordance with all applicable federal, state, and local laws.

- (2) All activities under this Consent Order must be performed in accordance with any applicable federal, state, and local laws related to archeological objects and sites and their protection, including requirements for consulting with the State Historic Preservation Office to determine whether any information exists to indicate that the site is within an area likely to contain cultural resources. If archeological objects or human remains are discovered during any investigation, removal, or remedial activity at the Property, Respondent will, at a minimum: (a) stop work immediately in the vicinity of the find; (b) provide any notifications required by ORS 97.745 and ORS 358.920; (c) notify the DEQ Project Manager within 24 hours of the discovery; and (d) use best efforts to ensure that Respondent and their employees, contractors, counsel, and consultants keep the discovery confidential, including but not limited to refraining from contacting the media or any third party or otherwise sharing information regarding the discovery with any member of the public. An Inadvertent Discovery Plan, provided by the State Historic Preservation Office, outlines key steps and contact information in the event of a discovery. Any project delay caused by the discovery of archeological object or human remains is a Force Majeure under Subsection 7.L.

J. Reimbursement of DEQ Costs

- (1) DEQ will submit to Respondent, or the Administrator once appointed, a monthly invoice of costs incurred by DEQ on or after April 1, 2020 in connection with any activity related to oversight and periodic review of Respondent's implementation of this Consent Order. DEQ will not invoice Respondent for oversight and periodic review of Permit-related activities for solid waste compliance and other Permit-related costs.
- (2) Within 30 days of receipt of DEQ's invoice, Respondent will pay the amount of costs billed by check payable to the "State of Oregon, Hazardous Substance Remedial Action Fund," or invoke dispute resolution under Subsection 7.M. After 30 days, any unpaid amounts that are not the subject of pending dispute resolution, or that have been determined owing after dispute resolution, becomes a liquidated debt collectible under ORS 293.250 or other applicable law.

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- (3) Respondent will pay simple interest of 9% per annum on the unpaid balance of any DEQ oversight costs, which interest begins to accrue at the end of the 30-day payment period, unless dispute resolution has been invoked. Interest on any amount disputed under Subsection 7.M begins to accrue 30 days from final resolution of any such dispute.
- (4) Respondent's obligation to pay costs to DEQ under Paragraph 7.J.(1) shall terminate upon issuance of the certification of completion under Section 12 of this Consent Order and payment of all outstanding costs accrued for finalizing the certification of completion. After issuance of the certification of completion, DEQ may continue to invoice costs pursuant to the EES.

K. Financial Assurance

The Permit includes a financial assurance requirement for the work to be performed under the Permit. Neither Respondent nor Associated Parties shall have any further obligation to provide financial assurances related to the Permit or Rossman's landfill.

L. Force Majeure

- (1) If any event occurs that is beyond Respondent's reasonable control and that causes or might cause a delay or deviation in performance of the requirements of this Consent Order despite Respondent's reasonable efforts ("Force Majeure"), Respondent will promptly, upon learning of the event, notify DEQ's Project Manager verbally of the cause of the delay or deviation, its anticipated duration, the measures that have been or will be taken to prevent or minimize the delay or deviation, and the timetable by which Respondent proposes to carry out such measures. Respondent will confirm in writing this information within five working days of the verbal notification. Failure to comply with these notice requirements precludes Respondent from asserting Force Majeure for the event and for any additional delay caused by the event.
- (2) If Respondent demonstrates to DEQ's satisfaction that the delay or deviation has been or will be caused by Force Majeure, DEQ will extend times for performance of related activities under this Consent Order as appropriate. Circumstances or events constituting Force Majeure might include but are not limited to acts of God, unforeseen strikes or work stoppages, delays in receiving governmental approval or permit, unanticipated site conditions, fire, explosion, riot, sabotage, or acts of war.

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Normal inclement weather, increased cost of performance, or changed business or economic circumstances may not be considered Force Majeure.

M. Dispute Resolution

- (1) Except as provided in Paragraph 7.M.(4), if Respondent disagrees with DEQ regarding any matter during implementation of this Consent Order, Respondent will invoke dispute resolution by promptly notifying DEQ in writing of its objection. DEQ and Respondent then will make a good-faith effort to resolve the disagreement within 14 days of Respondent's written objection. At the end of the 14-day period, DEQ will provide Respondent with a written statement of its position from DEQ's Northwest Region Cleanup Program Manager. If Respondent still disagrees with DEQ's position, then Respondent, within 14 days of receipt of DEQ's position from the Cleanup Manager, will provide Respondent's position and rationale in writing to DEQ's Northwest Region Administrator. The Region Administrator may discuss the disputed matter with Respondent and, in any event, will provide Respondent with DEQ's final position in writing as soon as practicable after receipt of Respondent's written position.
- (2) If Respondent refuses or fails to follow DEQ's final position pursuant to Paragraph 7.M.(1), and DEQ seeks to enforce its final position, the Parties, subject to Sections 2 and 10, are entitled to such rights, remedies, and defenses as are provided by applicable law.
- (3) During the pendency of any dispute resolution under this subsection, the time for completion of work or obligations affected by such dispute is extended for a period of time not to exceed the actual time taken to resolve the dispute. Elements of work or obligations not affected by the dispute must be completed in accordance with the applicable schedule.
- (4) Dispute resolution under this subsection does not apply to DEQ approval or modification of the work plan required under the SOW (which approval or modification is nonetheless subject to Subsection 7.C).

N. [This Section Left Intentionally Blank]

O. Effect of Consent Order

- (1) DEQ may assess civil penalties under ORS 465.900 for Respondent's failure to

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comply with this Consent Order. Penalties do not accrue pending any contested case regarding the alleged violation. In addition to penalties, DEQ may seek any other available remedy for failure by Respondent to comply with any requirement of this Consent Order, including but not limited to termination of this Consent Order or court enforcement of this Consent Order.

- (2) Subject to Section 2 and Section 10, nothing in this Consent Order prevents DEQ, the State of Oregon, or Respondent from exercising any rights each might have against any person not a party to or subject to this Consent Order.
- (3) This Consent Order is void and of no effect with respect to Parcel I or Parcel II if a Respondent does not complete acquisition of such Parcel by December 31, 2023, unless an extension of that time period is granted by DEQ.
- (4) DEQ and Respondent intend for this Consent Order to be construed as an administrative settlement by which Respondent has resolved its liability to the State of Oregon, within the meaning of Section 113(f)(2) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9613(f)(2), regarding Existing Hazardous Substance Releases, and for Respondent not to be liable for claims for contribution regarding Existing Hazardous Substance Releases to the extent provided by Section 113(f)(2) of CERCLA, 42 U.S.C. §§ 9613(f)(2).
- (5) The Prospective Purchaser Agreement between DEQ and Trail's End Golf Center, Inc. (DEQ No. 99-07) dated August 10, 1999 and recorded against the Property on August 30, 1999 (Recording No. 99-085769) (the "1999 Prospective Purchaser Agreement") encumbers Parcel I and Parcel II. In the event a Respondent purchases Parcel I or Parcel II, this Consent Order shall supersede the 1999 Prospective Purchaser Agreement with respect to any and all future obligations on the purchased Parcel; provided, however, that the release of liability in the 1999 Prospective Purchaser Agreement shall otherwise remain in full force and effect.

P. Indemnification and Insurance

- (1) Respondent will indemnify and hold harmless the State of Oregon and its commissions, agencies, officers, employees, contractors, and agents from and against any and all claims arising from acts or omissions related to this Consent Order of

ORDER ON CONSENT

Respondent or their officers, employees, contractors, agents, receivers, trustees, or assigns. DEQ may not be considered a party to any contract made by Respondent or its agents in carrying out activities under this Consent Order.

- (2) To the extent permitted by Article XI, Section 7, of the Oregon Constitution and by the Oregon Tort Claims Act, the State of Oregon will indemnify and hold harmless Respondent and their officers, employees, contractors, and agents from and against any and all claims arising from acts or omissions related to this Consent Order of the State of Oregon or its commissions, agencies, officers, employees, contractors, or agents (except for acts or omissions constituting approval or disapproval of any activity of Respondent under this Consent Order). Respondent may not be considered a party to any contract made by DEQ or its agents in carrying out activities under this Consent Order.
- (3) Before commencing any on site work under this Consent Order and until issuance of a certification of completion under Section 12 of this Consent Order, Respondent will obtain and maintain comprehensive general liability and automobile insurance with limits of \$2 million, combined single limit per occurrence, naming as an additional insured the State of Oregon. Upon DEQ request, Respondent will provide DEQ a copy or other evidence of insurance. If Respondent demonstrates by evidence satisfactory to DEQ that their contractor(s) or subcontractor(s) maintain equivalent coverage, or coverage for the same risks but in a lesser amount or for a lesser term, Respondent may provide only that portion of the insurance that is not maintained by its contractor(s) or subcontractor(s).

Q. Parties Bound

This Consent Order is binding on the Parties and their respective successors, agents, and assigns, including the Associated Parties. The undersigned representative of each Party certifies that they are fully authorized to execute and bind such party to this Consent Order. Respondent (or their successors in ownership of the Property or any portion thereof) will notify and provide a copy of this Consent Order to any prospective successor, purchaser, lessee, assignee, or lender or mortgagee of the Property until DEQ issues a certification of completion under Section 12 of this Consent Order.

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R. Modification

DEQ and Respondent may modify this Consent Order by written agreement.

S. Effective Date

The effective date of this Consent Order is the date of signature by the DEQ's Land Quality Division Administrator.

T. Recording

Within 14 days of Respondent's acquisition of a Parcel, such Respondent will submit a copy or original of this Consent Order (whichever is required by the county) to be recorded in the real property records of Clackamas County, Oregon. Such Respondent will provide DEQ with written evidence of such recording within seven days of receiving such evidence from the county.

8. Release from Liability

- A. Pursuant to ORS 465.327, and subject to Subsection 8.B. and the satisfactory performance by Respondent of its obligations under this Consent Order, Respondent and Associated Parties are not liable to the State of Oregon under ORS 465.200 to 465.545 and 465.900, 466.640, or 468B.310 regarding Existing Hazardous Substance Releases, including the cleanup of Existing Hazardous Substances Releases in groundwater pursuant to ORS 459.248. Respondent bears the burden of proving by a preponderance of the evidence that a hazardous substance release (for all hazardous substances, hazardous materials, and oil described in Paragraph 2.B.(2)) existed as of the date of a Respondent's acquisition of ownership or operation of a Parcel.
- B. The release from liability under Subsection 8.A. does not affect liability of a Respondent for claims arising from:
- (1) A release of hazardous substances, spill or release of oil or hazardous material, or entry of oil into the waters of the state at or from the Parcel acquired by such Respondent on or after the date of such Respondent's acquisition of ownership or operation of the Parcel acquired by such Respondent;
 - (2) Contribution to or exacerbation, on or after the date of a Respondent's acquisition of ownership or operation of a Parcel, of a release of hazardous substance, spill or release of oil or hazardous material, or entry of oil into the waters of the state at or from the Parcel acquired by such Respondent;

ORDER ON CONSENT

- (3) Interference or failure to cooperate, on or after the date of a Respondent's acquisition of ownership or operation of a Parcel, with DEQ or other persons conducting remedial measures under DEQ's oversight at the Property;
- (4) Failure to exercise due care or take reasonable precautions, on or after the date of such Respondent's acquisition of ownership or operation of a Parcel, with respect to any hazardous substance at such Parcel;
- (5) Disposal or management of hazardous substances or solid waste removed from the a Parcel by or on behalf of a Respondent;
- (6) Criminal liability;
- (7) Violation of federal, state, or local law on or after the date of a Respondent's acquisition of ownership or operation of a Parcel;
- (8) Any matters as to which the State of Oregon is owed indemnification under Paragraph 7.P.(1); and
- (9) Claims based on any failure by Respondent to meet any requirements of this Consent Order.

9. Third-Party Actions

Subject to the satisfactory performance by Respondent of its obligations under this Consent Order, Respondent and Associated Parties are not liable to any person under ORS 465.200 to 465.545, 466.640, or 468B.310 regarding Existing Hazardous Substance Releases.

10. Respondent Waivers

- A. Respondent and Associated Parties waive any claim or cause of action they might have against the State of Oregon regarding Existing Hazardous Substance Releases; provided, Respondent reserves all rights concerning the obligations of DEQ under this Consent Order.
- B. Respondent and Associated Parties waive any rights they might have under ORS 465.260(7) and 465.325(2) to seek reimbursement from the Hazardous Substance Remedial Action Fund or the Orphan Site Account for costs incurred under this Consent Order or related to the Property.

11. Benefits and Burdens Run with the Land

- A. Pursuant to ORS 465.327(5), the benefits and burdens of this Consent Order run with the

land, provided the release from liability set forth in Subsection 8.A limits or otherwise affects the liability only of persons who are not potentially liable under ORS 465.255, 466.640, or 468B.310 for Existing Hazardous Substance Releases.

- B. Upon transfer of ownership of the Property, or any portion of the Property, from a Respondent to another person or entity, such Respondent and the new owner will provide written notice to the DEQ Project Manager within 10 days after the transfer with a form substantially similar to Exhibit F (Notice of Transfer of Property Subject to Prospective Purchaser Agreement) of this Consent Order. No change in ownership of the Property or the corporate or partnership status of any Respondent in any way alters Respondent's obligations under this Consent Order, unless otherwise approved in writing by DEQ.
- C. At its election, any tenant on the Property may agree to receive the benefits of, and be bound by, the obligations this Consent Order by executing and consenting to the terms of a Notice of Partial Assignment and Assumption of Prospective Purchaser Agreement on a form provided and approved by DEQ.

12. Certification of Completion

- A. Upon (a) Respondent's completion of the tasks identified in Section III of the SOW, including submittal and approval by DEQ of monitoring reports required under Section III, (b) proof that a certificate of occupancy (if required by law) has been issued for each building that is situated on a portion of the Parcel that is not then owned by such Respondent or by an affiliate of such Respondent, and (c) upon DEQ's approval of an Administrator under Paragraph 5.A.(2) of this Consent Order, Respondent will submit a final closeout report to DEQ signed by both a Oregon-registered professional engineer and Respondent's Project Manager, certifying that the requirements for the Property has been completed in accordance with this Consent Order. The report must summarize the work performed and include all necessary supporting documentation. DEQ may issue separate certificates of completion on either Parcel I or Parcel II provided the other conditions this Subsection 12.A are satisfied for that Parcel.
- B. DEQ will preliminarily determine whether the requirements under Section III the SOW have been performed, if the requirements under Section IV of the SOW have been assigned to an Administrator pursuant to Paragraph 5.A(2), if the requisite certificates of occupancy have been issued, and all oversight costs and penalties have been paid in

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accordance with this Consent Order. Upon a preliminary determination that these requirements have been satisfactorily performed and all costs and penalties paid, DEQ will provide public notice and opportunity to comment on a proposed certification decision in accordance with ORS 465.320 and 465.325(10)(b). After consideration of public comment, and within 90 days after receiving Respondent's closeout report, DEQ's Land Quality Division Administrator will issue a final certification decision.

- C. This Consent Order is satisfied upon issuance of DEQ's certification of completion and payment by Respondent of any and all outstanding costs and penalties, however, the certification of completion shall specify all ongoing obligations under this Consent Order, including but not limited to, compliance with Sections IV and V of the Exhibit C (Scope of Work), Exhibit D (Easement and Equitable Servitudes) and the obligation to reimburse DEQ for its review and oversight costs contained therein, or any obligations under other institutional controls recorded on the Property.

13. Termination of Obligations

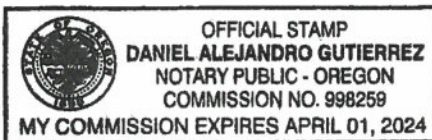
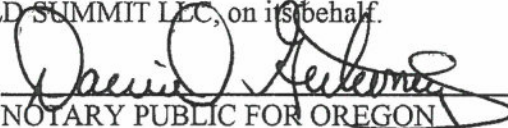
Respondent's ongoing obligations under this Consent Order will terminate upon DEQ's determination in its sole discretion that the conditions of this Consent Order are no longer necessary to protect human health and the environment.

14. Signatures

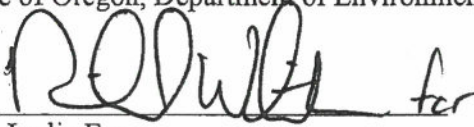
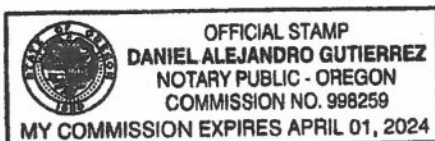
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STIPULATED, AGREED, and APPROVED FOR ISSUANCE:

Respondent, OCLD SUMMIT LLC, an Oregon limited liability company

By: OCLD LLC, an Oregon limited liability company
Its: ManagerBy: Summit Investment Group LLC, an Oregon limited liability company
Its: ManagerBy: 
Its: ManagerDate: 06/28/21STATE OF OREGON)
County of Multnomah) ss.The foregoing instrument is acknowledged before me this 28th day of June, 2021, by Seth Henderson, Manager of Summit Investment Group, LLC, Manager of OCLD LLC, Manager of OCLD SUMMIT LLC, on its behalf.

 NOTARY PUBLIC FOR OREGON
STIPULATED, AGREED, and SO ORDERED:

State of Oregon, Department of Environmental Quality

By:  for
Lydia Emer
Administrator, Land Quality DivisionDate: 6/28/2021STATE OF OREGON)
County of Multnomah) ss.The foregoing instrument is acknowledged before me this 28th day of June, 2021, by Lydia Emer as Land Quality Division Administrator of the Oregon Department of Environmental Quality, on its behalf.

