

**ATTACHMENT C**  
**STATE OF OREGON v. OREGON STATE UNIVERSITY**  
**CONSENT JUDGMENT (the “PROSPECTIVE PURCHASER AGREEMENT”)**  
**TAX LOTS 1812060000110, 181206A000719, 1812060000111, 1812060000100**  
**BEND, OREGON**  
**REMEDIAL ACTION SCOPE OF WORK**

**I. OBJECTIVE**

This Remedial Action Scope of Work (“SOW”) identifies the Remedial Action required at the Property pursuant to the Prospective Purchaser Agreement (“PPA”). The objective of the Remedial Action is to reduce potential exposure to hazardous substances and facilitate the cleanup and productive reuse of the Property through issuance of the PPA, consistent with the requirements set forth in Oregon Revised Statutes (“ORS”) 465.327.

**II. DESCRIPTION OF THE PROPERTY**

The Property comprises portions of Tax Lots 100, 110, and 111 on Deschutes County Tax Assessor’s map 18-12-06 lying south of Simpson Avenue, together with Tax Lot 719 on Deschutes County Tax Assessor’s Map 18-12-06A, excluding any portions lying north of the Simpson Avenue right-of-way, totaling approximately 72.4 acres in Bend, Oregon, as depicted in Consent Judgment Exhibit A and as more particularly described in Consent Judgment Exhibit B.

Approximately 49.8 acres of the Property contains an inactive demolition debris landfill. The landfill is currently subject to State of Oregon solid waste Permit #215 (the “Solid Waste Permit”), issued to the current owner, Deschutes County. The Solid Waste Permit identifies three distinct areas within the disposal site, Area 1, Area 2 and Area 3; those areas are referred to herein as Cell 1, Cell 2 and Cell 3, respectively.

The Defendant completed investigation of and due diligence efforts at the Property to establish a means of returning the Property to productive use for future university purposes and community needs, while also ensuring human health and the environment are protected.

**III. DESCRIPTION OF REMEDIAL ACTION**

Should the Defendant acquire the Property, Defendant intends to pursue redevelopment of the site in phases over multiple years. As described in the PPA, redevelopment is not a required Remedial Action. Rather, the PPA requires Remedial Action that will ensure protection of human health and the environment before, during and after any redevelopment occurs at the Property.

Should the Defendant acquire the Property, it will complete specific remedial actions (collectively, the “Remedial Action”). As illustrated below, some of the planned Remedial Actions will be conducted irrespective of whether and to what extent redevelopment occurs. Other Remedial Actions will be completed commensurate with the redevelopment.

Remedial Actions to be conducted by Defendant upon acquisition:

1. Control access to the Property where wastes are present to avoid excess exposure and safety hazards;
2. Manage portions of the Property where waste may be present in accordance with the Solid Waste Permit, as applicable;
3. Enter into and record an Easement and Equitable Servitudes (the “Property EES”) covering the entire Property as attached as Exhibit D to the Consent Judgment; and
4. Generate and implement Pre-Development Access and Exposure Control Plan.

Remedial Actions to be conducted by Defendant if redevelopment occurs:

1. Develop and implement a DEQ-approved Remedial Action Work Plan (“RAP”),<sup>1</sup>
2. Manage all portions of the Property and off-Property areas that will contain Processed Engineered Fill (as described in Section V.) in accordance with a DEQ-approved Processed Subsurface Soil Management Plan (see Section VI.F) and Monitoring and Maintenance Plan (see Section VI.E); and
3. Manage portions of the Property where waste may be present in accordance with the Solid Waste Permit, as applicable.

Redevelopment of all or a portion of the Property is funding- and needs-dependent, and may vary from that generally described in this SOW and associated documents. To the extent Defendant acquires funding for and elects to proceed with developing all or a portion of the Property, the Defendant will conduct and will scale all redevelopment and related Remedial Action such that it will expend no more funding than is available to complete the redevelopment in accordance with the Remedial Action obligations associated with redevelopment provided above.

Defendant’s phased-development approach would serve to expand current campus and related facilities based on funding availability and in conformance with Defendant’s plans for the OSU-Cascades Campus. In any scenario, site grading is expected to include waste excavation, processing, blending, and production of engineered fill (the “Processed Engineered Fill”) for placement and use on the Property. Redevelopment may include buildings, roads, sidewalks, landscaped areas, active open space, and other amenities common to higher education facilities and activities. These features would serve as caps, isolating and containing the engineered fill or unprocessed waste that may remain at the Property. During site redevelopment, it is Defendant’s intention and DEQ’s understanding that:

1. Some portion of the excavated waste will be moved, placed elsewhere at the Property, and capped without processing and reuse; and

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<sup>1</sup> If redevelopment does not take place and a RAP is not implemented, the closure and post-closure requirements specified in the Solid Waste Permit remain applicable.