 NOTARY PUBLIC FOR OREGON

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Exhibit A

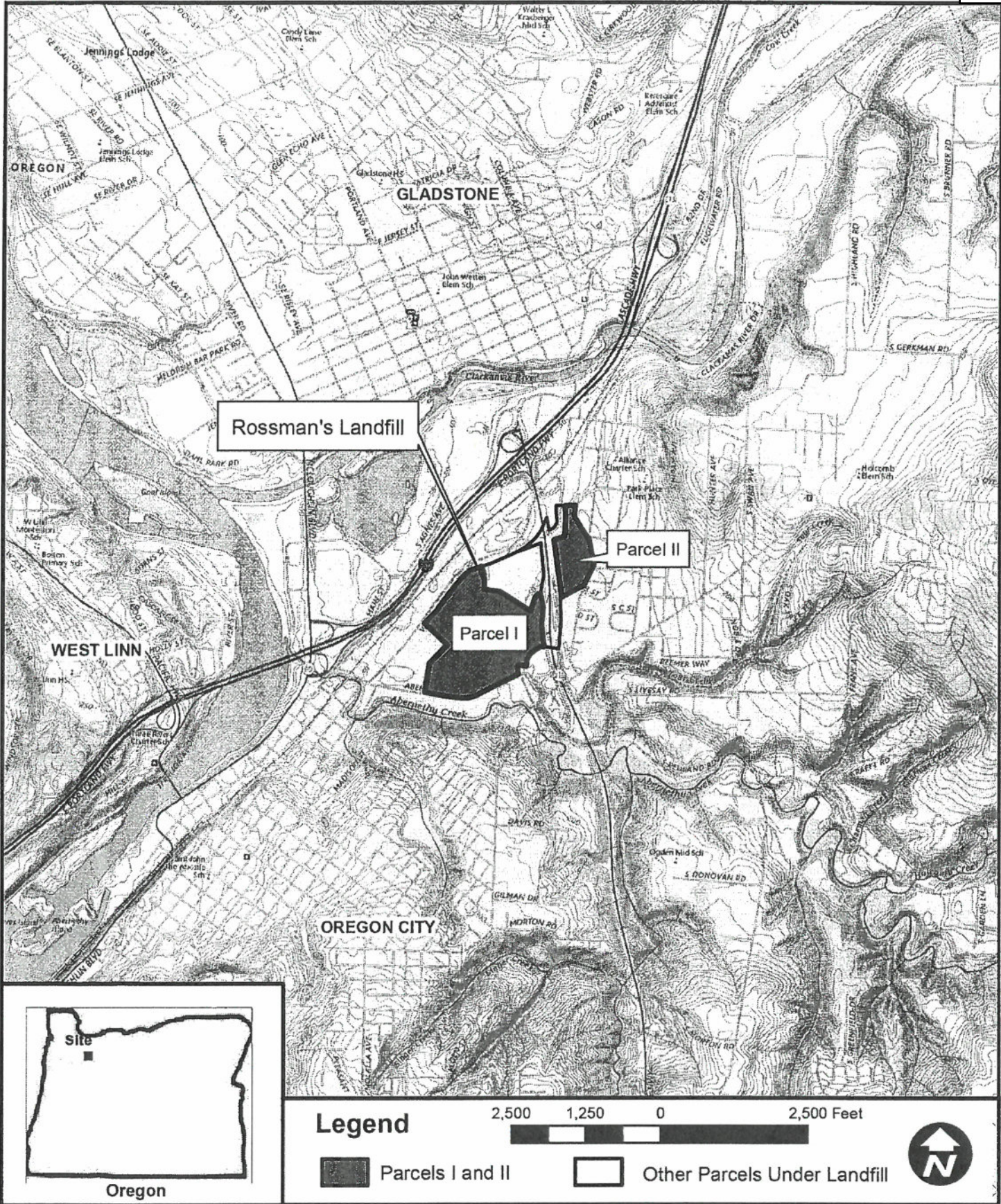


EXHIBIT A Vicinity Map

Exhibit B

EXHIBIT B

Property Legal Descriptions

PARCEL I

A tract of land in Section 29, Township 2 South, Range 2 East of the Willamette Meridian, in the City of Oregon City, County of Clackamas and State of Oregon, being more particularly described as follows:

Beginning at the intersection of the North right-of-way line of Abernethy Road with the East line of that tract of land conveyed to Clackamas County by Warranty Deed recorded as Document No. 68-014160, Clackamas County Deed Records; thence along the East line of said Clackamas County tract and along the East lines of those tract of land also conveyed to Clackamas County by Deed recorded as Document Nos. 68-014034 and 77-029771, Clackamas County Deed Records, North 08°54'15" East 499.78 feet to a point on the Southeasterly line of that tract of land conveyed to the City of Oregon City by document recorded in Book 232, Page 245, Clackamas County Deed Records; thence along said Southeasterly line North 43°45'46" East 85.63 feet to a found 1 inch iron pipe at the most Easterly corner of said City of Oregon City Tract; thence along the Southeasterly line of that tract of land conveyed to Frank E. Stein and Mildred S. Stein by Deed recorded in Book 615, Page 747, Clackamas County Deed Records, North 44°02'34" East 337.08 feet to the most Easterly corner thereof; thence along the Northeasterly line of said Stein Tract North 46°10'42" West 533.11 feet to the Southeasterly line of that tract of land conveyed to the State of Oregon by and through its State Highway Commission by Warranty Deed recorded as Document No. 69-004918, Clackamas County Deed Records; thence along said Southeasterly line North 35°30'34" East 37.02 feet to a 5/8 inch iron rod with yellow plastic cap stamped "Kampe Associates Inc."; thence continuing along said Southeasterly line North 44°35'59" East 253.18 feet to a 5/8 inch iron rod with yellow plastic cap stamped "Kampe Associates Inc."; thence continuing along said Southeasterly line North 35°30'34" East 354.65 feet to a 5/8 inch iron rod with yellow plastic cap stamped "Kampe Associates Inc."; thence continuing along said Southeasterly line along an offset spiral, the long chord of which bears North 39°25'18" East 382.51 feet to a 5/8 inch iron rod with yellow plastic cap stamped "Kampe Associates Inc." on the Easterly line of Parcel 4 of Judgment order filed December 21, 1970 in Suit No. 68930 in the Circuit Court of the State of Oregon for the County of Clackamas; thence along said Easterly line 159.71 feet along the arc of a 874.93 foot radius curve concave to the Southeast through a central angle of 10°27'31" (long chord bears North 52°44'18" East 159.49 feet) to a 5/8 inch iron rod with yellow plastic cap stamped "Kampe Associates Inc."; thence continuing along said Easterly line North 72°13'33" East 194.04 feet to the Westerly line of that tract of land described in Memorandum of Lease between Park Place Development, Inc. and Home Depot U.S.A., Inc., recorded as Document No. 2000-072090, Clackamas County Deed Records; thence along the Westerly and Southerly line of said tract of land described in Memorandum of Lease between Park Place Development, Inc. and Home Depot U.S.A., Inc. the following seven (7) courses: 1) South 21°3'28" East 26.90 feet; thence 2) 284.55 feet along the arc of a 560.00 foot radius curve concave to the West through a central angle of 29°06'48" (long chord bears South 07°20'05" East 281.50 feet); thence 3) South 07°13'19" West 86.37 feet; thence 4) South 82°46'41" East 264.43 feet; thence 5) South 58°03'39" East 620.53 feet; thence 6) North 18°11'22" East 216.87 feet; thence 7) 140.81 feet along the arc of a 128.00 foot radius curve concave to the Southeast through a central angle of 63°01'54" (long chord bears North 49°42'17" East 133.82 feet) to Station 83+75.00, 170 feet right in the Westerly line of Parcel 1 as described in Highway easement recorded as Document No. 84-004772, Clackamas County Deed Records; thence along said Westerly line South 11°14'56" East 233.19 feet to Station 86+04.85, 125 feet right; thence continuing along said Westerly line South 05°53'22" West 302.79 feet to Station 89+00.00, 160 feet right; thence continuing along said Westerly line South 08°15'54" East 108.55 feet to the Northerly line of Parcel 3 as described in Highway Easement recorded as Document No. 84-004772, Clackamas County Deed Records; thence along the Northerly and Westerly lines of said Parcel 3 the following four (4) courses: 1) South 56°18'34" West 452.39 feet to Station "RR" 20096+50.00, 130.00 feet right; thence 2) South 27°36'05" West 151.34 feet to Station "RR" 20097+70.00, 120 feet right; thence 3) South 01°18'28" West 277.76 feet to Station "RR" 20100+00.00, 75 feet right; thence 4) 3.05 feet along the arc of a 552.46 foot radius curve concave to the East through a central angle of 00°19'00" (long chord bears South 03°35'55" East 3.05 feet) to a point in the Northerly line of Parcel 4 as described in highway easement recorded as Document No. 84-004772, Clackamas County Deed Records; thence along said Northerly line South 54°12'01" West 364.59 feet to Station "H" 30027+00.00, 40 feet right; thence along the Southwesterly line of said Parcel 4 South 26°34'11" East 8.33 feet to the North right-of-way line of Abernethy

Road; thence along said right-of-way line South 63°29'52" West 394.58 feet; thence continuing along said right-of-way line 341.63 feet along the arc of a 542.96 foot radius curve concave to the North through a central angle of 36°03'00" (long chord bears South 81°31'22" West 336.02 feet); thence continuing along said right-of-way line North 80°27'08" West 547.45 feet to the point of beginning.

TOGETHER WITH an Access Easement as set forth in instrument recorded May 28, 2002 as Recorder's Fee No. 2002-049788.

PARCEL II

That portion of the following described tract of land which lies East of the East lines of Parcels 1 and 2 as described in that Highway Easement between Jack W. Parker, Grantor, and the State of Oregon, by and through its Department of Transportation, Highway Division, Grantee, recorded February 9, 1984 as Recorder's Fee No. 84-004772, Clackamas County Deed records:

A tract of land in Section 29, Township 2 South, Range 2 East, Willamette Meridian, in the City of Oregon City, County of Clackamas and State of Oregon, being more particularly described as follows:

Commencing at a 5/8 inch iron rod with yellow plastic cap stamped "McConnell" at the Southeast corner of Lot 10, Block 1, STRAIGHTS ADDITION TO PARK PLACE, a plat of record in Clackamas County, Oregon; thence along the West line of Block 3, PARK PLACE, a plat of record in Clackamas County, Oregon, South 07°04'13" West 282.87 feet to a 5/8 inch iron rod with yellow plastic cap stamped "Compass engineering" and the true point of beginning of the tract to be described; thence continuing along said west line South 07°04'13" West 184.79 feet to a 1/2 inch iron pipe at an angle point in the West line of Lot 19, Block 3, PARK PLACE; thence continuing South 07°04'13" West 7.00 feet to the most Westerly corner of that tract of land conveyed to Oscar E. Hogg and Ruth Hogg by Warranty Deed recorded in Book 263, Page 659, Clackamas County Deed Records; thence along the Southerly line of said Hogg tract South 31°52'22" East 429.28 feet to an angle point in said Southerly line; thence continuing along said Southerly line South 83°32'54" East 22 feet to the most Easterly corner of said Hogg Tract; thence along the West line of the aforementioned PARK PLACE (being also the West right of way line of S. Apperson Boulevard) South 10°37'19" East 469.83 feet to an angle point in said West line; thence continuing along said West line South 26°15'03" West 360.56 feet to the most Northerly corner of Block 11, J.T. APPERSON'S SUBDIVISION OF BLOCKS 5, 6 and 7 - PARK PLACE, a plat of record in Clackamas County, Oregon; thence along the Northwestern line of said Block 11, South 60°29'50" West 398.76 feet to an angle point in the North line of Parcel 2, PARTITION PLAT NO. 1992-44, Clackamas County Partition Plat Records; thence continuing along the North line of said Parcel 2, North 84°02'13" West 64.00 feet to a 1/2 inch iron rod at the Northwest corner of said Parcel 2; thence along the West line of said Parcel 2 South 03°04'39" East 50.30 feet to the Southwest corner of said Parcel 2; thence South 01°05'49" East 534.54 feet to a 1/2 inch iron pipe at an angle point in the West line of that tract of land conveyed to M.E. Freeman and Mary Ann Freeman by Warranty Deed recorded in Book 554, Page 492, Clackamas County Deed Records; thence South 04°30'10" West 306.69 feet to a 1/2 inch iron pipe at the Southwest corner of that tract of land conveyed to Dan A. Jones and June W. Jones by Warranty Deed recorded in Book 541, Page 606, Clackamas County Deed records; thence along the North line of that tract of land conveyed to William Kruger and Augusta Kruger by indenture recorded in Book 124, Page 460, Clackamas County Deed Records, North 83°11'59" West 268.29 feet to the Westerly line of Parcel 1 as described in Highway Easement recorded as Document No. 84-004772, Clackamas County Deed Records; thence along said Westerly line 269.95 feet along the arc of a 3014.79 foot radius curve concave to the East through a central angle of 05°07'50" (long chord bears North 06°34'47" West 269.86 feet) to Station 90+04.85, 150 feet right; thence continuing along said Westerly line North 08°15'54" West 110.22 feet to Station 89+00.00, 160 feet right; thence continuing along said Westerly line North 05°53'22" East 302.79 feet to Station 86+04.85, 125 feet right; thence continuing along said Westerly line North 11°14'56" West 233.19 feet to Station 83+75.00, 170 feet right; thence continuing along said Westerly line North 10°56'16" East 306.65 feet to Station 80+70.39, 105 feet right; thence continuing along said Westerly line North 05°52'40" West 548.81 feet; thence leaving said Westerly line and following the North line of that tract of land described in Memorandum of Lease between Park Place Development, Inc., and Home Depot U.S.A., Inc., recorded as Document No. 2000-072090, Clackamas County Deed Records, South 69°58'26" West 434.19 feet to a 5/8 inch iron rod with yellow plastic cap stamped "Kampe Associates Inc." (at Record Station "WW" 678+82.26, 90.00 feet left); thence along the Southeasterly line of Parcel 4 as described in Clackamas County Circuit Court Case No. 68930 North 63°00'40" East 151.57 feet; thence continuing along said Southeasterly line of Parcel 4 North 49°51'56" East 231.14 feet; thence continuing along said Southeasterly line of Parcel 4 North 37°00'56" East 177.01 feet; thence continuing along said Southeasterly line of Parcel 4 North 24°03'38" East 240.25 feet to the Westerly line of that tract of land conveyed to RLS LLC 1 by Warranty Deed recorded as Document No. 2004-106748, Clackamas County Deed Records; thence along the Westerly,

Southerly and Southeasterly lines of said RLS LLC 1 tract the following six (6) courses:

1: Parallel with and 72.00 feet Easterly of the centerline of the relocated Cascade Highway South as described in Document No. 84-004772, Clackamas County Deed Records, along an offset spiral the long chord of which bears South 12°05'13" East 15.18 feet;

2: Thence continuing along a line parallel with and 72.00 feet Easterly of the centerline of the relocated Cascade Highway South as described in Document No. 84-004772, Clackamas County Deed Records, 202.18 feet along the arc of a 5801.58 foot radius curve concave to the west through a central angle of 01°59'48" (long chord bears South 11°00'58" East 202.17 feet) to a 5/8 inch iron rod with yellow plastic cap stamped "PLS 1678";

3: Thence leaving said parallel line North 69°58'38" East 14.96 feet to a 5/8 inch iron rod with yellow plastic cap stamped "PLS 1678";

4: Thence 240.58 feet along the arc of a 178.00 foot radius curve concave to the Northwest through a central angle of 77°26'24" (long chord bears North 31°15'26" East 222.68 feet) to a 5/8 inch iron rod with yellow plastic cap stamped "PLS 1678";

5: Thence North 07°27'46" West 21.15 feet to a 5/8 inch iron rod with yellow plastic cap stamped "PLS 1678";

6: Thence North 01°47'08" West 196.19 feet to a 5/8 inch iron rod with yellow plastic cap stamped "Compass Engineering";

thence leaving the Southwesterly line of said RLS LLC 1 tract North 88°38'07" East 324.59 feet to the true point of beginning.

Exhibit C

Exhibit C

SCOPE OF WORK

I: SUMMARY OF PROJECT AND WORK OBJECTIVES

The general description of the obligations and division of responsibilities under the Consent Decree are summarized below in this Section I.

- A. Respondents' obligations and responsibilities include:
 - 1. Design and implement (or if voluntarily assumed by a property Owner, oversee) the landfill gas management systems, cathodic protection systems, and impervious surfaces/landfill cover on the Parcels
 - 2. Require that landfill gas management systems associated with initial building and site development by parties other than Respondents are designed and implemented, to the extent feasible, by an engineering firm selected by Respondents
 - 3. Design and construct all common areas on the Parcels
 - 4. Select and contract with an Administrator

- B. Respondents' (or the Administrator's, after appointed) obligations and responsibilities include:
 - 1. Consistent with responsibilities in Section IV, coordinate and conduct (or if voluntarily assumed by a property Owner, oversee) any operations, monitoring, adjustments, maintenance, repairs, modifications, and improvements of or to the landfill gas management systems, cathodic protection systems, and impervious surfaces/landfill cover for common areas and for individual property Owners, as necessary or appropriate
 - 2. Receive and pay DEQ oversight (and other) invoices, and as appropriate, fairly allocate responsibility for such invoices to individual property Owner or Owners
 - 3. Prepare and submit the deliverables in Section III, below, as required
 - 4. Prepare (or if voluntarily assumed by a property Owner, oversee) the deliverables as set forth in Section V, as required
 - 5. Receive and distribute to property Owners or tenants any notices from DEQ related to the Consent Order or the EES
 - 6. Take other measures, as deemed necessary or required by DEQ or in the reasonable discretion of the Administrator, to maintain the integrity of the landfill gas mitigation system on the Property pursuant to the Consent Order and EES

- C. Individual Property Owners' obligations and responsibilities include:
 - 1. If voluntarily assumed by Owner, coordinate and conduct any operations, monitoring, adjustments, maintenance, repairs, modifications, and improvements to the landfill gas management systems, cathodic protection systems, and impervious surfaces/landfill cover for individual Owner properties under the oversight of the Respondents or Administrator, once appointed.
 - 2. Follow all directives from the DEQ or Administrator related to operation,

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monitoring, adjustments, maintenance, repair, modifications, or improvements of landfill gas management systems, cathodic protection systems, and impervious surfaces/landfill cover associated with their buildings or on their property

3. If voluntarily assumed by Owner, prepare the deliverables as set forth in Section V as required
4. Timely pay invoices presented by the Administrator
5. Cooperate with Administrator's activities under the Consent Order and Permittee's activities under the Permit, including without limitation, allowing reasonable access to the Administrator or Permittee
6. Comply with any requirements under the Permit, the Consent Order or the EES applicable to their buildings or property

II: DESCRIPTION OF ENGINEERING MEASURES

Engineering measures and associated tasks to be implemented during development include the following:

- A. **Landfill Cover Improvement.** The Respondents' development will improve the existing landfill cover through the addition of impervious surfaces on the Parcels. The improved landfill cover is intended to reduce the infiltration of stormwater into the underlying solid waste, resulting in less leachate generation. These impervious surfaces include building foundations, concrete areas associated with building structures and adjacent outdoor areas, asphalt-paved/concrete areas in the parking lots and roads, and other common areas. "Common areas" will include those areas designated as common areas in the approved Master Plan for the development, including any areas with unimproved cap that are not on an Owner property. These improved surfaces, as well as any areas with unimproved landfill cover, will be maintained to promote surface water drainage and limit the potential for ponding.
- B. **Methane Protection and Monitoring Systems for Buildings.** Systems will be designed and constructed for Respondents' development to mitigate potential risks associated with landfill gas. These systems will include:
 - o impermeable gas barriers and passive or active venting systems installed as part of building foundations
 - o methane monitoring systems for the interior of the buildings
 - o appropriate engineering controls to mitigate landfill gas migration in utility trenches and to monitor for landfill gas accumulation in sub-grade structures, including utility vaults
 - o Sub-slab methane monitoring sensors and/or probes for building foundations
- C. **Perimeter and Common Area Landfill Gas Management System(s).** This system or systems will be designed and constructed for Respondents' development to minimize methane accumulation in the sub-surface, mitigate the potential for off-site migration, and monitor performance of the system(s). Additionally, the system(s) will also include installation of additional vapor monitoring probes along the perimeter of the Parcels to monitor the performance of the system(s). These additional probes will augment the existing network and/or replace probes removed during construction.

- D. **Removal, Management and Disposal of Waste Materials.** All waste materials generated onsite or removed from the Parcels during grading and construction will be managed in accordance with state and local environmental regulations.

III: CONSTRUCTION / DEVELOPMENT TASKS

Respondents will prepare, submit and implement (or if voluntarily assumed by a property Owner, oversee preparation, submittal and implementation) for each Parcel (or the entire Property, at Respondents' election) the following documents for review and approval by DEQ.