2. Some waste will not be relocated but, instead, will remain in its current location on the Property.

#### IV. SCHEDULE

The Property's redevelopment (and the resultant capping or changes to capping of waste located at the Property) would occur over multiple years. The control of the Property's environmental condition, however, is not contingent on completion of the Property's redevelopment. Therefore, no redevelopment timeline is required per this PPA.

##### Remedial Actions to be conducted by Defendant upon acquisition:

The Property EES will be recorded according to the schedule specified in the Consent Judgment. However, the Defendant will comply with the restrictions of the Property EES upon its acquisition of the Property.

Within 90 days of the recording of this Consent Judgment, Defendant will submit for DEQ review a draft Pre-Development Access and Exposure Control Plan to conform with Solid Waste Permit conditions defined in Section 8 – Specific Post-Closure Maintenance Conditions. Within 30 days of receipt of DEQ's written comments on the draft plan, or such longer time as DEQ may allow, Defendant will submit to DEQ for approval a final plan addressing DEQ's comments, if any. This plan will be implemented within 14 days of DEQ approval.

##### Remedial Actions to be conducted by Defendant if redevelopment occurs:

Site redevelopment will dictate the specifics of much of the planned Remedial Actions. As such, RAP development can begin when planning and design of the first site redevelopment phase is underway. Consequently, the Defendant will notify DEQ 90 days in advance of its expected RAP development start. A kick-off meeting with the Defendant and DEQ will be conducted.

The Defendant will submit for DEQ review a draft RAP for the Property following a schedule developed at the kick-off meeting. Within 30 days of receipt of DEQ's written comments, if any, on the draft RAP, or such longer time as DEQ may allow, Defendant will submit to DEQ for approval a final RAP addressing DEQ's comments.

#### V. MONITORING AND MAINTENANCE

A primary component of the Remedial Action and associated environmental benefit is the potential reuse of screened waste as a feedstock to produce Processed Engineered Fill for placement in other areas of the Property and the adjacent pumice mine owned by the Defendant. To produce Processed Engineered Fill, screened waste will be blended with on-site soil to reach a fractional organic content that achieves geotechnical characteristics necessary for use as fill.<sup>2</sup> It is anticipated that DEQ will approve this as a case-specific beneficial use. The waste used in this Processed Engineered Fill will

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<sup>2</sup> 4% is the current expectation, the specific value range will be established during design and may vary.

therefore not be a regulated solid waste and this Processed Engineered Fill can therefore be placed in locations on the Property and in the adjacent pumice mine, as specified in the design reports (Section VI.C below).

Human health and environmental protection will be ensured in areas containing Processed Engineered Fill through conformance with the Processed Subsurface Soil Management Plan and the Monitoring and Maintenance Plan. Consequently, access restrictions outlined in the Property EES will not apply to these areas.

Developed (e.g., open spaces, ballfields) and undeveloped areas containing capped, unprocessed wastes will remain under the Solid Waste Permit, and access restrictions outlined in the Property EES will apply to the extent required by DEQ. The Defendant may request that the access restrictions outlined in the permit and/or EES not apply to such areas by providing DEQ the basis and rationale for the request. Otherwise applicable access restrictions may terminate only with DEQ approval.

Monitoring and maintenance activities at the Property will include:

Monitoring and maintenance to be conducted by Defendant upon acquisition:

1. Implement Pre-Development Access and Exposure Control Plan; and
2. Adhere to applicable portions of the Solid Waste Permit.

Monitoring and maintenance to be conducted by Defendant if redevelopment occurs:

1. Implement monitoring and maintenance elements of RAP; and
2. Adhere to applicable portions of the Solid Waste Permit.

Monitoring and maintenance to be conducted following redevelopment:

1. Implement Processed Subsurface Soil Management Plan and Monitoring and Maintenance Plan; and
2. Adhere to applicable portions of the Solid Waste Permit.

## VI. REMEDIAL ACTION DELIVERABLES

The remedial action deliverables specified in this section of the SOW will implement and conform to the approaches described in Exhibit C, Attachments C.1, C.2, and C.3 of this SOW, which have been approved by DEQ, and which may be adjusted as necessary by Defendant to reflect further design refinements.

## A. REMEDIAL ACTION WORK PLAN

The RAP will be developed in conformance with this SOW; and as appropriate, EPA's "Superfund Remedial Design Remedial Action Guidance," OSWER Directive 9355.0-4A, 1986; "Guidance on Expediting Remedial Design and Remedial Action," OSWER Directive 9355.5-02, 1990; and additional guidance documents as directed by DEQ.