- A. A Preliminary Engineering Design Report for the site development. The report will be submitted for DEQ review at least 60 days prior to commencing major site grading and construction activities.
- B. An Environmental Engineering Design Report for the landfill gas management system(s). The report(s) will be submitted for DEQ review at least 60 days prior to commencing construction of the gas control system.
- C. An Environmental Monitoring Plan (or Plans) that present the approach for monitoring of landfill gas, groundwater conditions, and ambient air quality. The plan(s) is /are intended to assess the environmental impact, if any, of the development and will augment the existing environmental monitoring conducted under the Permit. The plan(s) will be submitted for DEQ review at least 30 days prior to implementing the plan. The plan(s) will include:
 1. Monitoring of landfill gas at perimeter landfill gas probes to assess the potential for enhanced migration during construction. During construction, monitoring will be conducted on a quarterly basis at landfill gas probes LFG-4A, LFG-6, LFG-7, LFG-1A, LFG-2A, and LFG-12 for Parcel I, and at probes LFG-10, LFG11, and LFG-18 for Parcel II. The results for each monitoring event will be presented to DEQ in a brief letter report(s).
 2. Sampling outdoor air for Volatile Organic Compounds (VOCs) prior to initiating construction. A brief workplan outlining the proposed approach will be submitted to DEQ for approval at least 30-days prior to collecting the samples, and the monitoring results will be provided to DEQ in a letter report.
 3. Sampling exhaust from soil vapor extraction system(s) and representative sampling of indoor air at residential buildings, if present, will be conducted prior to occupancy of any residential buildings. The proposed plan(s) for exhaust sampling and indoor air sampling will be presented in the one or both of the engineering design documents listed in Sections III.A & B, above.
 4. Monitoring of groundwater following construction to assess the influence of the development on groundwater. Prior to initiating construction on Parcel I, a sample will be collected from well MW-2. No samples will be required on Parcel II prior to construction. (Wells MW-19, MW-21 and MW-23 will not be sampled prior to construction because there is substantial historical data available for

those wells). Samples will be collected approximately 2-years and 3-years after completion of construction at the following wells: for Parcel I, wells MW-2, MW-19, MW-21 and MW-23; for Parcel II, well MW-19. Analytes will include analysis for Group 1a, Group 1b, Group 2a, Group 2b, Group 3, and Group 4 parameter groups (see Attachment 1 of the Permit). The results for each monitoring event will be presented to DEQ in a brief letter report(s). Each report will include a screening table that compares detections to ORS Division 40 screening values and pre-development values. Impacts to Beneficial Water Use will be discussed.

The influence of the development on groundwater quality will be evaluated by comparing the post-construction data with historical data (2001 to present). If the concentration of a parameter has increased above this historical range, that parameter will be evaluated to determine whether the increased concentration exceeds screening values for groundwater and is likely to result in an exceedance of sediment or surface water screening level values in the surface water bodies located downgradient of the landfill.

- D. A Construction Quality Assurance Plan, Refuse Handling & Material Disposal Plan and Construction Health/Safety Plan for the installation of the landfill gas management system(s). These plans will be submitted for DEQ review at least 60 days prior to commencing construction of the landfill gas management system(s).
- E. Construction Completion Letter Report(s) for the landfill gas management system(s). The letter report(s) will be submitted to DEQ within 60 days of completing the installation and startup of the landfill gas management system(s).
- F. Prepare an Operation, Maintenance and Monitoring Plan for the landfill gas management system(s), cathodic protection system, and evaluation of the condition of the impervious surfaces / landfill cover. This plan will address site-wide monitoring, and may also include individual plans or addendums specific to individual properties. The plan will also include the schedule for monitoring and maintenance of the various components of the landfill gas management system, cathodic protection system, and evaluating the condition of the impervious surfaces / landfill cover. The plan will be submitted for DEQ review prior to commencing operation of the landfill gas management system(s).

Respondents will, as appropriate, update the documents referenced in Sections III.A, III.B and III.F above in the event there are substantial revisions to the overall site layout for the development contemplated in those documents.

IV: OPERATION AND MAINTENANCE/MONITORING TASKS

In addition to the work described in Section III, Respondents will perform the following tasks for each Parcel or have them assigned to an Administrator pursuant to the Consent Order:

- A. Prepare Operation, Maintenance and Monitoring Reports for the landfill gas management systems, cathodic protection systems, and the evaluation/repairs to the

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impervious surfaces/ landfill cover. Respondents or the Administrator will submit letter reports to DEQ every 60 days during site construction and through the initial 12 months of the landfill gas management system operation. Thereafter, Respondents or the Administrator will submit such reports to DEQ on an annual basis unless or until DEQ agrees to a reduced schedule or termination of this obligation.

- B. Coordinate and conduct (or if voluntarily assumed by a property Owner, oversee) any operations, monitoring, adjustments, maintenance, repairs, modifications, and improvements to the landfill gas management systems, cathodic protection systems, and impervious surfaces/landfill cover for common areas and individual property Owners, as appropriate.

V: FUTURE REPAIRS, MODIFICATIONS, AND IMPROVEMENTS

If modifications, improvements or major repairs to the landfill gas management systems or impervious surfaces/landfill cover for individual properties, buildings, or common areas are necessary in the future, the Respondent/s or property Owner/s will coordinate with DEQ (and the Administrator, if appointed) to identify the appropriate deliverables, if any, that shall be submitted to DEQ for review and approval. Such deliverables may include, but are not limited to, the following:

- Environmental Engineering Design Plans
- Environmental Monitoring Plans
- A Construction Quality Assurance Plan
- Refuse Handling & Material Disposal Plan
- Construction Health/Safety Plan
- Construction Completion Letter Report(s)

With the exception of the Construction Completion Letter Report(s), these deliverables will be prepared and submitted to DEQ for approval prior to initiating construction activities. The Construction Completion Letter Report(s) will be submitted to DEQ following completion of the repairs, modifications, or improvements to the landfill gas management systems or impervious surfaces/landfill cover.

In addition, the Respondent/s or property Owner/s will coordinate with DEQ and the Administrator to determine if it is necessary to update the Operation, Maintenance and Monitoring Plan identified in Section IV. If the Operation, Maintenance and Monitoring Plan is determined to require updating, an update of this plan will be prepared and submitted to DEQ by the party performing the work within 60 days of completing the repairs, modifications, or improvements.

As part of the review and approval process of any of the deliverables in this Scope of Work, comments, responses to comments, and DEQ approvals shall be made within 21 days of receipt by the other party

Exhibit D

Space above this line for Recorder's use.

After recording, return to:

Grantee

Oregon DEQ
700 NE Multnomah, Ste. 600
Portland, OR 97232
Attention: Anna Coates

Grantor

EASEMENT AND EQUITABLE SERVITUDES

This grant of Easement and acceptance of Equitable Servitudes ("**EES**") is made on [Date], 20[Year] between [] ("**Grantor**") and the State of Oregon, acting by and through the Oregon Department of Environmental Quality ("**DEQ**" or "**Grantee**").

RECITALS

A. Grantor is the owner of certain real property located in Clackamas County, Oregon in Clackamas County Tax Map 22E29 00902 and 22E29 00902A1, Tax Lot 902 , Tax Lot 1200 (the "**Property**") the location of which is more particularly described in Exhibit A to this EES. The Property is referenced under the name Rossman's Landfill, ECSI #674 and Solid Waste Disposal Site Closure Permit No. 115 in the files of DEQ's Materials Management Program at Northwest Region office located at 700 NE Multnomah, Oregon, and telephone (503) 229-5696. Interested parties may contact the Northwest Region office to review a detailed description of the risks from contamination remaining at the Property.

B. On June __, 2021, Grantor entered into a Consent Order No. 20-02 with DEQ, under which Grantor agreed to implement the selected remedial action, including the required institutional controls.

C. This EES is intended to further the implementation of the selected remedial action and protect human health and the environment.

D. Nothing in this EES constitutes an admission by Grantor of any liability for the contamination described in the EES.

1. DEFINITIONS

- 1.1 "Administrator" has the meaning set forth in Paragraph 5A(3) of the Consent Order.
- 1.2 "Beneficial use" has the meaning set forth in OAR 340-122-0115.
- 1.3 "DEQ" means the Oregon Department of Environmental Quality, and its employees, agents, and authorized representatives. "DEQ" also means any successor or assign of DEQ under the laws of Oregon, including but not limited to any entity or instrumentality of the State of Oregon authorized to perform any of the functions or to exercise any of the powers currently performed or exercised by DEQ.
- 1.4 "Ecological receptor" has the meaning set forth in OAR 340-122-0115.
- 1.5 "Engineering control" has the meaning set forth in OAR 340-122-0115
- 1.6 "Hazardous substance" has the meaning set forth in ORS 465.200
- 1.7 "Landfill gas management systems" means (a) the engineering measures and controls incorporated into the construction of buildings, structures, and common spaces to prevent or minimize exposure to hazardous substances, and (b) the monitoring systems used to assess the performance of the engineering measures and controls.
- 1.8 "Owner" means any person or entity, including Grantor, who at any time owns, occupies, or acquires any right, title, or interest in or to any portion of the Property or a vendee's interest of record to any portion of the Property, including any successor, heir, assign or holder of title or a vendee's interest of record to any portion of the Property, but excluding any entity or person who holds such interest solely for the security for the payment of an obligation and does not possess or control use of the Property.
- 1.9 "Permit" means DEQ's Solid Waste Disposal Site Closure Permit No. 115 and any renewal thereof.
- 1.10 "Remedial Action" has the meaning set forth in ORS 465.200 and OAR 340-122-0115.

2. GENERAL DECLARATION

2.1 Grantor, in consideration of Grantee's approval of the Consent Order described above, grants to DEQ an Easement for access and accepts the Equitable Servitudes described in this instrument and, in so doing, declares that the Property is now subject to and must in future be conveyed, transferred, leased, encumbered, occupied, built upon, or otherwise used or improved, in whole or in part, subject to this EES and the Consent Order.

2.2 Each condition and restriction set forth in this EES touches and concerns the Property and the equitable servitudes granted in Section 3 and easement granted in Section 4 below, runs with the land for all purposes, is binding upon all current and future owners of the Property as set forth in this EES, and inures to the benefit of the State of Oregon. Grantor further conveys to DEQ the perpetual right to enforce the conditions and restrictions set forth in this EES.

3. EQUITABLE SERVITUDES (REQUIRED ACTIONS AND RESTRICTIONS ON USE)

3.1. **Groundwater Use Restrictions.** Owner may not extract through wells or by other means or use the shallow groundwater at the Property for consumption or other beneficial use. This prohibition does not apply to extraction of groundwater associated with groundwater treatment or monitoring activities approved by DEQ or to temporary dewatering activities related to construction, development, or the installation of sewer or utilities at the Property. Owner must conduct a waste determination on any groundwater that is extracted during such monitoring, treatment, or dewatering activities and handle, store and manage waste water according to applicable laws. Extraction of groundwater from a deeper aquifer is also prohibited.

3.2. **Engineering Control Use Restrictions.** Except as provided in Section 3.3, Owner must not conduct operations on the Property or use the Property in any way that will or likely will penetrate any impervious surfaces / landfill cover, or impair the performance or functionality of the landfill gas management system(s) or any impervious surfaces / landfill cover.

3.3. **Landfill Gas Management Systems / Landfill Cover.** Owner shall cooperate with the DEQ or the Administrator and comply with directives from the DEQ or the Administrator related to operations, maintenance, repairs, modifications, or improvements to landfill gas management systems (or any components thereof), the cathodic protection systems associated with any structure on the Property, and the impervious surfaces / landfill cover on the Property. Without prior written approval of the DEQ and the Administrator as set forth in the Consent Order and the Scope of Work attached thereto, Owner must not decommission, modify, repair, or make improvements to such landfill gas management systems (or any components thereof) or cathodic protection systems, or develop or modify any structure on the Property, if such activities will or likely will affect landfill gas management systems, cathodic protection systems, or impervious surfaces / landfill cover on the Property.

3.4. **Use of the Property.** Owner may not occupy or allow other parties to occupy the Property unless the controls listed in this Section 3 are maintained.

4. EASEMENT (RIGHT OF ENTRY)

During reasonable hours and subject to reasonable security requirements, DEQ, the Administrator, the permittee under the Permit, and any authorized agents of the foregoing, may enter upon and inspect any portion of the Property to monitor compliance with this EES, the Consent Order and the Permit. Except when necessary to address an imminent threat to human health or the environment, DEQ or the Administrator will use their respective best efforts to notify the Owner 72 hours before entry to the Property. DEQ may use its statutory authority to obtain access to property if DEQ determines that access is necessary and that all good faith efforts to obtain access have been exhausted. DEQ may enter upon the Property at any time to abate, mitigate, or cure at the expense of the Owner the violation of any condition or restriction contained in the Consent Order, this EES and the Permit, provided DEQ first gives written notice of the violation to Owner describing what is necessary to correct the violation and Owner fails to

cure the violation within the time specified in such notice. Any such entry by DEQ to evaluate compliance or to abate, mitigate, or cure a violation may not be deemed a trespass.

5. RELEASE OF RESTRICTIONS

5.1. Owner or the Administrator may request release of any or all of the conditions or restrictions contained in this EES by submitting such request to the DEQ in writing with evidence that the conditions or restrictions are no longer necessary to protect human health and the environment. The decision to release any or all of the conditions or restrictions in this EES will be within the sole discretion of DEQ.

5.2. Upon a determination pursuant to Subsection 5.1, DEQ will, as appropriate, execute and deliver to Owner or the Administrator a release of specific conditions or restrictions, or a release of this EES in its entirety.

6. GENERAL PROVISIONS

6.1. **Notice of Transfer/Change of Use.** Each Owner must notify DEQ within 10 days after the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of such Owner's interest in the Property. Such notice must include the full name and address of the party to whom Owner has transferred such interest. The Party to whom Owner has transferred its interest may also provide such notice to DEQ, which shall satisfy Owner's obligations hereunder. In addition, Owner must notify DEQ a minimum of 10 days before the effective date of any change in use of the Property that might expose human or ecological receptors to hazardous substances. Such notice must include complete details of any planned development activities or change in use. Notwithstanding the foregoing, Owner may not commence any development inconsistent with the conditions or restrictions in Section 3 without prior written approval from DEQ as provided in Section 3 of this EES or removal of the condition or restriction as provided in Subsection 5.1. This subsection does not apply to the grant or conveyance of a security interest in the Property.

6.2. **Zoning Changes.** Owner must notify DEQ no less than 30 days before Owner's petitioning for or filing of any document initiating a rezoning of the Property that would change the base zone of the Property under the Clackamas County zoning code or any successor code. As of the date of this EES, the base zone of the Property is MUD (Mixed Use Downtown District).

6.3. **Cost Recovery.** This EES constitutes the binding agreement by Owner to reimburse DEQ for all eligible review and oversight costs. Owner is responsible for payment of DEQ's costs for review and oversight of implementation of and compliance with the provisions in this EES and the Consent Order. Such cost include, but are not limited to, periodic review and tracking of actions required by this EES and the Consent Order and costs related to modifications, alterations, repairs or maintenance of landfill gas management system or landfill cover system that are not associated with any particular building or property on the Property (i.e., common space) and which are costs not related to requirements or activities under the Permit. Owner is not responsible for payment of DEQ's costs for oversight and periodic review of Permit-related activities for solid waste compliance or other Permit-related costs. DEQ will

establish a cost recovery account for tracking and invoicing DEQ project costs. DEQ will provide Owner, or if an Administrator has been designated under the Consent Order, the Administrator, with a monthly statement and direct labor summary. DEQ costs will include direct and indirect costs. Direct costs include site-specific expenses and legal costs. Indirect costs are those general management and support costs of the State of Oregon and DEQ allocable to DEQ oversight of this EES and the Consent Order and not charged as direct site-specific costs. Indirect charges are based on actual costs and are applied as a percentage of direct personal services costs. DEQ will use best efforts to specify any time or labor associated with particular parcels or properties, and to identify such parcels or properties in its invoicing. DEQ will maintain work logs, payroll records, receipts, and other documents to document work performed and expenses incurred under this EES or the Consent Order and, upon request, will provide copies of such records to Owner.

6.4. Reference in Deed. A reference to this EES and to the Consent Order, including their location in the public records, must be included or recited in any deed conveying fee title to the Property or any portion of the Property. Each condition and restriction contained in this EES runs with the land so burdened until such time as the condition or restriction is removed by written certification from DEQ, recorded in the deed records of the County in which the Property is located, certifying that the condition or restriction is no longer required to protect human health or the environment.

6.5. Effect of Recording. Upon the recording of this EES, all future Owners are conclusively deemed to have consented and agreed to every condition and restriction contained in this EES, whether or not any reference to this EES is contained in an instrument by which such person or entity occupies or acquires an interest in the Property.

6.6. Enforcement and Remedies. Upon any violation of any condition or restriction contained in this EES, the State of Oregon, in addition to the remedies described in Section 4, may enforce this EES as provided in the Consent Order or seek available legal or equitable remedies to enforce this EES, including civil penalties as set forth in ORS 465.900.

6.7. IN WITNESS WHEREOF Grantor and Grantee have executed this Easement and Equitable Servitude as of the date and year first set forth above.

[SIGNATURES ON FOLLOWING PAGE]

BY SIGNATURE BELOW, THE STATE OF OREGON APPROVES AND ACCEPTS THIS
CONVEYANCE PURSUANT TO ORS 93.808.

GRANTOR: [_____].

STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument is acknowledged before me this _____ day of
_____, 20__, by [_____].

NOTARY PUBLIC FOR OREGON

My commission expires: _____

GRANTEE: State of Oregon, Department of Environmental Quality

By: _____ Date: _____
 [Name], Cleanup Manager, Northwest Region

STATE OF OREGON)
) ss.
 County of Multnomah)

The foregoing instrument is acknowledged before me this _____ day of _____, 20____, by _____ [Name] of the Oregon Department of Environmental Quality, on its behalf.

 NOTARY PUBLIC FOR OREGON

My commission expires: _____

EXHIBIT A

Legal Description of the Property

Space above this line for Recorder's use.

After recording, return to:

Grantee

Oregon DEQ
700 NE Multnomah, Ste. 600
Portland, OR 97232
Attention: Anna Coates

Grantor

OCLD SUMMIT LLC
1705 Willamette Falls Drive
West Linn, OR 97068

EASEMENT AND EQUITABLE SERVITUDES

This grant of Easement and acceptance of Equitable Servitudes ("**EES**") is made on [Date], 20[Year] between OCLD SUMMIT LLC ("**Grantor**") and the State of Oregon, acting by and through the Oregon Department of Environmental Quality ("**DEQ**" or "**Grantee**").

RECITALS

A. Grantor is the owner of certain real property located in Clackamas County, Oregon in Clackamas County Tax Map 22E29 01200, Tax Lot 1200 (the "**Property**") the location of which is more particularly described in Exhibit A to this EES. The Property is referenced under the name Rossman's Landfill, ECSI #674 and Solid Waste Disposal Site Closure Permit No. 115 in the files of DEQ's Materials Management Program at Northwest Region office located at 700 NE Multnomah, Oregon, and telephone (503) 229-5696. Interested parties may contact the Northwest Region office to review a detailed description of the risks from contamination remaining at the Property.

B. On June __, 2021, Grantor entered into a Consent Order No. 20-02 with DEQ, under which Grantor agreed to implement the selected remedial action, including the required institutional controls.

C. This EES is intended to further the implementation of the selected remedial action and protect human health and the environment.

D. Nothing in this EES constitutes an admission by Grantor of any liability for the contamination described in the EES.

1. DEFINITIONS

- 1.1 "Administrator" has the meaning set forth in Paragraph 5A(3) of the Consent Order.
- 1.2 "Beneficial use" has the meaning set forth in OAR 340-122-0115.
- 1.3 "DEQ" means the Oregon Department of Environmental Quality, and its employees, agents, and authorized representatives. "DEQ" also means any successor or assign of DEQ under the laws of Oregon, including but not limited to any entity or instrumentality of the State of Oregon authorized to perform any of the functions or to exercise any of the powers currently performed or exercised by DEQ.
- 1.4 "Ecological receptor" has the meaning set forth in OAR 340-122-0115.
- 1.5 "Engineering control" has the meaning set forth in OAR 340-122-0115
- 1.6 "Hazardous substance" has the meaning set forth in ORS 465.200
- 1.7 "Landfill gas management systems" means (a) the engineering measures and controls incorporated into the construction of buildings, structures, and common spaces to prevent or minimize exposure to hazardous substances, and (b) the monitoring systems used to assess the performance of the engineering measures and controls.
- 1.8 "Owner" means any person or entity, including Grantor, who at any time owns, occupies, or acquires any right, title, or interest in or to any portion of the Property or a vendee's interest of record to any portion of the Property, including any successor, heir, assign or holder of title or a vendee's interest of record to any portion of the Property, but excluding any entity or person who holds such interest solely for the security for the payment of an obligation and does not possess or control use of the Property.
- 1.9 "Permit" means DEQ's Solid Waste Disposal Site Closure Permit No. 115 and any renewal thereof.
- 1.10 "Remedial Action" has the meaning set forth in ORS 465.200 and OAR 340-122-0115.

2. GENERAL DECLARATION

2.1 Grantor, in consideration of Grantee's approval of the Consent Order described above, grants to DEQ an Easement for access and accepts the Equitable Servitudes described in this instrument and, in so doing, declares that the Property is now subject to and must in future be conveyed, transferred, leased, encumbered, occupied, built upon, or otherwise used or improved, in whole or in part, subject to this EES and the Consent Order.

2.2 Each condition and restriction set forth in this EES touches and concerns the Property and the equitable servitudes granted in Section 3 and easement granted in Section 4 below, runs with the land for all purposes, is binding upon all current and future owners of the Property as set forth in this EES, and inures to the benefit of the State of Oregon. Grantor further conveys to DEQ the perpetual right to enforce the conditions and restrictions set forth in this EES.

3. EQUITABLE SERVITUDES (REQUIRED ACTIONS AND RESTRICTIONS ON USE)

3.1. **Groundwater Use Restrictions.** Owner may not extract through wells or by other means or use the shallow groundwater at the Property for consumption or other beneficial use. This prohibition does not apply to extraction of groundwater associated with groundwater treatment or monitoring activities approved by DEQ or to temporary dewatering activities related to construction, development, or the installation of sewer or utilities at the Property. Owner must conduct a waste determination on any groundwater that is extracted during such monitoring, treatment, or dewatering activities and handle, store and manage waste water according to applicable laws. Extraction of groundwater from a deeper aquifer is also prohibited.

3.2. **Engineering Control Use Restrictions.** Except as provided in Section 3.3, Owner must not conduct operations on the Property or use the Property in any way that will or likely will penetrate any impervious surfaces / landfill cover, or impair the performance or functionality of the landfill gas management system(s) or any impervious surfaces / landfill cover.

3.3. **Landfill Gas Management Systems / Landfill Cover.** Owner shall cooperate with the DEQ or the Administrator and comply with directives from the DEQ or the Administrator related to operations, maintenance, repairs, modifications, or improvements to landfill gas management systems (or any components thereof), the cathodic protection systems associated with any structure on the Property, and the impervious surfaces / landfill cover on the Property. Without prior written approval of the DEQ and the Administrator as set forth in the Consent Order and the Scope of Work attached thereto, Owner must not decommission, modify, repair, or make improvements to such landfill gas management systems (or any components thereof) or cathodic protection systems, or develop or modify any structure on the Property, if such activities will or likely will affect landfill gas management systems, cathodic protection systems, or impervious surfaces / landfill cover on the Property.

3.4. **Use of the Property.** Owner may not occupy or allow other parties to occupy the Property unless the controls listed in this Section 3 are maintained.

4. EASEMENT (RIGHT OF ENTRY)

During reasonable hours and subject to reasonable security requirements, DEQ, the Administrator, the permittee under the Permit, and any authorized agents of the foregoing, may enter upon and inspect any portion of the Property to monitor compliance with this EES, the Consent Order and the Permit. Except when necessary to address an imminent threat to human health or the environment, DEQ or the Administrator will use their respective best efforts to notify the Owner 72 hours before entry to the Property. DEQ may use its statutory authority to obtain access to property if DEQ determines that access is necessary and that all good faith efforts to obtain access have been exhausted. DEQ may enter upon the Property at any time to abate, mitigate, or cure at the expense of the Owner the violation of any condition or restriction contained in the Consent Order, this EES and the Permit, provided DEQ first gives written notice of the violation to Owner describing what is necessary to correct the violation and Owner fails to

cure the violation within the time specified in such notice. Any such entry by DEQ to evaluate compliance or to abate, mitigate, or cure a violation may not be deemed a trespass.

5. RELEASE OF RESTRICTIONS

5.1. Owner or the Administrator may request release of any or all of the conditions or restrictions contained in this EES by submitting such request to the DEQ in writing with evidence that the conditions or restrictions are no longer necessary to protect human health and the environment. The decision to release any or all of the conditions or restrictions in this EES will be within the sole discretion of DEQ.

5.2. Upon a determination pursuant to Subsection 5.1, DEQ will, as appropriate, execute and deliver to Owner or the Administrator a release of specific conditions or restrictions, or a release of this EES in its entirety.

6. GENERAL PROVISIONS

6.1. **Notice of Transfer/Change of Use.** Each Owner must notify DEQ within 10 days after the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of such Owner's interest in the Property. Such notice must include the full name and address of the party to whom Owner has transferred such interest. The Party to whom Owner has transferred its interest may also provide such notice to DEQ, which shall satisfy Owner's obligations hereunder. In addition, Owner must notify DEQ a minimum of 10 days before the effective date of any change in use of the Property that might expose human or ecological receptors to hazardous substances. Such notice must include complete details of any planned development activities or change in use. Notwithstanding the foregoing, Owner may not commence any development inconsistent with the conditions or restrictions in Section 3 without prior written approval from DEQ as provided in Section 3 of this EES or removal of the condition or restriction as provided in Subsection 5.1. This subsection does not apply to the grant or conveyance of a security interest in the Property.

6.2. **Zoning Changes.** Owner must notify DEQ no less than 30 days before Owner's petitioning for or filing of any document initiating a rezoning of the Property that would change the base zone of the Property under the Clackamas County zoning code or any successor code. As of the date of this EES, the base zone of the Property is MUD (Mixed Use Downtown District).

6.3. **Cost Recovery.** This EES constitutes the binding agreement by Owner to reimburse DEQ for all eligible review and oversight costs. Owner is responsible for payment of DEQ's costs for review and oversight of implementation of and compliance with the provisions in this EES and the Consent Order. Such cost include, but are not limited to, periodic review and tracking of actions required by this EES and the Consent Order and costs related to modifications, alterations, repairs or maintenance of landfill gas management system or landfill cover system that are not associated with any particular building or property on the Property (i.e., common space) and which are costs not related to requirements or activities under the Permit. Owner is not responsible for payment of DEQ's costs for oversight and periodic review of Permit-related activities for solid waste compliance or other Permit-related costs. DEQ will

establish a cost recovery account for tracking and invoicing DEQ project costs. DEQ will provide Owner, or if an Administrator has been designated under the Consent Order, the Administrator, with a monthly statement and direct labor summary. DEQ costs will include direct and indirect costs. Direct costs include site-specific expenses and legal costs. Indirect costs are those general management and support costs of the State of Oregon and DEQ allocable to DEQ oversight of this EES and the Consent Order and not charged as direct site-specific costs. Indirect charges are based on actual costs and are applied as a percentage of direct personal services costs. DEQ will use best efforts to specify any time or labor associated with particular parcels or properties, and to identify such parcels or properties in its invoicing. DEQ will maintain work logs, payroll records, receipts, and other documents to document work performed and expenses incurred under this EES or the Consent Order and, upon request, will provide copies of such records to Owner.

6.4. **Reference in Deed.** A reference to this EES and to the Consent Order, including their location in the public records, must be included or recited in any deed conveying fee title to the Property or any portion of the Property. Each condition and restriction contained in this EES runs with the land so burdened until such time as the condition or restriction is removed by written certification from DEQ, recorded in the deed records of the County in which the Property is located, certifying that the condition or restriction is no longer required to protect human health or the environment.

6.5. **Effect of Recording.** Upon the recording of this EES, all future Owners are conclusively deemed to have consented and agreed to every condition and restriction contained in this EES, whether or not any reference to this EES is contained in an instrument by which such person or entity occupies or acquires an interest in the Property.

6.6. **Enforcement and Remedies.** Upon any violation of any condition or restriction contained in this EES, the State of Oregon, in addition to the remedies described in Section 4, may enforce this EES as provided in the Consent Order or seek available legal or equitable remedies to enforce this EES, including civil penalties as set forth in ORS 465.900.

6.7. IN WITNESS WHEREOF Grantor and Grantee have executed this Easement and Equitable Servitude as of the date and year first set forth above.

[SIGNATURES ON FOLLOWING PAGE]

BY SIGNATURE BELOW, THE STATE OF OREGON APPROVES AND ACCEPTS THIS CONVEYANCE PURSUANT TO ORS 93.808.

GRANTOR: OCLD SUMMIT LLC, an Oregon limited liability company

By: OCLD LLC, an Oregon limited liability company
Its: Manager

By: Summit Investment Group LLC, an Oregon limited liability company
Its: Manager

By: _____
Seth Henderson

Its: Manager

STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument is acknowledged before me this _____ day of _____, 2021, by Seth Henderson, Manager of Summit Investment Group, LLC, Manager of OCLD LLC, Manager of OCLD SUMMIT LLC, on its behalf.

NOTARY PUBLIC FOR OREGON
My commission expires: _____

GRANTEE: State of Oregon, Department of Environmental Quality

By: _____ Date: _____
 [Name], Cleanup Manager, Northwest Region

STATE OF OREGON)
) ss.
 County of Multnomah)

The foregoing instrument is acknowledged before me this _____ day of _____, 20____, by _____ [Name] of the Oregon Department of Environmental Quality, on its behalf.

 NOTARY PUBLIC FOR OREGON

My commission expires: _____

EXHIBIT A

Legal Description of the Property

Exhibit E

Exhibit E

**NOTICE OF PARTIAL ASSIGNMENT AND ASSUMPTION OF PROSPECTIVE
PURCHASER AGREEMENT
(DEQ PPA Consent Order No. 20-02)**

TO DEQ Project Manager
Oregon Department of Environmental Quality
Northwest Region – Environmental Cleanup
700 NE Multnomah Street, Suite 600
Portland, OR 97232

This Notice of Partial Assignment and Assumption of Prospective Purchaser Agreement (“Notice”) is made by the undersigned and is given pursuant to Subsection 3.B of Prospective Purchaser Agreement / Order on Consent (DEQ No. 20-02), dated June __, 2021 between the Oregon Department of Environmental Quality (“DEQ”) and OCLD SUMMIT LLC (the “PPA / Consent Order”).

The undersigned parties hereby notify DEQ that Assignee will be acquiring Parcel I of the Property described in Exhibit B to the PPA / Consent Order. The Property is referenced under ECSI #674. The legal description of the real property being acquired is attached hereto as Exhibit A, and street address is: _____.

By its signature below, Assignee hereby confirms that it partially assumes and agrees to be bound by the terms of the PPA / Consent Order (to the extent the PPA / Consent Order applies to the real property described in Exhibit A) as of the date of its acquisition of ownership or operation of real property described in Exhibit A. As a result of such partial assumption, Assignee shall assume the burdens and obtain the benefits of the PPA / Consent Order with respect to the real property described in Exhibit A, including but not limited to the release from liability described in Subsection 8.A of the PPA / Consent Order and the protection from third-party actions described in Subsection 9. Assignee recognizes that the both the release from liability and protection from third party actions will not limit, release, or affect Assignee’s liability if Assignee is potentially liable under ORS 465.200 to 465.545 and 465.900, 466.640, or 468B.310 for a release of hazardous substances at the portion of the real property described in Exhibit A as of the date Assignee acquires ownership or operation of the portion of the real property described in Exhibit A.

Communications relating to the PPA / Consent Order should be directed to:

Assignee Contact Name: _____

Company Name: _____

Mailing Address: _____

City, State and ZIP Code: _____

Phone Number: _____

This Notice is executed by Seller and Buyer as of the ____ day of _____, [YEAR].

OCLD SUMMIT LLC:

ASSIGNEE:

[Legal Name of Assignee]

By: _____
[Name, Title]

By: _____
[Name, Title]

The Oregon Department of Environmental Quality hereby confirms receipt of the above referenced Notice.

THE OREGON DEPARTMENT OF
ENVIRONMENTAL QUALITY

By: [Name], Administrator
Land Quality Division

EXHIBIT A
LEGAL DESCRIPTION

Exhibit F

Exhibit F

**NOTICE OF TRANSFER OF PROPERTY SUBJECT TO PROSPECTIVE PURCHASER
AGREEMENT
(DEQ PPA Consent Order No. 20-02)**

TO DEQ Project Manager
Oregon Department of Environmental Quality
Northwest Region – Environmental Cleanup
700 NE Multnomah Street, Suite 600
Portland, OR 97232

This Notice of Transfer of Property ("Notice") is made by the undersigned and is given pursuant to Subsection 11.B of Prospective Purchaser Agreement / Order on Consent (DEQ No. 20-02), dated June __, 2021 between the Oregon Department of Environmental Quality ("DEQ") and OCLD SUMMIT LLC (the "PPA / Consent Order").

The undersigned Seller and Buyer hereby notify DEQ that Buyer will be acquiring a portion of the real property described in Exhibit B to the PPA / Consent Order ("Property"). The Property is referenced under Environmental Cleanup Site Information ("ECSI") #674. The legal description of the real property being acquired (if different than the Property) is attached hereto, and street address is: _____.

Communications relating to the PPA / Consent Order should be directed to:

Buyer Contact Name: _____

Company Name: _____

Mailing Address: _____

City, State and ZIP Code: _____

Phone Number: _____

This Notice is executed by Seller and Buyer as of the ____ day of _____, [YEAR].

SELLER:

[Legal Name of Seller]

By: _____
[Name, Title]

BUYER:

[Legal Name of Buyer]

By: _____
[Name, Title]

The Oregon Department of Environmental Quality hereby confirms receipt of the above referenced Notice.

THE OREGON DEPARTMENT OF
ENVIRONMENTAL QUALITY

By: [Name], Administrator
Land Quality Division

Exhibit G

Exhibit G

Trust Fund Agreement

This Trust Fund Agreement (hereinafter the "Agreement"), entered into as of _____, 2026 by and between Permittee Park Place Development, Inc., and Oregon corporation, 75 SE Yamhill St., Suite 202, Portland, Oregon 97214, (hereinafter the "Grantor") and [name of corporate or bank trustee], [insert, "incorporated in the State of _____" or "a national bank"], (hereinafter "Trustee").

Whereas, the Oregon Department of Environmental Quality (hereinafter "DEQ"), an agency of the State of Oregon, has established certain regulations in OAR 340 Divisions 93 and 94 applicable to the Grantor, requiring that an owner or operator of a solid waste land disposal site or groups of sites must demonstrate financial responsibility for all costs of properly closing the site and providing post-closure care according to the closure or post-closure plan and solid waste permit requirements, and for corrective action according to a remedial action option developed and selected pursuant to OAR 340 Division 40; and

Whereas, the Grantor has elected to establish a Trust Fund to assure all or part of such financial responsibility for the facilities identified herein; and

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee; and

Whereas Trustee is authorized to perform the duties of a trustee under the laws of the state of Oregon.

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the Permittee who enters into this Agreement and any successors or assigns of the Grantor;

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee; and

(c) The term "Beneficiary" means DEQ.

(d) The term "Manager" shall mean the then Manager as that term is defined in the certain Declaration and Establishment of Protective Covenants, Conditions and Restrictions and Grant of Easements dated June 8, 2020 and recorded in the official real property records of Clackamas County, Oregon, 2020-042163.

Section 2. Identification of Facilities. This agreement pertains to the facilities identified in Schedule A which is attached hereto and by this reference incorporated herein.

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a Trust Fund (hereinafter the "Fund") for the benefit of the State of Oregon acting by and through its Department of Environmental Quality. The Grantor and Trustee intend that no third party have access to the Fund except as herein provided.

The Fund is established initially as consisting of the property, which is acceptable to the Trustee, and described in Schedule B, which is attached hereto and by this reference incorporated herein. Such

Exhibit G

property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by DEQ.

Section 4. Payment. The Trustee shall satisfy a claim by making payments from the Fund only upon receipt of the following document:

(a) Certification from the Grantor that the claim should be paid. The certification must be worded as follows:

Certification of Valid Claim

The undersigned, as Grantor, hereby certifies that the claim arising from closing, providing post-closure care or required corrective action at Grantor's solid waste land disposal site(s) should be paid in the amount of \$_____.

[Signature]

Grantor or Manager, as applicable

Grantor or Manager, as applicable, shall provide the DEQ Director a copy of the certification in paragraph (a) of this section concurrently with the submittal thereof to Trustee. Trustee shall not pay the claim until 30 days have elapsed since the date of the Certification of Valid Claim and the DEQ Director shall not have objected in writing to the payment within this period.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his/her duties with respect to the Fund solely in the interest of the Beneficiary and with the care, skill, prudence, and diligence under the circumstance then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims, except that:

- (i) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held unless they are securities or other obligations of the Federal or a State government;
- (ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government; and

Exhibit G

- (iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common commingled, or collective trust fund created by the Trustee in which the fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 81a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuations. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the DEQ Director a statement

Exhibit G

confirming the value of the Fund. Any securities in the Fund shall be valued at market value -- as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the DEQ Director shall constitute a conclusively binding assent by the Grantor barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the DEQ Director, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Schedule C or such other designees as the Grantor may designate by amendments to Schedule C. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the DEQ Director to the Trustee shall be in writing, signed by the DEQ Director or his/her designees, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or DEQ hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or DEQ, except as provided for herein.

Section 15. Notice of Nonpayment. If a payment is made under Section 4 of this Agreement, the Trustee shall notify the Grantor of such payment and the amount(s) thereof within five (5) working days. The Grantor shall, on or before the anniversary date of the establishment of the Fund following such notice, either make payments to the Trustee in amounts sufficient to cause the Fund to return to its value immediately prior to the payment of claims under Section 4, or shall provide written proof to the Trustee that other financial assurance for liability coverage has been obtained equaling the amount necessary to return the Fund to its value prior to the payment of claims. If the Grantor does not either make payments to the Trustee or provide the Trustee with such proof, the Trustee shall within 10 working days after the anniversary date of the establishment of the Fund provide a written notice of nonpayment to the DEQ Director.