The RAP will provide specific approaches and methods for waste processing and management, capping, storm water controls, and institutional control activities, and may include descriptions of the following, as deemed warranted by DEQ and Defendant:

1. Remedial action activities.
2. Schedule for submittal of remedial action deliverables and implementation of all proposed remedial action activities.
3. Project organization and identification of reporting relationships, lines of communication, and authorities.
4. Federal, state, or local laws, regulations applicable to the remedial action.
5. Permit requirements.
6. Bench scale or pilot scale studies, treatability studies, or unit process evaluations.
7. Additional sampling, geotechnical, or other site evaluations or engineering studies required to supplement available technical data.
8. Property, utility, right-of-way, topographic, or other site surveys required.
9. Short-term (on-site) management, and off-site disposal of wastes deemed inappropriate for placement elsewhere on the Property.
10. Institutional controls to be imposed during and/or after the remedial activities.
11. Construction methods and equipment to be used.
12. Procedures for documentation and validation of remedial action activities.

## B. HEALTH AND SAFETY PLAN

A Site Health and Safety Plan will be prepared to address all field activities conducted during the remedial design and remedial action phases and will include construction hazards, chemical exposure hazards, on-site worker safety, and measurement of and protection from potential off-site impacts.

The Site Health and Safety Plan will be developed in accordance with "Standard Operating Safety Guides," EPA, Office of Emergency and Remedial Response, 1988; and applicable standards promulgated by the U.S. Occupational Safety and Health Administration including Hazardous Waste Operations and Emergency Response, 29 CFR 1910.120; General Industry Standards, 29 CFR 1910; and the Construction Industry Standards, 29 CFR 1926.

The Site Health and Safety Plan will be submitted prior to any design-related fieldwork. The Site Health and Safety Plan submitted at this juncture need only address those activities conducted during the remedial design phase. A revised Site Health and Safety Plan will be issued with the Pre-Final Design (90%) addressing all remedial action activities.

### C. DESIGN REPORTS (Plans and Specifications)

Development of the Property and adjacent properties owned by the Defendant is expected to occur in phases. The documents listed below may be generated for each redevelopment phase if determined to be warranted by DEQ and the Defendant. These documents will be integrated with the larger Property redevelopment design, as appropriate. The specific elements listed below will be produced by the Defendant, as deemed necessary by DEQ and the Defendant; depending on redevelopment specifics; not all items listed below are necessarily warranted.

Construction plans and specifications and related design information, to accomplish the Remedial Action described in this SOW, will be submitted to DEQ for review and approval. These documents will satisfy the requirement for the Closure Plan required in the Solid Waste Permit (Condition 7.8). Design reports may be submitted as shown below, as determined to be necessary by DEQ and the Defendant:

#### 1. INITIAL DESIGN (30% complete)

The Initial Design Report will contain a compilation of major design items reflecting an approximate 30% completion. The report will contain the following as applicable:

- a. Design criteria/standards.
- b. Design/analyses calculations.
- c. Drawing index and final drawings.
- d. Specifications.
- e. Construction schedule.
- f. Detailed description of remedial action activities to be performed.
- g. Estimates of waste and soil volumes to be excavated.
- h. Detailed site layout drawings, delineating the areas to be excavated.
- i. Waste processing and blending methods.
- j. Specifications for Processed Engineered Fill placement and compaction.
- k. Description of permitting requirements.
- l. Identification and description of dust control and noise abatement measures to minimize and monitor environmental impacts of construction or installation activities.

- m. Identification and description of any site security measures necessary to minimize exposure to hazardous situations during remedial action.
- n. Summaries of treatability studies, bench scale or pilot scale studies, or other engineering studies conducted during the design phase, including results and conclusions.

Design work products associated with waste handling will include, but not be limited to, the following:

- a. Waste screening/separation methods
  - b. Pyrolysis waste processing methods
  - c. Specifications for the Processed Engineered Fill, including:
    - i. Geotechnical specifications; and
    - ii. Maximum organic content, below which methane generation and pyrolysis cannot occur, with an appropriate factor of safety applied
  - d. Waste sampling protocols and waste management decision metrics
2. PREFINAL DESIGN (90% complete)

The Pre-Final Design Report will incorporate revisions resulting from DEQ's review and comments on the Initial Design Report. The Pre-Final Design Report will include the elements described above, plus draft bid packages for construction contractors, as necessary.

3. FINAL DESIGN (100% complete)

The Final Design Report will incorporate revisions resulting from DEQ's review and comments on the Pre-Final Design Report.