Exhibit G

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the DEQ Director, or by the Trustee and the DEQ Director if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Agreement shall be irrevocable and shall continue until terminated in writing by the Grantor, the Trustee, and the DEQ Director, or by the Trustee and the DEQ Director, if the Grantor ceases to exist. Upon termination of this Agreement, all remaining Fund property, less final Fund administration expenses, shall be delivered to the Grantor. The DEQ Director will agree to termination of this Agreement when the Grantor substitutes alternate financial assurance as specified by Division 94 of OAR, Chapter 340.

Section 18. Immunity and Indemnification. The Trustee shall not incur any liability of any nature in connection with any act or omission, made in good faith, in the administration of this Agreement, or in carrying out any directions by the Grantor or the DEQ Director issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor from and against any and all liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense; provided however that the Trustee shall not be entitled to be indemnified for any liability arising from its own gross negligence or willful misconduct or the gross negligence or willful misconduct of its officers, employees or agents.

Section 19. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of Oregon.

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and attested as of the date first above written.

GRANTOR:

Park Place Development, Inc.

By: _____
Signature Printed Name

Title: _____

Attest: _____
Signature Printed Name

Title: _____

TRUSTEE:

[insert name of Corporate or Bank Trustee]

By: _____
Signature Printed Name

Exhibit G

Title: _____

Attest: _____
Signature Printed Name

Title: _____

ACKNOWLEDGED:

STATE OF OREGON, acting by and through the
DEPARTMENT OF ENVIRONMENTAL QUALITY

By: _____
Signature Printed Name

Title: _____

Exhibit G

SCHEDULE A**Facility Name:** Rossman's Landfill**Facility Address:** [insert address of Facility]**DEQ Solid Waste Permit Number/s:** #115**Current Closure Cost Estimate/s:** \$0**Current Post-Closure Cost Estimate/s:** [insert]**Current Corrective Action Cost Estimate/s:** \$0

Exhibit G

SCHEDULE B**Type of Financial Instrument:** **Trust Fund****Executed by:** **[insert name and address of Corporate or Bank Trustee]****Date of Trust Fund Execution:** **[insert the date]****Trust Fund Account Number:** **[insert number]****Trust Fund Amount:** **[insert amount]**

Exhibit G

SCHEDULE C**GRANTOR****Name:** _____**Title:** _____**Signature:** _____**Name:** _____**Title:** _____**Signature:** _____**BENEFICIARY****Name:** _____**Title:** _____**Signature:** _____

(Director or Designee – Regional DA)

Name: _____**Title:** _____**Signature:** _____

(Financial Services Manager)

April 11, 2022

City of Oregon City
Urban Renewal Commission
625 Center Street
Oregon City, Oregon 97045

Project: The North End, Oregon City
RE: Urban Renewal Commission Presentation

Dear Commissioners,

I want to thank you for allowing us to schedule the North End project update for the Urban Renewal Commission agenda on April 20th, 2022. In preparation for this presentation, this document generally outlines the project description, what the development benefits are, what our project team has accomplished in moving the development forward, what challenges we are currently trying to overcome, and how we see the City as a project team partner and economic development facilitator.

This proposed development is located on approximately 62 acres of the former Rossman Landfill in Oregon City at the north end of the Mixed-Use Downtown zoning district, hence the current project title of “The North End” (www.northendcity.com). Through community input, we have come to envision this development as a potential northern anchor for a larger city and county economic impact area that includes Oregon City’s Downtown, the Blue Heron site as a southern anchor and even the McLaughlin Boulevard Corridor to the north.

As currently entitled under Oregon City’s General Development Plan GLUA 21-000016, the project will include (in no particular order):

- 1,091,698 gross square feet of buildings, including multifamily housing, boutique and large format retail, and entertainment, recreation uses;
- 524 apartment units (final number to be between 500 and 600);
- Major upgrades to Washington Street, Abernethy Road and Redland Road complying with the City’s Transportation System Plan;
- Retaining walls to address hazardous slope conditions on the landfill;
- A central plaza for community gatherings;
- Eight public art pieces;
- A path connection to the End of the Oregon Trail Interpretive Center;
- A 10-foot wide shared-use path system across the entire site per City’s TSP;
- City easements for all developer built and maintained utilities; and

- Approximately 6 acres of protected wetlands (Natural Resource Overlay District) and natural infiltration area.

The benefits of the North End project are both qualitative and quantitative. Generally, we are taking a currently non-productive, environmentally impacted brownfield and not only creating a regional economic center, but resolving the remediation, maintenance, and monitoring of potential environmental impacts to the larger community. Economically, this project is forecasted to:

- Generate 1.77 million visitors annually;
- Create 3,061 construction related jobs;
- Create 988 full/part time jobs when operational;
- \$153.9 million in direct labor income;
- \$77.1 million in annual gross economic activity;
- \$33.8 million in labor income from new jobs;
- \$115 million in annual gross receipts;
- \$3.3 million in annual property taxes for the landfill site alone;
- \$366,000 in local construction excise taxes; and
- A ripple effect of new development on the larger area noted above.

In terms of progress to date, we have been working on this development for over two years and have spent \$2.6 million on planning, engineering, entitlements, environmental, and overall due diligence. During that time, we have completed our General Development Plan (GDP) application and received unanimous approval from the Planning Commission on July 26, 2021. I am most proud that through our proactive engagement of over fifty community leaders, we were able to accomplish this without any appeals of the application.

In addition, we have executed with the Oregon Department of Environmental Quality a Prospective Purchaser Agreement which requires prefunding a property trust for 30 years to oversee the monitoring, maintenance and reporting of the water quality wells and methane gas mitigation systems on site, while allowing us to limit the financial exposure to future investors and lenders. It is not only a significant sustainable solution for the City and County, but it also helps us foster interest from future investors and lenders as well as potential commercial tenants.

All of our work has brought us to today's crossroad. Prior to proceeding further with the financing and permitting of this development, we need to address the significant funding shortfall which currently forecasts this development as a negative private investment opportunity due to the restrictions surrounding construction on a landfill.

As the nature of this site is both a brownfield or environmentally blighted site, and a geotechnical hazard with settlement and slope concerns, the development of this landfill will never be financially feasible without public funding. As of April of 2021, the delta or difference between the cost to realize this development and the value at completion was a negative value of \$35,867,084. With current escalation in construction material and labor as well as increasing interest rates, we expect the required public funds to be \$40 million to secure the private equity and debt to finally and formally execute this development. Above and beyond the design and construction of a typical greenfield site, some of the additional costs this large brownfield site will incur are:

- **Methane gas collection system under all buildings and hardscape;**
- **Water quality monitoring wells;**
- **Surcharging, or compaction of the trash layer to address future settlement;**
- **Structural piles for all buildings as well as roads and utilities;**
- **On-site storm water tanks for collection and controlled distribution of all runoff; and**
- **The 30-year monitoring, maintenance and reporting of all environmental safety systems.**

As stated above, this development requires \$40 million in public funds in order to occur. As it is our understanding that funds for this type of public-private partnership may be available from the following sources, we have approached the County to discuss:

- U.S. EPA Brownfields Funding – application through Clackamas County
- Clackamas County ARPA Funds
- Clackamas County Road Funds
- Clackamas County Lottery Funds

As it relates to the American Rescue Plan Act (ARPA), Coronavirus State and Local Fiscal Recovery Funds (CSLRF) and the interim final rule (IRF), it is our understanding that the four broad categories of use of these funds are public health and economic impacts, premium pay, revenue loss, and investments in infrastructure. This is a potential project which positively impacts the majority of these categories by:

- Cleaning up a site with potential contaminants of the community's water and air;
- Creating solid paying jobs both during construction and for the long term;
- Providing tremendous economic opportunity and tax generation (including as noted the ripple effect beyond the landfill site);
- Improving the storm water system on and off the site;

- Improving the infrastructure improvement of several roads and multi-use pathways;
- Potentially providing solar energy generation, storage, and EV charging.

As it relates to the Bipartisan Infrastructure Law, the EPA has been granted \$1.5 billion specifically to invest in their Brownfield Program. This program is accessible only to “communities, states, tribes and non-profits”. We are in the process of assessing the appropriate consultant to assist with the generation of this grant application, and which grants to pursue, and have respectfully requested that the County consider submitting this application on our behalf.

We will also be submitting an application to the State of Oregon under their Brownfield Forgivable Loan Program, which has recently been established by the Oregon legislature.

If funding sources for the \$40 million shortfall becomes available and committed with your support, we can be moving dirt by the Summer of 2023. We have selected a general contractor and are working through the means and methods, phasing to confirm our construction budget and approach. We also are scheduled to meet with City Planning and Engineering staff on April 15th to confirm permit types, reviewers, and review time for the first phase of mass grading, infrastructure and utilities.

At this time, we are not submitting a formal application for your consideration of granting Urban Renewal Funds. We are only requesting that the Commission approve staff to support our endeavor of pursuing alternative, supplemental sources of public funding. Any Federal, State, or County funds we are able to secure through grants or forgivable loans would ultimately reduce any future Urban Renewal application amount we might submit, and the agencies granting these other sources of funds will be encouraged by the City’s willingness to work with us on pursuit of these supplemental sources.

Thank you for taking the time to review and assess this initial request, and we look forward to the opportunity to brief the Commission on our progress to date as well as the financial challenges and great potential of the North End development.

Regards,



Seth W. Henderson
President
Summit Development Group



Cc: Tony Konkol, Oregon City
James Graham, Oregon City
Chris Marsh, Summit

Attachments:

OCBA Forum Meeting Presentation dated 04.27.2021
General Development Plan Application by LRS Architects dated 03.17.2021
GLUA 21-000016 Notice of Decision by Oregon City dated 07.27.2021
The North End Economic Summary
ECONorthwest Economic Feasibility Analysis dated 04.02.2021
Bipartisan Infrastructure Law EPA Brownfields Program Grants



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: Urban Renewal Commission **Agenda Date:** 5/4/2022
From: Urban Renewal Executive Director Tony Konkol

SUBJECT:

North End Development Proposal by Summit Development Group – Additional Information

STAFF RECOMMENDATION:

Work session discussion item.

EXECUTIVE SUMMARY:

Summit Development Group requested Urban Renewal Commission approval to pursue alternative funding sources from Federal, State and County agencies for the North End Development proposal at the April 20, 2022 meeting. The Urban Renewal Commission request that a work session be held on May 4, 2022 for additional discussion of the request and to gain further understanding of the funding opportunities and commitments associated with applying for and receiving the alternative funding sources.

The following information addresses additional questions that were not addressed in the original staff report that was prepared for the May 4, 2022 Urban Renewal Commission worksession.

BACKGROUND:

This Commission Report is an addendum to the original staff report for the May 4, 2022 Urban Renewal Commission worksession and is intended to provide additional information and responses to the questions that have been received.

Summit Development has prepared the following responses to questions that have been raised concerning the request to pursue alternative funding sources and the overall project.

1. Please furnish a copy of the Environmental Report.

As part of issuing the new closure permit in 2016, a Focused Site Investigation (FSI) was conducted to assess the current status of methane concentrations and impacts to

groundwater at the site, in addition to many other issues (such as condition of the monitoring wells and landfill cover). In support of the FSI the Landfill Gas Assessment and Groundwater Assessment report was prepared to focus on these key issues. Landfill Gas Assessment determined that off-property migration impacts from landfill gas were limited to the Metro property area, that the landfill gas monitoring program was appropriate, and recommended installation of 4 additional probes to provide better coverage in 3 areas.

These recommendations were implemented and did not identify any new concerns. The Groundwater Assessment report concluded that impacts to the beneficial uses of shallow groundwater are limited and generally do not exceed the applicable regulatory levels, except for slight exceedances for a few metals that are mobilized from the native rocks by the geochemical reducing conditions associated with degradation of organic waste; reducing conditions and their affects on the metals concentrations were documented as existing prior to the landfill because of inherently reducing conditions that already existed in the area. The Groundwater Assessment also included a few recommendations intended to confirm historical data that had already indicated that these analytes were not present; those recommendations were implemented, and the results were consistent with the historic data.

These reports were submitted to DEQ for review and comments. We would be happy to provide PDF copies of these reports, along with the DEQ review comment letters.

2. Please enumerate the site permits – closure, existing and explain how they would be assigned.

The current closure permit in place is on the DEQ's website and included as an attachment to this document.

(www.deq.state.or.us/Webdocs/Controls/Output/PdfHandler.ashx?p=a840a600-7c64-4823-b67f-db8369da80adpdf&s=2016.07.01%20115%20RossmansLandfillPermitRenewal.pdf)

Park Place Development, the current owner, will continue to be the permittee for the closure permit (3.D) which expires on April 30, 2026. DEQ will continue to extend the permit in ten-year allotments until such time as they (DEQ) solely determine the site conditions are such that the permit no longer need be extended. Until such time as the permit is not renewed by DEQ, Park Place Development will be responsible for implementation of the permit conditions, which include landfill gas and groundwater monitoring around the perimeter for the landfill.

D. Rosman's Landfill received waste from 1964 through 1983. The landfill was closed in 1983 in compliance with a site development plan approved by DEQ, and is currently regulated as a closed landfill under the Permit. A solid waste closure permit was originally issued in 1992. The most recent Permit renewal in 2016 expires April 30, 2026. The Permit is anticipated to be renewed for successive ten (10) year permit terms until terminated by DEQ. Park Place Development, Inc. currently owns the Property, and is

the current permittee under the Permit. Condition of the Permit include but are not limited to ongoing measures related to ground water monitoring, methane monitoring, and methane extraction as needed to protect public health and the environment.

3. *What are the regulatory or obligatory ongoing responsibilities, who shall bear them and for how long?*

There are two responsible parties, the current owner and ongoing permittee, and the new developer. The current owner's responsibilities run until the DEQ determines the closure permit will no longer need to be renewed.

The new developer is responsible for all the work identified in Exhibit C, Scope of Work, of the Consent Agreement, which includes monitoring and reporting for on-property landfill gas conditions, landfill gas management systems associated with the development, and an augmented groundwater monitoring program until such time as the DEQ warrants otherwise (the underlined below). Succinctly stated, the existing owner is responsible for any existing conditions, and the new developer is responsible for the design, installation and management of the systems identified to control these existing contaminations and any significant impacts to landfill gas or groundwater conditions that result from construction on the property.

IV: OPERATION AND MAINTENANCE/MONITORING TASKS

In addition to the work described in Section III, Respondent will perform the following tasks for each Parcel or have them assigned to an Administrator pursuant to the Consent Order:

A. Prepare *Operation, Maintenance and Monitoring Reports* for the landfill gas management systems, cathodic protection systems, and the evaluation/repairs to the landfill cover. Respondent or the Administrator will submit letter reports to DEQ every 60 days during site construction and through the initial 12 months of the gas control system operation. Thereafter, Respondents or the Administrator will submit such reports to DEQ on an annual basis unless or until DEQ agrees to a reduced schedule or termination of this obligation.

B. Coordinate and conduct (or if voluntarily assumed by a property owner, oversee) any operations, monitoring, adjustments, maintenance, repairs, modifications, and improvements to the landfill gas management systems, cathodic protection systems, and impervious surfaces/landfill cover for common areas and individual property owners, as appropriate.

V: FUTURE REPAIRS, MODIFICATIONS, AND IMPROVEMENTS

If modifications, improvements or major repairs to the landfill gas management systems or impervious surfaces/landfill cover for individual properties, buildings, or common areas are necessary in the future, the Respondent/s or property owner/s will coordinate with DEQ (and the Administrator, if appointed) to identify the appropriate deliverables, if any, that shall be submitted to DEQ for review and approval. Such deliverables may include,

but are not limited to, the following: • Environmental Engineering Design Plans • Environmental Monitoring Plans • A Construction Quality Assurance Plan • Refuse Handling & Material Disposal Plan • Construction Health/Safety Plan • Construction Completion Letter Report(s) With the exception of the Construction Completion Letter Report(s), these deliverables will be prepared and submitted to DEQ for approval prior to initiating construction activities. The Construction Completion Letter Report(s) will be submitted to DEQ following completion of the repairs, modifications, or improvements to the landfill gas management systems or impervious surfaces/landfill cover. In addition, the Respondent/s or property owner/s will coordinate with DEQ and the Administrator to determine if it is necessary to update the Operation, Maintenance and Monitoring Plan identified in Section IV.

If the Operation, Maintenance and Monitoring Plan is determined to require updating, an update of this plan will be prepared and submitted to DEQ by the party performing the work within 60 days of completing the repairs, modifications, or improvements. As part of the review and approval process of any of the deliverables in this Scope of Work, comments, responses to comments, and DEQ approvals shall be made within 21 days of receipt by the other party.

The development of the monitoring plans, implementation of the plans, and reporting will all be conducted under DEQ oversight and DEQ has the ability to request additional monitoring or modifications to the systems if they believe they are necessary.

The purpose section of the Consent Order details the intent of these actions:

1. Purpose

The mutual objectives of DEQ and Respondent (collectively “Parties”) are (a) to protect public health, safety, and welfare and the environment in accordance with applicable provisions of ORS 465.200 through 465.420, and regulations promulgated thereto; (b) to facilitate productive reuse of property; and (c) to provide Respondent with protection from potential liabilities in accordance with applicable law. The mutual intent of the Parties is that Associated Parties (as defined by Paragraph 2.B.(3) of this Consent Order), also be provided with protection from potential liabilities in accordance with applicable law.

4. The following information is the DEQ created summary of the project that was provided at the time of the Prospective Purchaser Agreement execution.

About the OCLD Summit LLC PPA at Rossman’s Landfill

This PPA is a significant milestone in an extended effort to work toward redevelopment of this closed landfill, located in a prime location in Oregon City. Multiple parties have been involved in this effort over the past several years, starting with Park Place as the owner and holder of the solid waste landfill closure permit for the property. Park Place approached DEQ several years ago with a plan to divide the property and first, sell one developed parcel on the landfill (occupied by Home Depot) and use a portion of the sales

proceeds to fund the required closed landfill trust fund and second, sell the balance of the landfill for redevelopment. Park Place proposed, and DEQ agreed, to a combination of public measures (landfill permit, prospective purchaser agreement, easement and equitable servitudes, trust fund agreement) and private measures (declaration and establishment of protective covenants conditions and restrictions and grant of easements) to support both fulfilling landfill permit requirements and redevelopment.

An entity called 2020 Washington LLC approached DEQ in early 2020 and negotiated a PPA to support their purchase of the Home Depot parcel in 2020 and placed \$803,000 of the sale proceeds into a trust fund to cover landfill closure costs from 2016 through 2026; this was a crucial first step towards eventual redevelopment of the entire landfill. An entity called OCLD (Oregon City Land Development) approached DEQ also in early 2020 and initiated negotiations for a PPA on the balance of the landfill, and following approximately 18 months of negotiations OCLD Summit LLC and DEQ are ready to enter a PPA to both fund the landfill closure permit from 2026 through 2056 through payment of approximately \$1.2 million dollars, and to support development of the balance of the landfill in two parcels – a larger parcel slated for mixed use development, and a smaller parcel slated for retail and commercial use. The following description has also been submitted to the City of Oregon City as a brief description of this PPA:

- DEQ intends to enter into a Prospective Purchaser Agreement with OCLD Summit LLC to support development of the closed Rossman's Landfill. The property proposed for acquisition is approximately 77 acres and includes two parcels. An entity or entities affiliated with OCLD Summit LLC intends to purchase "Parcel I, (Tax Lot 902) which is approximately 62 acres. OCLD Summit LLC intends to purchase "Parcel II" (Tax Lot 1200) which is approximately 15 acres.
- Development of the property will require a landfill gas management system and other improvements. All development related activities will be overseen by DEQ's Environmental Cleanup program and paid for by the purchaser and /or the affiliated entities. As part of the PPA, the purchaser/s agree to carry out a detailed Scope of Work and comply with an Easement and Equitable Servitudes that will be recorded on each Parcel to ensure that development is protective of public health and the environment.
- In addition, Rossman's Landfill, which has been closed for 38 years, is regulated under a solid waste closure permit which will continue in effect. All permit related requirements (primarily related to groundwater monitoring, methane monitoring and methane extraction) will be overseen by DEQ's Materials Management/Solid Waste program and will be pre-paid by purchaser deposits totaling the approximate net present value of \$1,293,500 at the time of acquisition, which funds will be placed into a Trust to cover anticipated permit costs 2026 through 2056. (Funds from previous sale of another parcel of the landfill were pre-paid by a different purchaser with a deposit of \$803,000 into a Trust Fund to cover anticipated permit costs from 2016 through 2026.)

- By entering the Prospective Purchaser Agreement, purchaser and affiliated entities agree to fulfill all obligations of the PPA, including the Scope of Work, Easement and Equitable Servitudes and related documents. In addition, activities under the PPA must be performed in accordance with all applicable federal, state, and local laws. Details regarding the proposed Prospective Purchaser Agreement can be found here:
www.deq.state.or.us/Webdocs/Forms/Output/FPController.ashx?SourceId=674&SourceIdType=11.

OPTIONS:

1. Review and discuss the April 11, 2022 Summit Development Group request

BUDGET IMPACT:

Amount:

FY(s):

Funding Source(s):



State of Oregon
Department of
Environmental
Quality

Permit Number: 110
Expiration Date: April 30, 2026
Page 1 of 31

Item #2.

**SOLID WASTE DISPOSAL SITE CLOSURE PERMIT
Municipal Solid Waste Landfill**

**Oregon Department of Environmental Quality
700 NE Multnomah St, Suite 600
Portland, OR 97232
Telephone (503) 229-5263**

**Issued in accordance with the provisions of ORS Chapter 459 and
subject to the land use compatibility statement referenced below.**

ISSUED TO:

Park Place Development, Inc.
12204 NW 15th Avenue
Vancouver, WA 98685
503-682-0397

FACILITY NAME AND LOCATION:

Rossman's Landfill
S 29, T 2S, R 2E, W.M.
Intersection of Washington Street and OR
Highway 213
Clackamas County

OWNER:

Park Place Development, Inc.

OPERATOR:

Bob Durgan, Manager
Park Place Development, Inc.
503-720-5234

ISSUED IN RESPONSE TO:

- a solid waste closure permit renewal application received September 28, 1999.

The determination to issue this permit is based on findings and technical information included in the permit record.

ISSUED BY THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

Audrey O'Brien
Solid Waste Manager
Northwest Region

Date

Permitted Activities

Until this permit expires or is modified or revoked, the permittee is authorized to maintain and monitor a closed solid waste land disposal site in conformance with the requirements, limitations, and conditions set forth in this document, including all attachments.

Permit Number: 115
 Expiration Date: June 30, 2026
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Introduction

This document is a solid waste permit issued by the Oregon Department of Environmental Quality in accordance with Oregon Revised Statutes (ORS) 459 and Oregon Administrative Rules (OAR), Chapter 340.

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PERMIT ADMINISTRATION

1.0 PERMIT ISSUANCE

1.1 In this section

This section describes the administrative aspects of permit issuance, including the following information:

- permittee
- permit number
- permit term
- facility type
- facility owner/operator
- basis for permit issuance
- definitions
- legal control of property

1.2 Permittee

This permit is issued to Park Place Development, Inc.

1.3 Permit number

This permit will be referred to as Solid Waste Permit Number 115.

1.4 Permit term

The permit is issued on the date it is signed. The permit's expiration date is April 30, 2026.

1.5 Facility type

The facility is permitted as a closed municipal solid waste landfill.

1.6 Facility owner/ operator

The owner of this facility is:

Park Place Development, Inc.
11265 SW Wilsonville Rd
Wilsonville, OR 97070
503-682-0397

The operator of this facility is:

Park Place Development, Inc.
11265 SW Wilsonville Rd
Wilsonville, OR 97070
503-682-0397

1.7 Basis for permit issuance

This permit is issued based upon the following documents submitted by the permittee:

- solid waste permit application received September 28, 1999.

1.8 Definitions

Unless otherwise specified, all terms are as defined in OAR 340-093-0030.

1.9 Legal control of property

The permittee must at all times maintain legal control of the disposal site property, including maintaining a current permit, contract, or agreement that allows the operation of the facility if the site is not owned by the permittee.

2.0 DISCLAIMERS

2.1 In this section

This section describes disclaimer information for DEQ, including:

- property rights
- DEQ liability

2.2 Property rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights.

2.3 DEQ liability

DEQ, its officers, agents, or employees do not sustain any liability on account of the issuance of this permit or on account of the construction, maintenance, or operation of facilities pursuant to this permit.

3.0 AUTHORITY

3.1 In this section

This section describes the authority of DEQ to issue this permit, including:

- ten-year permit
- documents superseded
- permittee responsibility and liability
- other compliance
- penalties
- DEQ access to disposal site

3.2 Ten-year permit

This permit is issued for up to 10 years as authorized by Oregon Revised Statutes 459.245 (2).

3.3 Documents superseded

This document is the primary solid waste permit for the facility, superseding all other solid waste permits issued for Rossman's Landfill by DEQ.

3.4 Permittee responsibility and liability

Conditions of this permit are binding upon the permittee. The permittee must conduct all facility activities in compliance with the provisions of this permit. The permittee is liable for all acts and omissions of the permittee's contractors and agents in carrying out the operations and other responsibilities pursuant to this permit.

3.5 Other compliance

This permit's issuance does not relieve the permittee from the responsibility to comply with all other applicable federal, state, or local laws or regulations, including the following requirements, and any future updates or additions to these requirements:

- Solid waste renewal permit application received September 28, 1999
- Oregon Revised Statutes, Chapters 459 and 459A
- Oregon Administrative Rules Chapter 340
- any documents submitted by the permittee and approved by DEQ

3.6 Penalties

Violation of permit conditions will subject the permittee to civil penalties of up to \$25,000 for each day of each violation [ORS 459.995(1)(a)].

3.7 DEQ access to disposal site

The permittee must allow representatives of DEQ access to the disposal facility at all reasonable times for the purpose of making inspections, surveys, collecting samples, obtaining data, and carrying out other necessary functions related to this permit.

Reference: OAR 340-093-0050(6).

4.0 PERMIT MODIFICATION

4.1 In this section

This section describes the process for modifying this permit, including:

- permit review
- permit modification
- modification and revocation by DEQ
- modification by permittee
- public participation
- changes in ownership or address

4.2 Permit review

During the permit's term, DEQ may review and amend the permit if necessary. DEQ will consider the following factors in making this determination:

- compliance history of the facility
- changes in post-closure operations at the facility
- changes in state or federal rules, which should be incorporated into the permit

- a significant release of leachate or landfill gas from the facility to the environment
- a significant change to DEQ-approved site post-closure plan and/or environmental monitoring plan
- other significant information or events
- DEQ-approved redevelopment of all or a portion of the landfill area

4.3 Permit modification

DEQ or the permittee may, at any time during the permit's term, propose to change the permit.

Once approved by DEQ any permit-required plans become part of the permit by reference. DEQ may provide public notice and opportunity for public review of permit-required plans.

4.4 Modification and revocation by DEQ

DEQ may, at any time before the expiration date, modify, suspend, or revoke this permit in whole or in part, in accordance with Oregon Revised Statutes 459.255, for reasons including but not limited to the following:

- violation of any terms or conditions of this permit or any applicable statute, rule, standard, or order of the Commission
- obtaining this permit by misrepresentation or failure to disclose fully all relevant facts
- a significant change in the post-closure maintenance and monitoring of the disposal site

4.5 Modification by permittee

The permittee must apply for a modification to this permit if there is a significant change in facility operations or a deviation from permitted activities.

4.6 Public participation

DEQ will issue a public notice to inform the public of any significant changes to the permit.

4.7 Changes in ownership or address

The permittee must report to DEQ any change in the facility's ownership or the permittee's or operator's name and address within 10 days of the change.

ALLOWABLE ACTIVITIES

5.0 AUTHORIZATIONS

5.1 In this section

This section describes the activities the permittee is authorized to conduct, including:

- post-closure care
- authorization of activities

5.2 Post-closure care

This permit authorizes the permittee to provide post-closure maintenance and monitoring at the facility.

5.3 Authorization of activities

The permittee must conduct all facility activities according to the provisions of this permit. All plans required by this permit become part of the permit by reference once approved by DEQ. Any conditions of the approval are also incorporated into this permit unless contested by the permittee within 30 days of receipt of a conditional approval.

6.0 PROHIBITIONS

6.1 In this section

This section describes specific activities the permittee is prohibited from conducting, including:

- waste acceptance
- open burning
- post-closure modification

6.2 Waste acceptance

The Rossman's Landfill is permanently closed. The permittee must not accept any waste for disposal or dispose of any waste at this site.

6.3 Open burning

The permittee must not conduct any open burning at the site.

6.4 Post-closure modification

The permittee must not modify the landfill cap or other closure features of the landfill without DEQ's written approval.

POST-CLOSURE CARE

7.0 POST-CLOSURE OPERATIONS AND MAINTENANCE

7.1 In this section

This section describes the requirements for preparing a facility Post-Closure Plan, and conducting post-closure operations and maintenance:

- discovery of prohibited wastes
- spills notification
- post-closure plan
- post-closure maintenance
- inspection
- cover system
- vegetation
- surface contour maintenance
- surface water control
- leachate prevention and control
- landfill gas control
- future use
- submittal address

7.2 Discovery of prohibited wastes

Any solid wastes discovered at the facility must be isolated or removed immediately. Non-hazardous prohibited waste must, within seven days of discovery, be transported to a disposal site authorized to accept such waste, unless otherwise approved by DEQ.

In the event that discovered wastes are hazardous or suspected to be hazardous, the permittee must, within seven days, notify DEQ and initiate procedures to identify and remove the waste. Hazardous wastes must be removed within 90 days, unless otherwise approved by DEQ. Temporary storage and transportation must be carried out in accordance with DEQ rules.

7.3 Spills notification

Oregon Revised Statute 466.635 and Oil and Hazardous Materials Emergency Response Rules, Chapter 340, Division 142 require immediate notification to Oregon Emergency Response System (OERS) after taking any required emergency actions to protect human health and the environment when oil or hazardous materials are spilled. The spill must be immediately reported to OERS at 1-800-452-0311 if the spill is of a reportable quantity. Reportable quantities include:

- any amount of oil spilled to waters of the state;
- oil spills on land in excess of 42 gallons;
- two hundred pounds (25 gallons) or more of spilled pesticide residue; or
- spills of hazardous materials that are equal to, or greater than, the quantity listed in the Code of Federal Regulations, 40 CFR Part 302 (List of Hazardous Substances and Reportable Quantities), and amendments adopted before July 1, 2002.

For a complete list of hazardous materials required to be reported, refer to OAR 340-142-0050.

7.4 Post-closure plan

Within one year of the permit issue date, the permittee must submit for approval one paper copy and one electronic copy of an updated Post-Closure Plan to DEQ. The permittee must amend the Post-Closure Plan whenever significant changes are proposed to the landfill's closure design and construction, post-closure care, re-development, end use, or any other facility conditions and procedures. Amendments to the plan must be submitted to DEQ for review and approval prior to implementing site modifications. Upon DEQ's approval, the permittee must implement the Post-Closure Plan.

References: OAR 340-094-0110 and 0115 describe requirements for updating post-closure plans.

Solid Waste Landfill Guidance, September 1996, provides information on applicable elements of a Post-Closure Plan.

7.5 Post-closure maintenance

The permittee must maintain the disposal site in accordance with the DEQ-approved Post-Closure Plan and any amendments to the plan approved in writing by DEQ.

7.6 Inspection

The permittee must physically inspect: all active landfill components, including landfill gas monitoring points and the soil vapor extraction system, at least monthly; and the entire disposal site at least quarterly, to determine compliance with this permit and DEQ rules. The permittee must record any post-closure repairs performed. Inspection records must be made available to DEQ upon request.

7.7 Cover system

The permittee must monitor and maintain the cover system including cover thickness. The permittee must repair the cover with approved soil in all areas damaged by erosion, settlement, or cracking, and fertilize, re-seed, and maintain sparsely vegetated areas. Erosion damage must be repaired and seeded so that all waste remains covered. Any construction or redevelopment proposals involving the landfill must include an evaluation of potential impacts to the cover system and a plan to restore the cover in the event that construction activities disturb the cover and must be reviewed and approved by DEQ prior to construction or redevelopment.

7.8 Vegetation

The permittee must establish and maintain a dense, healthy growth of vegetation on the landfill cover except for areas occupied by structures or pavement associated with the site.

7.9 Surface contour maintenance

Except for areas that have been redeveloped, the permittee must maintain the final surface contours of the landfill cover in accordance with the following criteria:

- Minimum slopes must be in accordance with CH2M HILL's December 2, 1985 report "Landfill Cover Sampling Test Results and Landfill Grading."
- Soil erosion must be minimized and repaired and the soils re-seeded to stabilize erosion-impacted areas.
- Ponding of stormwater must be prevented to the maximum practicable extent.

Surface contours for redevelopment plans that do not meet the above requirements are subject to DEQ approval.

7.10 Environmental controls

The permittee must, at all times, divert surface water drainage around or away from the landfill and maintain surface water diversion ditches or structures in good working condition and free of obstructions and debris. The permittee must ensure that the release of any substance from the landfill into groundwater, surface water, or any other media, will not result in a violation of any applicable federal or state air or water limits, drinking water rules, or other regulations, beyond the solid waste boundary of the disposal site or an alternative boundary specified by DEQ. Any construction or redevelopment proposals involving the landfill must include an evaluation of potential impacts to the environmental controls and monitoring system and a plan to prevent impacts to surface water, groundwater, or any other media and must be reviewed and approved by DEQ prior to construction or redevelopment.

7.11 Leachate prevention and control

The permittee must maintain the landfill in a manner that deters leachate production to the maximum extent practicable.

If site inspections, or surface or groundwater monitoring indicates leachate seeps are discharging leachate that has the potential to reach waters of the state, or will discharge off of the landfill property, or will present a potential risk to human health, the permittee must take action to prevent the leachate release in accordance with the approved Post-Closure Plan and contact DEQ to report the observed conditions and discuss next steps. Any construction or redevelopment proposals involving the landfill must include an evaluation of potential impacts from leachate to surface water control system or groundwater control and monitoring systems and a plan to prevent surface or groundwater impacts and must be reviewed and approved by DEQ prior to construction or redevelopment.

7.12 Landfill gas control

The permittee must maintain landfill gas monitoring probes in good working order and monitor the probes according to the DEQ-approved environmental monitoring plan. The permittee must control landfill gas so that methane concentrations do not exceed limits set forth in Section 14.6 of this permit. If redevelopment of the landfill site occurs in the future and any structures are placed onsite, the DEQ may require additional landfill gas control and monitoring measures to protect public health and safety.

7.13 Future use

The permittee must obtain DEQ's prior written approval before any future use or activity, or any construction of buildings, structures, or utilities on the disposal site. Any such modifications to the disposal site must be done in a manner that protects the integrity of the final cover system, landfill stability, gas and groundwater monitoring devices, and surface water control systems.

7.14 Submittal address

All submittals to DEQ under this section must be sent to:

Oregon Department of Environmental Quality
Manager, Solid Waste Program
700 NE Multnomah St., Suite 600
Portland, OR 97232

(503) 229-5353

or by email to: DEQNWR.SolidWastePermitCoordinator@deq.state.or.us

8.0 POST-CLOSURE RECORDKEEPING AND REPORTING

8.1 In this section

This section describes requirements for facility post-closure recordkeeping and reporting.

- non-compliance reporting
- evaluation
- permit use
- access to records
- deed record
- submittal address

8.2 Non-compliance reporting

The permittee must take immediate corrective action for any violations of permit conditions or DEQ rules and notify DEQ at:

(503) 229-5353

DEQ response: DEQ may investigate the nature and extent of the compliance problem and evaluate the adequacy of the permittee's corrective action plans.

8.3 Evaluation

Prior to March 15 of each year, the permittee must evaluate the facility's status and submit to DEQ the following information:

- a discussion of the activities undertaken to implement the post-closure plan
- a description of unanticipated occurrences and any changes to the post-closure plan

8.4 Permit use

The permittee must refer to the permit on a regular basis to maintain familiarity with its content.

8.5 Access to records

DEQ must have easy access to all records and reports related to the permitted facility.

8.6 Deed record

Upon issuance of this permit, the permittee must review the property deed record on file with the appropriate county recording authority to ensure that it includes a detailed description of the site including a plat. The description should include, at a minimum, the general types and location of wastes deposited, depth of waste and other information of probable interest to future landowners. A copy of this deed, with the modification, must be submitted to DEQ within 30 days after the issuance of this permit.

Reference: OAR 340-094-0130(1)(a).

8.7 Submittal address

All submittals to DEQ under Section 8 must be sent to:

Oregon Department of Environmental Quality
Manager, Environmental Partnerships Section
700 NE Multnomah St., Suite 600
Portland, OR 97232
(503) 229-5353

or by email to: DEQNWR.SolidWastePermitCoordinator@deq.state.or.us

9.0 FINANCIAL ASSURANCE

9.1 In this section

This section describes the requirements for financial assurance at the facility, including:

- financial assurance plan
- cost estimate
- annual update
- use of financial assurance
- continuity of financial assurance
- submittal address

9.2 Financial assurance plan

The permittee must prepare and submit a financial assurance plan to DEQ for written approval within 180 days after the issuance date of this permit. The plan must include a current estimate of post-closure care costs and corrective action, and contain a proposed financial assurance mechanism. Plan revisions must also be submitted to DEQ for written approval. The permittee must keep a copy of this plan, and any revisions to the plan, in the operating record.

Reference: The plan must be prepared in accordance with OAR 340-094-0140. Acceptable mechanisms are described in OAR 340-094-0145.

9.3 Cost estimate

The cost estimate for post-closure care must be calculated based on an estimated 10 years of remaining post-closure care. The cost-estimate must be updated annually and can be reduced by one year each year (that is, nine years next year, then eight years the year after, etc.), until the end of the post-closure period, or until notified in writing by DEQ of a change in this requirement.

Reference: The cost estimate must be prepared in accordance with DEQ guidance and OAR 340-094-0140.

9.4 Annual update

The permittee must annually review and update their financial assurance in accordance with OAR 340-094-0140(6)(e) and submit a notarized annual recertification of financial assurance to DEQ which documents that this review and update work have been completed. This annual update is due March 15.