#### D. CONSTRUCTION QUALITY ASSURANCE PLAN

The purpose of the Construction Quality Assurance and Control (CQA/QC) Plan is to ensure, with a reasonable degree of certainty, that the project meets or exceeds all design criteria, plans, and specifications. The CQA/QC Plan will address the following, as determined to be necessary by the Defendant and DEQ:

- 1. Construction quality assurance objectives, specific quality control requirements, and performance standards to be followed during implementation of remedial actions.
- 2. Identification of responsibilities and authorities of all organizations and key personnel involved in the design and construction of the site remediation.
- 3. Description of the construction quality assurance personnel qualifications.
- 4. Description of inspection activities, observation and tests to be conducted, schedules, and scope.

5. Procedures for scheduling and managing submittals, including those of subcontractors, off-site fabricators, suppliers, and purchasing agents.
6. Sampling strategies to include sampling types, locations, size, frequency of testing, acceptance and rejection criteria, and plans for implementing corrective measures.
7. Documentation of inspections and sampling events.
8. Proposed inspection and sampling report submittal schedule.

#### E. MONITORING AND MAINTENANCE PLAN

The Defendant will prepare a Monitoring and Maintenance Plan for use following redevelopment. It will be implemented in conjunction with the Processed Subsurface Soil Management Plan (see below) and the Solid Waste Permit. As to each area that has not been cleared of solid waste during redevelopment (i.e., a “Retained Area”), the monitoring and maintenance plan will satisfy the Solid Waste permit requirements and serve as the Retained Area Post-Closure Plan (see Solid Waste Permit Condition 7.11) and will address the environmental monitoring requirements specified in the Solid Waste Permit (see Solid Waste Permit Condition 9.2).

Redevelopment at the Property will incorporate buildings, roads, sidewalks, landscaped areas, active open space, and other amenities included in the Property’s redevelopment. These features will serve as caps. Normal asset maintenance activities are expected to suffice in keeping these features functioning as environmental caps. For these areas, the Monitoring and Maintenance Plan will describe steps necessary to 1) document cap conditions, and 2) list major maintenance activities. Methane monitoring in specific structures or areas will be covered in this plan if found to be warranted.

Controls to be established in the plan include:

1. Access restrictions, as required;
2. Cap maintenance, as required;
3. Vapor monitoring, including sampling and analysis and quality assurance/quality control; and
4. Recordkeeping.

#### F. PROCESSED SUBSURFACE SOIL MANAGEMENT PLAN

The plan will apply to areas where 1) solid waste has been removed and residual contaminants may remain, or 2) Processed Engineered Fill has been placed on the Property and the adjacent OSU pumice mine. It will establish protocols to be followed when residually-contaminated soil and Processed Engineered Fill are exposed (e.g. utility repairs, future redevelopment alterations). The plan will contain:

1. Constituent information; and



2. Excavation, staging, and backfilling procedures designed to protect workers and the public, and to avoid releases.

At the Defendant's discretion, this plan may be incorporated into the Monitoring and Maintenance Plan.

Those areas from which solid waste has been removed will be excluded from the Solid Waste Permit (i.e., "Excluded Areas") (see Solid Waste Permit Condition 7.10) and managed under post-Remedial Action procedures as defined in the Processed Subsurface Soil Management Plan. The Processed Subsurface Soil Management Plan monitoring requirements are not and will not become Solid Waste Permit requirements.

Defendant shall have the option to determine if the Processed Engineered Fill meets DEQ's clean fill standards. If the Processed Engineered Fill meets DEQ's clean fill standards, then the Management Plan requirements shall not apply.

#### G. PROGRESS REPORTS AND MEETINGS

Progress reports will be issued by the Defendant quarterly during active pre-design/design periods, and monthly when construction associated with redevelopment activities at the Property is in progress. Except to the extent required of Defendant by the Solid Waste Permit, progress reports are not required in periods in which no Property redevelopment design or construction occurs. Frequency of reports can vary with DEQ approval. Progress reports will summarize:

1. Work conducted over the reporting period;
2. Issues identified and means of resolution; and
3. Expected work activities during next reporting period.

The Defendant will provide to DEQ a schedule of routine meetings, and when possible a one week advance notice of construction meetings.

#### H. PROJECT COMPLETION REPORTS

At the completion of each Property redevelopment construction phase that includes active remedial actions conducted pursuant to the final design report for that construction phase, Defendant will prepare a Project Completion Report. The report for each area will satisfy the requirement for a Closure Certification Report for that area pursuant to the Solid Waste Permit (see Solid Waste Permit Condition 7.9). It will include, as appropriate:

1. Results of the final inspection, including a brief description of any problems discovered during the final inspection and the resolution of those problems, as necessary.

2. A detailed description of all work conducted and certification by an Oregon-Registered Professional Engineer that the work was performed in accordance with all approved plans and specifications.
3. Explanation of any modifications to the approved plans and specifications and why these modifications were necessary.
4. Final, as-built drawings.
5. Copy of final permits, if any.
6. Sampling and testing results.