Note: The annual review must be in accordance with OAR 340-094-0140.

9.5 Use of financial assurance

The permittee must not use the financial assurance for any purpose other than to finance the permitted facility's approved post-closure activities and corrective action activities, if any, for the landfill, or to guarantee that those activities will be completed.

9.6 Continuity of financial assurance

The permittee must continuously maintain financial assurance for the landfill until DEQ no longer requires that the permittee or other person owning or controlling the site demonstrates financial responsibility for post-closure care or corrective action (if required).

9.7 Submittal address

All submittals to DEQ under this section must be sent to:

Oregon Department of Environmental Quality
Manager, Environmental Partnerships Section
700 NE Multnomah St., Suite 600
Portland, OR 97232
(503) 229-5353

or by email to: DEQNWR.SolidWastePermitCoordinator@deq.state.or.us

ENVIRONMENTAL MONITORING

10.0 FOCUSED SITE INVESTIGATION

10.1 In this section

This section describes the requirements for conducting a focused site investigation including:

- site investigation work plan
- site investigation and report
- submittal address

10.2 Site investigation work plan

Within 90 days of permit issuance, the permittee must submit to DEQ for review and approval a detailed work plan that describes the elements of a focused site investigation. The work plan must include a detailed description of the planned investigation to accomplish the objectives listed below and a detailed project schedule. The work plan must be prepared and stamped by a Registered Geologist or a Certified Engineering Geologist, with current Oregon registration.

The work plan should address the following objectives:

- Update the surface and groundwater beneficial use information for the areas surrounding the landfill.
- Assess the current and future effectiveness of the landfill cover and stormwater management system.
- Evaluate all onsite groundwater-monitoring wells and gas monitoring probes and describe the physical condition, functionality, location, and accessibility of each well or probe, and include photo documentation. Provide detailed recommendations for repairs, decommissioning, and replacement of any damaged or dysfunctional wells or probes.
- Include a plan to reinstall MW-18 or a rationale why this well does not require re-installation.
- Conduct an evaluation of historic groundwater monitoring data for the site wells and provide recommendations for comprehensive analysis for some or all groundwater monitoring wells.
- Assess the impacts of landfill leachate and landfill gas on groundwater quality. Evaluate contaminant levels and associated human health risk and ecological risk.
- Include a plan to reinstall landfill gas wells LFG-9 and LFG-17 or a rationale why these wells do not require re-installation.
- Assess site-wide landfill gas monitoring trends and regulatory compliance and determine if landfill gas migration currently poses a significant risk to public health and safety.
- Identify potential human and ecological exposure pathways and complete a preliminary screening of human health and ecological risk associated with the site considering future use of the site.
- Identify any crucial data gaps related to human health risk and ecological risk that may require further investigation.

10.3 Implement work plan and prepare follow up site investigation report

Upon DEQ approval, the permittee must carry out the workplan described in Section 10.2. Within one year of DEQ approval of the work plan, the permittee must submit to DEQ for review and approval a

detailed report that documents the results of a focused site investigation of the Rossman's Landfill consistent with the work plan described in Section 10.2 of this permit. The site investigation report must be prepared and stamped by a Registered Geologist or a Certified Engineering Geologist with current Oregon registration.

DEQ will use the results of the focused site investigation to determine if corrective action is required at the Rossman's Landfill to address any identified environmental concerns.

10.4 Submittal address

Send all required submittals to:

Oregon Department of Environmental Quality
Manager, Environmental Partnerships Section
700 NE Multnomah St., Suite 600
Portland, OR 97232
(503) 229-5353

or by email to: DEQNWR.SolidWastePermitCoordinator@deq.state.or.us

11.0 ENVIRONMENTAL SAMPLING REQUIREMENTS

11.1 In this section

This section describes general sampling requirements, including:

- notification
- split sampling
- monitoring schedule
- interim monitoring
- monitoring after EMP approval
- changes in sampling or split sampling

11.2 Notification

The permittee must notify DEQ in writing of all upcoming sampling events at least 10 working days prior to the scheduled date of the sampling event at the following address or via email to the program manager and current project manager:

Oregon Department of Environmental Quality
Manager, Environmental Partnerships Section
700 NE Multnomah Street, Suite 600
Portland, OR 97232
(503) 229-5353

or by email to: DEQNWR.SolidWastePermitCoordinator@deq.state.or.us

11.3 Split sampling

The permittee must split samples with DEQ when DEQ requests, and must schedule all requested split-sampling events with DEQ laboratory at least 45 days prior to the sampling event. Split sampling events with DEQ tentatively should be scheduled during the annual groundwater monitoring events in 2017 and 2022.

Oregon Department of Environmental Quality
Laboratory, Groundwater Monitoring Section
3150 NW 229th, Suite 150
Hillsboro, OR 97124
Phone: (503) 693-5700
Fax: (503) 693-4999

11.4 Monitoring schedule

The permittee must refer to the approved Environmental Monitoring Plan for environmental monitoring procedures.

11.5 Interim monitoring

Until DEQ approves the updated EMP, the permittee must perform annual groundwater monitoring in the Fall at all designated locations in accordance with CH2M HILL's 1992 "Water Quality Monitoring Plan" and any subsequent DEQ-approved modifications.

11.6 Monitoring after EMP approval

The permittee must monitor the facility in accordance with: 1) the approved EMP; 2) any conditions of the DEQ's approval; and 3) any DEQ-approved amendments and updates.

11.7 Changes in sampling or split sampling

During the permit's term, DEQ may add to or delete from the list of scheduled sampling events, sample locations, and sampling parameters, and may conduct unscheduled sampling or split sampling events. In the event of changes to the split sampling schedule, DEQ will make every effort to notify the permittee at least 30 days before such changes

12.0 ENVIRONMENTAL MONITORING PLAN (EMP)

12.1 In this section

This section describes environmental monitoring plan requirements for the facility, including:

- EMP submittal
- EMP contents
- EMP revisions and updates
- long-term monitoring plan
- additional monitoring points
- EMP compliance

12.2 EMP submittal

Within 90 days of DEQ approval of the Focused Site Investigation (see Section 10), the permittee must submit one paper and one electronic copy of the Environmental Monitoring Plan (EMP) to DEQ for review and approval. The plan must be prepared and stamped by a Geologist or a Certified Engineering Geologist with current Oregon registration. Once approved, this plan will become an integral part of the permit.

The permittee must revise the EMP as necessary to reflect the findings and recommendations of the focused site investigation described in Section 10.2 of this permit.

The EMP, or any updates to the EMP, must be prepared and stamped by an Oregon Registered Geologist or an Oregon Certified Engineering Geologist. Upon DEQ's approval, the permittee must implement the EMP.

12.3 EMP contents

The updated EMP must establish an environmental monitoring program that will characterize potential facility impacts. The updated plan may consist of the previous approved EMP with any subsequent changes or additions (such as approved concentration limits, revised parameter lists, revised schedules, and new wells).

The updated EMP must include the following contents, as well as applicable elements from the reference document:

- Monitoring Network Design and Construction
- A Sampling and Analysis Plan
- Field QA/QC Procedures
- Lab QA/QC Procedures
- Data Analysis and Evaluation
- Report Format and Executive Summary

Reference: The *Solid Waste Landfill Guidance*, September 1996, provides information on applicable elements of an Environmental Monitoring Plan. Following the organizational format provided in the Guidance will expedite DEQ review of the plan.

12.4 EMP revisions and updates

Major changes or updates to the original EMP must be incorporated into a complete new EMP and submitted as a stand-alone document. At a minimum, the EMP must be updated and resubmitted at least once every 10 years.

A Registered Geologist or Certified Engineering Geologist, with current Oregon registration, must prepare and stamp the EMP revisions and submit two copies (one paper copy and one electronic copy) to DEQ for review and approval.

12.5 Long-term monitoring plan

After DEQ approves any Remedial Action Concentration Limits (RACLs), Permit-Specific Concentration Limits (PSCLs), Concentration Limit Variances (CLVs), Action Limits (ALs), or Site-Specific Limits (SSLs), the permittee must update the EMP to reflect the long-term monitoring program and submit the updated plan for DEQ review and approval.

Note: Also see this permit's requirements for establishing RACLs, PSCLs, ALs, or SSLs and OAR 340-040-0030(4) for procedures to establish CLVs.

12.6 Additional monitoring points

The permittee must incorporate any new or replacement monitoring point or device into the EMP and submit the updated EMP to DEQ for review and approval.

12.7 EMP compliance

The permittee must conduct all environmental monitoring at the facility in accordance with the approved EMP, including any conditions of EMP approval, EMP amendments, and updates.

13.0 ESTABLISHING CONCENTRATION LIMITS

13.1 In this section

This section describes the establishment of various groundwater quality concentration limits, including:

- statistical analysis
- proposing RACLs, PSCLs, ALs, CLVs, and SSLs
- changing RACLs, PSCLs, ALs, and/or SSLs
- establishing and changing CLVs

13.2 Statistical analysis

To establish compliance concentration limits (RACLs, PSCLs, ALs, and SSLs), the permittee must perform statistical evaluations of the monitoring results for each sampling event.

Use methods outlined in 40 CFR 258.53 or other DEQ-accepted statistical methods.

References: DEQ has prepared an Internal Management Directive for Statistical Analysis, which can be found at the following website:

<http://www.deq.state.or.us/lq/pubs/docs/sw/DevelopingConcentrationLimitsPermittedSWFacilities.pdf>.

13.3 Proposing RACLs, PSCLs, ALs, CLVs, and/or SSLs

The permittee must propose for the DEQ's review and approval, updated RACLs, PSCLs, ALs, CLVs, or SSLs that reflect current practices and current groundwater quality trends pursuant to the guidelines specified in OAR 340-040. The proposal must address all required parameters of concern and be submitted to DEQ for review and approval as a part of the updated EMP due to DEQ within 90 days of DEQ's acceptance of the focused site investigation required in permit condition 12.2.

13.4 Changing RACLs, PSCLs, ALs, and/or SSLs

If the permittee demonstrates to the DEQ's satisfaction that background groundwater quality has significantly changed since the RACL, PSCL, AL, or SSL was established, and if the change is unrelated to the permitted facility's influence, the permittee can propose to the DEQ a revised level for the affected RACLs, PSCLs, ALs, or SSLs.

13.5 Establishing and changing CLVs

The permittee should refer to the DEQ's Groundwater Quality Protection Rules [OAR 340-040-0030(4)] for guidance in establishing and changing Concentration Limit Variances (CLVs).

14.0 ENVIRONMENTAL MONITORING STANDARDS

14.1 In this section

This section describes requirements related to compliance with environmental monitoring standards, including:

- applicable regulatory standard
- compliance points
- review of results
- re-sampling results
- methane limits
- methane exceedance
- certified environmental laboratory data

14.2 Applicable regulatory standard

The permittee must ensure that the release of any substance from the landfill into groundwater, surface water, or any other media will not result in a violation of any applicable federal or state air or water limits, drinking water rules, or other regulations beyond the solid waste boundary of the disposal site or an alternative boundary specified by DEQ.

Reference: OAR 340-094-0040 and 340-094-0080.

14.3 Compliance points

Compliance wells and any alternative compliance points will be defined as part of DEQ's approval of the updated EMP for this facility.

14.4 Review of results

After each monitoring event, the permittee must review the analytical results according to the protocols established in the most currently approved site-specific Environmental Monitoring Plan.

If analytical results are:	...then:
Above any PSCL, CLV, or AL, or more than two SSLs (if established), or if data indicate a significant change in water quality at any monitoring point, or - if any chemicals are detected from the <i>full suite</i> monitoring conducted during the split sampling events, or - if any new monitoring location results indicate a significant change in water quality at any monitoring point. <u>Note:</u> Examples of significant changes: Detection of a VOC or other hazardous constituent that is absent in background water quality; Exceedance of a Table 1 or 3 value listed in OAR 340-040 unless the background water quality is above these numerical limits; Exceedance of a Safe Drinking Water Standard; or Exceedance, by an order of magnitude or more, of any compound's background concentration.	1. Notify the DEQ in writing within ten (10) days of receipt of laboratory results; and 2. Perform re-sampling immediately and evaluate results as described below. <u>Note:</u> Re-sampling is not required for a known release, previously confirmed in writing to the DEQ.
None of the above	Continue groundwater monitoring with next scheduled sampling event.

14.5 Re-sampling results

Upon receipt of data from re-sampling, the permittee must review the analytical results according to the protocols established in the most currently approved site-specific Environmental Monitoring Plan.

14.6 Methane limits

The methane concentration must not exceed:

- twenty-five percent of methane's lower explosive limit in onsite structures (excluding gas control system structures or components); or,
- methane's lower explosive limit in soil gas at the facility property boundary, at an alternative compliance boundary approved by DEQ, or where DEQ approved landfill gas control systems are in place and operating in accordance with approved operation and maintenance plans.

Note: Methane's lower explosive limit is equal to a concentration of five percent by volume in air.

14.7 Methane exceedance

If methane levels exceed the specified limits, the permittee must:

- take immediate steps to protect human health and safety and notify DEQ
- notify DEQ within 24 hours at 503-229-5353 or via e-mail at DEQNWR.SolidWastePermitCoordinator@deq.state.or.us
- within seven days after the detection, confirm the measures taken to protect human health and safety (unless DEQ approves an alternative schedule), and describe the methane test results and response measures in the facility operating record
- within 60 days of the methane exceedances, develop and implement a remediation plan, incorporate the plan into the monitoring records, and submit a progress report to DEQ

14.8 Certified environmental laboratory data

To ensure the best possible data quality, DEQ suggests that the permittee contract with environmental labs certified under the Oregon Laboratory Accreditation Program (ORLAP) or the National Environmental Laboratory Accreditation Program (NELAP). Use of an ORLAP- or NELAP-approved lab will facilitate DEQ's future review of EMP updates, AEMRs, and any Remedial Investigation/Feasibility Study (RI/FS) documents.

15.0 ENVIRONMENTAL MONITORING RECORDKEEPING AND REPORTING

15.1 In this section

This section describes recordkeeping and reporting requirements associated with environmental monitoring, including:

- AEMR submittal
- statement of compliance
- AEMR contents
- split sampling submittal
- lab address
- DEQ response to split samples

15.2 AEMR submittal

Prior to March 15th of each year, the permittee must submit to DEQ two copies (one paper copy and one electronic copy) of an annual environmental monitoring report (AEMR) for the previous calendar year's monitoring period. The report must conform to the format detailed in the approved EMP and be prepared and stamped by a Registered Geologist or a Certified Engineering Geologist, with current Oregon registration.

Note: The permittee is strongly encouraged to submit reports printed on both sides of the paper.

15.3 Statement of compliance

The AEMR must include a brief (approximately one-page) cover letter that:

- compares the analytical results with the relevant monitoring standards including Concentration Limits, when developed
- concludes whether or not any federal or state standards were exceeded for relevant media

- concludes whether any significant change occurred in water quality, land quality, air quality or methane levels

15.4 AEMR contents

The AEMR must reflect the facility's current conditions, present accurate data that corresponds with the original field and lab data, and include the following elements:

- Describe significant events that occurred at the site during the last reporting period. Summarize post-closure activities including current status, unexpected events, completed and planned post-closure maintenance and monitoring activities;
- Gas Migration Assessment. Evaluate gas monitoring data to evaluate compliance with OAR 340-94-0060(4);
- Monitoring Well Inspection and Maintenance Report. Inspect all monitoring wells annually, review their performance, and describe their condition;
- An evaluation of the monitoring network performance and a summary of any recommended changes;
- A summary of all the past year's sampling data for, but not limited to groundwater, surface water, leachate, landfill gas (including any air sampling data), and soil;
- A summary of any data quality problems (e.g., QA/QC failures, flagged data, switched samples, etc.);
- Piezometric maps for each sampling event and each groundwater bearing zone monitored;
- Time history plots for field specific conductivity, dissolved oxygen, and all group 1b and group 2a and 2b parameters;
- Box plots for field specific conductivity, dissolved oxygen, and all group 1b and group 2a and 2b parameters;
- An anion-cation balance for each sample event at all monitoring points for which there is adequate data. Include an additional explanation for any balance outside of $\pm 10\%$ in error;
- Copy of the lab certification, if applicable (ORLAP or NVLAP); and
- A copy of all the past year's field and lab data, including all chain of custody forms.

DEQ may reduce these reporting requirements if the responsible laboratory has current ORLAP or NVLAP certification.

15.5 Split sampling submittal

Within 90 days after any split sampling event, the permittee must submit the following information to DEQ's laboratory:

- A copy of all information pertinent to the sample collection handling, transport and storage, including field notes;
- Copies of all laboratory analytical reports;
- Copies of all laboratory QA/QC reports;
- A copy of the lab certification (ORLAP or NVLAP, see Certified Environmental Lab Data condition above);
- A hydrogeologic map of the site showing groundwater flow directions and water table contours; and
- Any other data or reports requested by DEQ.

15.6 Lab address

Report all required split sampling information to:

Oregon Department of Environmental Quality
Laboratory, Groundwater Monitoring Section
3150 NW 229th Avenue, Suite 150
Hillsboro, OR 97124
Phone: (503) 693-5700
Fax: (503) 693-4999

15.7 DEQ response to split samples

If the permittee submits all required split sampling data and requests DEQ's results, DEQ's lab may provide to the permittee copies of the following information:

- DEQ's analysis of the split sample
- the QA/QC report
- the analytical report
- the field data sheets

16.0 ENVIRONMENTAL MONITORING NETWORK

16.1 In this section

This section describes requirements for the environmental monitoring network, including:

- monitoring stations and equipment
- access to monitoring stations and equipment
- reporting equipment damage
- monitoring well construction
- reporting well construction and repairs
- well decommissioning or replacement

16.2 Monitoring stations and equipment

To ensure that every sample is representative of the site's environmental conditions, the permittee must protect, operate, and maintain all environmental monitoring stations and equipment in accordance with DEQ's requirements.

The permittee must clearly label all monitoring stations with the monitoring location identification described in this permit and/or the EMP in addition to an Oregon Water Resources Department Well Identification Label, if required. The permittee must monitor and maintain labels such that they are clearly legible.

Reference: OAR 640-240-0024 and 640-240-0026.

16.3 Access to monitoring stations and equipment

To facilitate sample collection and/or inspection and maintenance activities, the permittee must maintain reasonable all-weather access to all monitoring stations and associated equipment.

16.4 Reporting equipment damage

Within 14 days of discovering any damaged monitoring equipment or station, the permittee must submit to DEQ a report describing the damage, the proposed repair or replacement measures, and the schedule to complete this work.

Example: a well's impaired function or altered position/location.

16.5 Monitoring well construction

The permittee must complete any monitoring well or gas monitoring probe abandonment (decommissioning), replacement, repair, or installation in a manner that complies with the Water Resources Rules, OAR 690-240.

16.6 Reporting well construction and repairs

The permittee must document all monitoring well or gas probe repair and construction activities, including driller's logs, well location information, and construction information in a report prepared and stamped by a Registered Geologist or Certified Engineering Geologist, with current Oregon registration. The permittee must submit the report to DEQ within 30 days of the action and include this documentation in the next Annual Environmental Monitoring Report (AEMR).

16.7 Well decommissioning or replacement

The permittee must inform and receive DEQ approval **prior to decommissioning or replacing** any well or gas monitoring probe in the monitoring network. The permittee must decommission or replace any well or gas probe meeting one of the following criteria:

- The well or gas probe was installed in a borehole with a screen that hydraulically intersects two saturated strata;
- The permittee lacks supporting documentation demonstrating that the well or gas probe was properly installed and constructed;
- The well or gas probe was damaged beyond repair or destroyed; or
- Other reason(s) as determined by either the permittee or DEQ.

Please note that decommissioning or replacing a well or gas probe must be done in accordance with Oregon Water Resources Department rules and requirements.

COMPLIANCE SCHEDULE

17.0 SUMMARY OF DUE DATES

17.1 Summary

The following is a summary of event-driven reporting required by this permit. This section does not include permit-required routine reporting and submittals.

Due Date	Activity	See section...
Within one year of permit issuance	Submit one copy of Post-Closure Plan	7.4 Post-Closure Plan
Within 30 days of permit issuance	Recording of modified deed	8.7 Deed record
Within 180 days of permit issuance	Submit a financial assurance plan to DEQ for written approval	9.2 Financial Assurance Plan
Within 90 days of permit issuance	Submit Site Investigation Work Plan	10.2 Site investigation work plan
Within one year of work plan approval	Submit Focused Site Investigation Report to DEQ	10.3 Site investigation report
Within 90 days of DEQ approval of the Focused Site Investigation	Submit one copy of updated EMP	12.2 EMP update, submittal
Within 90 days of DEQ approval of the Focused Site Investigation	Propose RACLs, PSCLs, ALs, CLVs, and/or SSLs	13.3 Proposing RACLs, PSCLs, ALs, and/or SSLs
EMERGENT:		
Within seven days	Transport non-hazardous prohibited waste to a disposal site authorized to accept such waste	7.2 Discovery of Prohibited Wastes
Within seven days	Notify DEQ of discovered hazardous or suspected hazardous wastes and initiate procedures to identify and remove the waste.	7.2 Discovery of Prohibited Wastes
Within 90 days	Remove hazardous wastes.	7.2 Discovery of Prohibited Wastes
Immediately	Oil or hazardous materials spill	7.3 Spills notification
Within 24 hrs. of methane exceedance	Notify DEQ of methane level exceedances	14.7 Methane exceedance
Within seven days of detected methane exceedance	Confirm measures taken to protect human health and safety	14.7 Methane exceedance

Due Date	Activity	See section...
Within 60 days of methane exceedance	Develop and implement a reduction plan and submit progress report to DEQ	14.7 Methane exceedance
Within 90 days after a split sampling event	Submit all required documentation to DEQ	15.5 Split sampling submittal
14 days after discovery of damage to a monitoring device	Submit proposal to repair or replace	16.4 Reporting equipment damage
Within 30 days of the construction or repair action	Submit well construction or repair report	16.6 Reporting well construction and repairs
RECURRENT:		
Monthly	Physically inspect: all active landfill components, including landfill gas monitoring points and the SVE system	7.6 Inspection
Quarterly	Physical inspection of site	7.6 Inspection
By every March 15 th	Submit a report on post-closure status	8.3 Evaluation
Specified due date on invoice	Solid waste fees	8.4 Fees
By every March 30 th	Submit an Annual Financial Assurance Recertification Report	9.3 Annual update
By every March 15 th	Submit an Annual Environmental Monitoring Report (AEMR)	15.2 AEMR submittal
SAMPLING:		
At least 10 days prior to sampling event	Notify DEQ of scheduled date of sampling	11.2 Notification
At least 45 days prior to split sampling event	Schedule split-sampling events with DEQ.	11.3 Split sampling
Within 90 days of split sampling event	Submit required data/documents to DEQ laboratory	15.5 Split sampling submittal

ATTACHMENTS**18.0 ATTACHMENTS TO PERMIT**

Attachments to the permit include:

Number	Description
1	Parameter Groups
2	Concentration Limits

ATTACHMENT 1: PARAMETER GROUPS

Overview	This attachment describes the environmental-monitoring parameter groups and associated requirements to be considered (either as a whole or as an appropriate subset) when developing the EMP.									
	Due to the duration of this permit, suggested analytical methods may change. If that is the case, use the most currently promulgated EPA method or DEQ-approved equivalent.									
	<u>Note:</u> Method means EPA SW 846 Method [suggested methods are in square brackets].									
Group 1a: Field indicators	The field indicators parameter group includes the following parameters: <table><tr><td>Elevation of water level</td><td>Specific Conductance</td></tr><tr><td>pH</td><td>Dissolved Oxygen</td></tr><tr><td>Temperature</td><td>Eh</td></tr></table> With instruments calibrated to relevant standards, measure these parameters in the field when collecting samples. Acceptable methods include: • Down-hole in situ; • In a flow-through well; or • Immediately following sample recovery.		Elevation of water level	Specific Conductance	pH	Dissolved Oxygen	Temperature	Eh		
Elevation of water level	Specific Conductance									
pH	Dissolved Oxygen									
Temperature	Eh									
Group 1b: Leachate indicators	The laboratory indicators parameter group includes the following parameters: <table><tr><td>Hardness (as CaCO₃)</td><td>Total Dissolved Solids (TDS)</td></tr><tr><td>Total Alkalinity (as CaCO₃)</td><td>Total Suspended Solids (TSS)</td></tr><tr><td>Total Organic Carbon (TOC)</td><td>Chemical Oxygen Demand (COD)</td></tr><tr><td>pH (lab)</td><td>Specific Conductance (lab) [Method 9050A]</td></tr></table> Proper techniques for sample handling, preservation, and analysis are specific to each individual analyte: Follow appropriate EPA techniques or AWWA Standard Methods.		Hardness (as CaCO ₃)	Total Dissolved Solids (TDS)	Total Alkalinity (as CaCO ₃)	Total Suspended Solids (TSS)	Total Organic Carbon (TOC)	Chemical Oxygen Demand (COD)	pH (lab)	Specific Conductance (lab) [Method 9050A]
Hardness (as CaCO ₃)	Total Dissolved Solids (TDS)									
Total Alkalinity (as CaCO ₃)	Total Suspended Solids (TSS)									
Total Organic Carbon (TOC)	Chemical Oxygen Demand (COD)									
pH (lab)	Specific Conductance (lab) [Method 9050A]									

Group 2a:
 Common
 anions and
 cations

The common anions and cations parameter group includes the following parameters:

Calcium (Ca)	Manganese (Mn)
Sulfate (SO ₄)	Magnesium (Mg)
Ammonia (NH ₃)	Chloride (Cl)
Sodium (Na)	Carbonate (CO ₃)
Nitrate (NO ₃)	Potassium (K)
Silica (SiO ₂)	Bicarbonate (HCO ₃)
Iron (Fe)	

Dissolved concentrations must be measured. Field-filter and field-preserve samples according to standard DEQ and/or EPA guidelines and analyze by appropriate EPA or AWWA Standard Methods techniques. Report results in mg/L and meq/L.

 Group 2b:
 Trace metals

The trace metals parameter group includes the following parameters:

Antimony (Sb)	Chromium (Cr)	Selenium (Se)
Arsenic (As)	Cobalt (Co)	Silver (Ag)
Barium (Ba)	Copper (Cu)	Thallium (Tl)
Beryllium (Be)	Lead (Pb)	Vanadium (V)
Cadmium (Cd)	Nickel (Ni)	Zinc (Zn)

If the Total Suspended Solids concentration is...	analyze for...
less than or equal to 100.0 mg/L in the sample	total concentrations (unfiltered)
Greater than 100.0 mg/L in the sample	both total (unfiltered) and dissolved (field-filtered)

Field-preserve samples according to standard DEQ and/or EPA guidelines and analyze by EPA Method 6010C or DEQ-approved equivalent.

 Group 3:
 Volatile
 organic
 constituents

Analyze for all compounds detectable by EPA Method 8260B or EPA Method 524.2, include a library search to identify any unknown compounds present.

The DEQ must pre-approve alternative methods like EPA Method 8021B.

Group 4:
Assessment
monitoring The assessment monitoring is conducted when one or more permit specific concentration limits are exceeded. Assessment monitoring parameter group includes the following parameters:

Semi-volatile Organic Constituents, including Phenols, EPA Method 8270
Mercury, EPA Method 7470
Cyanide, EPA Method 9010
Nitrite

All Method 8270 analyses must include a library search to identify any unknown compounds present.

Group 5:
Surface
water and
leachate

The surface water parameter group includes the following parameters:

Total Kjeldahl Nitrogen (TKN)	Total Coliform Bacteria [EPA Method 9131]
Total Phosphorus (P)	Fecal Coliform Bacteria [EPA Method 9131]
Orthophosphate (PO ₄)	E. Coli
Biological Oxygen Demand (BOD)	Total Halogenated Organics (TOX) [EPA Method 9020]

Full-suite analyses of Groups 1-3 of this Attachment will be required during the split sampling events.

ATTACHMENT 2: CONCENTRATION LIMITS

Permit-Specific Concentration Limits (PSCLs), Concentration Limit Variances (CLVs), Action Limits (ALs), and Site Specific Limits (SSLs) for Rossman's Landfill have not yet been established.

The permittee is required to propose concentration limits in an updated Environmental Monitoring Plan (EMP). Once the updated EMP is reviewed and approved by DEQ, those concentration limits become part of the permit by reference.



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: Urban Renewal Commission **Agenda Date:** 5/4/2022
From: Urban Renewal Executive Director Tony Konkol

SUBJECT:

Summit Development Group Request for Urban Renewal Commission Approval to Pursue Alternative Fundings Sources for the Proposed North End Development

STAFF RECOMMENDATION:

Review and provide direction to staff on how to proceed with the April 11, 2022 formal request from Summit Development Group.

EXECUTIVE SUMMARY:

Summit Development Group requested Urban Renewal Commission approval to pursue alternative funding sources from Federal, State and County agencies for the North End Development proposal at the April 20, 2022 meeting. Summit Development Group submitted a letter dated April 11, 2022 with the following request:

At this time, we are not submitting a formal application for your consideration of granting Urban Renewal Funds. We are only requesting that the Commission approve staff to support our endeavor of pursuing alternative, supplemental sources of public funding. Any Federal, State, or County funds we are able to secure through grants or forgivable loans would ultimately reduce any future Urban Renewal application amount we might submit, and the agencies granting these other sources of funds will be encouraged by the City's willingness to work with us on the pursuit of these supplemental sources.

The Urban Renewal Commission requested that a work session be held on May 4, 2022 for additional discussion of the request and to gain further understanding of the funding opportunities and commitments associated with applying for and receiving the alternative funding sources. Depending on the outcome of the May 4, 2022 work session, the Urban Renewal Commission may wish to consider this item in a regular meeting and make a decision.

BACKGROUND:

The Summit Development Group is pursuing various forms of public funding to defray the cost of developing the former Rossman Landfill. The developer has determined that development of the site will require \$40 million in public funds.

The Summit Development Group has approached Clackamas County to discuss the following potential funding sources:

1. US EPA Brownfields Funding – application through Clackamas County
2. Clackamas County ARPA Funds, Road Funds, Lottery Funds

If the developer is successful in its pursuit of the Federal, State and/or County funding sources identified, it would ultimately reduce any potential future funding request from the Urban Renewal Commission. Federal, State and County agencies would be encouraged by Oregon City's willingness to work with the developer in the pursuit of these alternative public funding sources.

Attached to this staff report is the formal request from Summit Development Group (April 11, 2022) to approve staff to support its endeavor of pursuing alternative, supplemental sources of public funding.

Summit Development Group received land use approval from the City of Oregon for a mixed-use development Master Plan on the Rossman Landfill, which was approved with conditions by the Planning Commission on July 26, 2021 by a vote of 6-0. The plan envisions a 20-year road map to redevelop the former landfill. Future development applications to implement the Master Plan (i.e. buildings, parking lots, etc.) will be reviewed through separate Detailed Development Plan submittals.

OPTIONS:

1. Approve the request as proposed
2. Approve the request with modifications
3. Deny the request

BUDGET IMPACT:

Amount:

FY(s):

Funding Source(s):

April 11, 2022

City of Oregon City
Urban Renewal Commission
625 Center Street
Oregon City, Oregon 97045

Project: The North End, Oregon City
RE: Urban Renewal Commission Presentation

Dear Commissioners,

I want to thank you for allowing us to schedule the North End project update for the Urban Renewal Commission agenda on April 20th, 2022. In preparation for this presentation, this document generally outlines the project description, what the development benefits are, what our project team has accomplished in moving the development forward, what challenges we are currently trying to overcome, and how we see the City as a project team partner and economic development facilitator.

This proposed development is located on approximately 62 acres of the former Rossman Landfill in Oregon City at the north end of the Mixed-Use Downtown zoning district, hence the current project title of “The North End” (www.northendorcacity.com). Through community input, we have come to envision this development as a potential northern anchor for a larger city and county economic impact area that includes Oregon City’s Downtown, the Blue Heron site as a southern anchor and even the McLaughlin Boulevard Corridor to the north.

As currently entitled under Oregon City’s General Development Plan GLUA 21-000016, the project will include (in no particular order):

- 1,091,698 gross square feet of buildings, including multifamily housing, boutique and large format retail, and entertainment, recreation uses;
- 524 apartment units (final number to be between 500 and 600);
- Major upgrades to Washington Street, Abernethy Road and Redland Road complying with the City’s Transportation System Plan;
- Retaining walls to address hazardous slope conditions on the landfill;
- A central plaza for community gatherings;
- Eight public art pieces;
- A path connection to the End of the Oregon Trail Interpretive Center;
- A 10-foot wide shared-use path system across the entire site per City’s TSP;
- City easements for all developer built and maintained utilities; and

- Approximately 6 acres of protected wetlands (Natural Resource Overlay District) and natural infiltration area.

The benefits of the North End project are both qualitative and quantitative. Generally, we are taking a currently non-productive, environmentally impacted brownfield and not only creating a regional economic center, but resolving the remediation, maintenance, and monitoring of potential environmental impacts to the larger community. Economically, this project is forecasted to:

- Generate 1.77 million visitors annually;
- Create 3,061 construction related jobs;
- Create 988 full/part time jobs when operational;
- \$153.9 million in direct labor income;
- \$77.1 million in annual gross economic activity;
- \$33.8 million in labor income from new jobs;
- \$115 million in annual gross receipts;
- \$3.3 million in annual property taxes for the landfill site alone;
- \$366,000 in local construction excise taxes; and
- A ripple effect of new development on the larger area noted above.

In terms of progress to date, we have been working on this development for over two years and have spent \$2.6 million on planning, engineering, entitlements, environmental, and overall due diligence. During that time, we have completed our General Development Plan (GDP) application and received unanimous approval from the Planning Commission on July 26, 2021. I am most proud that through our proactive engagement of over fifty community leaders, we were able to accomplish this without any appeals of the application.

In addition, we have executed with the Oregon Department of Environmental Quality a Prospective Purchaser Agreement which requires prefunding a property trust for 30 years to oversee the monitoring, maintenance and reporting of the water quality wells and methane gas mitigation systems on site, while allowing us to limit the financial exposure to future investors and lenders. It is not only a significant sustainable solution for the City and County, but it also helps us foster interest from future investors and lenders as well as potential commercial tenants.

All of our work has brought us to today's crossroad. Prior to proceeding further with the financing and permitting of this development, we need to address the significant funding shortfall which currently forecasts this development as a negative private investment opportunity due to the restrictions surrounding construction on a landfill.

As the nature of this site is both a brownfield or environmentally blighted site, and a geotechnical hazard with settlement and slope concerns, the development of this landfill will never be financially feasible without public funding. As of April of 2021, the delta or difference between the cost to realize this development and the value at completion was a negative value of \$35,867,084. With current escalation in construction material and labor as well as increasing interest rates, we expect the required public funds to be \$40 million to secure the private equity and debt to finally and formally execute this development. Above and beyond the design and construction of a typical greenfield site, some of the additional costs this large brownfield site will incur are:

- **Methane gas collection system under all buildings and hardscape;**
- **Water quality monitoring wells;**
- **Surcharging, or compaction of the trash layer to address future settlement;**
- **Structural piles for all buildings as well as roads and utilities;**
- **On-site storm water tanks for collection and controlled distribution of all runoff;**
and
- **The 30-year monitoring, maintenance and reporting of all environmental safety systems.**

As stated above, this development requires \$40 million in public funds in order to occur. As it is our understanding that funds for this type of public-private partnership may be available from the following sources, we have approached the County to discuss:

- U.S. EPA Brownfields Funding – application through Clackamas County
- Clackamas County ARPA Funds
- Clackamas County Road Funds
- Clackamas County Lottery Funds

As it relates to the American Rescue Plan Act (ARPA), Coronavirus State and Local Fiscal Recovery Funds (CSLRF) and the interim final rule (IRF), it is our understanding that the four broad categories of use of these funds are public health and economic impacts, premium pay, revenue loss, and investments in infrastructure. This is a potential project which positively impacts the majority of these categories by:

- Cleaning up a site with potential contaminants of the community's water and air;
- Creating solid paying jobs both during construction and for the long term;
- Providing tremendous economic opportunity and tax generation (including as noted the ripple effect beyond the landfill site);
- Improving the storm water system on and off the site;

- Improving the infrastructure improvement of several roads and multi-use pathways;
- Potentially providing solar energy generation, storage, and EV charging.

As it relates to the Bipartisan Infrastructure Law, the EPA has been granted \$1.5 billion specifically to invest in their Brownfield Program. This program is accessible only to “communities, states, tribes and non-profits”. We are in the process of assessing the appropriate consultant to assist with the generation of this grant application, and which grants to pursue, and have respectfully requested that the County consider submitting this application on our behalf.

We will also be submitting an application to the State of Oregon under their Brownfield Forgivable Loan Program, which has recently been established by the Oregon legislature.

If funding sources for the \$40 million shortfall becomes available and committed with your support, we can be moving dirt by the Summer of 2023. We have selected a general contractor and are working through the means and methods, phasing to confirm our construction budget and approach. We also are scheduled to meet with City Planning and Engineering staff on April 15th to confirm permit types, reviewers, and review time for the first phase of mass grading, infrastructure and utilities.

At this time, we are not submitting a formal application for your consideration of granting Urban Renewal Funds. We are only requesting that the Commission approve staff to support our endeavor of pursuing alternative, supplemental sources of public funding. Any Federal, State, or County funds we are able to secure through grants or forgivable loans would ultimately reduce any future Urban Renewal application amount we might submit, and the agencies granting these other sources of funds will be encouraged by the City’s willingness to work with us on pursuit of these supplemental sources.

Thank you for taking the time to review and assess this initial request, and we look forward to the opportunity to brief the Commission on our progress to date as well as the financial challenges and great potential of the North End development.

Regards,



Seth W. Henderson
President
Summit Development Group



Cc: Tony Konkol, Oregon City
James Graham, Oregon City
Chris Marsh, Summit

Attachments:

OCBA Forum Meeting Presentation dated 04.27.2021
General Development Plan Application by LRS Architects dated 03.17.2021
GLUA 21-000016 Notice of Decision by Oregon City dated 07.27.2021
The North End Economic Summary
ECONorthwest Economic Feasibility Analysis dated 04.02.2021
Bipartisan Infrastructure Law EPA Brownfields Program Grants