

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF DESCHUTES

STATE OF OREGON, ex rel.
RICHARD WHITMAN, DIRECTOR
DEPARTMENT OF ENVIRONMENTAL
QUALITY

Plaintiff,

v.

Oregon State University,

Defendant.

Case No. _____

CONSENT JUDGMENT
General Judgment

ORS 20.140 - State fees deferred at filing

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1 1. Purpose

2 This Consent Judgment is filed simultaneously with and for the purpose of resolving the
3 underlying complaint by the State of Oregon. Plaintiff State of Oregon *ex rel.* the Director of the
4 Department of Environmental Quality (“DEQ”) and Defendant Oregon State University
5 (“Defendant”) (collectively, the “Parties”) desire to resolve this action without litigation and
6 have agreed to entry of the Consent Judgment without admission or adjudication of any issue of
7 fact or law. The mutual objectives of the Parties are: (a) to protect public health, safety, and
8 welfare and the environment in accordance with ORS 465.200 through 465.410, and regulations
9 promulgated thereto; (b) to facilitate productive reuse of property; and (c) to provide Defendant
10 with protection from potential liabilities in accordance with applicable law.

11 2. Stipulations and Findings

12 A. Defendant stipulates:

- 13 (1) To entry of this Consent Judgment;
14 (2) To perform and comply with all provisions of this Consent Judgment; and
15 (3) To not litigate, in any proceeding brought by DEQ to enforce this Consent
16 Judgment or to assess penalties for noncompliance with this Consent Judgment, any issue other
17 than Defendant’s compliance with this Consent Judgment.

18 B. DEQ and Defendant stipulate:

- 19 (1) For the purposes of this Consent Judgment, the “Facility,” as defined in
20 ORS 465.200(13), means: (a) the Property, as defined herein; and (b) the full extent of existing
21 known or unknown contamination by hazardous substances of any media on, above, or below the
22 Property, or that has migrated, might have migrated, or hereafter migrates to anywhere from the
23 Property. The term “hazardous substances,” as used in this Consent Judgment, has the meaning
24 provided in ORS 465.200(16).

- 25 (2) For the purposes of this Consent Judgment, “Matters Addressed” means all
26 investigation, removal, and remedial actions taken or to be taken and all remedial action costs

1 incurred or to be incurred at or in connection with a release of hazardous substances, oil or
2 hazardous material at the Facility.

3 (3) For the purposes of this Consent Judgment, “Existing Hazardous Substance
4 Releases” means: (a) any release of hazardous substances, as defined in ORS 465.200, at the
5 Facility existing as of the date of Defendant’s acquisition of ownership or operation of the
6 Property; (b) any spill or release of oil or hazardous material, as defined in ORS 466.605, at the
7 Facility existing as of the date of Defendant’s acquisition of ownership or operation of the
8 Property; and (c) the entry of oil into the waters of the state, as defined in ORS 468B.300, from
9 the Facility before the date of Defendant’s acquisition of ownership or operation of the Property.

10 (4) The property proposed for acquisition by Defendant, currently owned by
11 Deschutes County, is an approximately 72-acre site located at 19755 SW Simpson Road, Bend,
12 Oregon 97702 in Bend, Deschutes County, Oregon, within Tax Lots 1812060000110 and
13 181206A000719 (also referred to as “Area 1”); parcel 1812060000111 (also referred to as “Area
14 2”); and 1812060000100 (also referred to as “Area 3”) (the “Property”).

15 (5) The location of the Property is illustrated generally in the Vicinity Map,
16 Exhibit A to this Consent Judgment. The legal description of the Property is set forth in Exhibit
17 B to this Consent Judgment. All exhibits are incorporated into this Consent Judgment by this
18 reference.

19 (6) The Property contains an unlined demolition and industrial waste landfill that
20 was permitted in 1972 and stopped accepting waste in 1993/1994. Periodic yard and grass debris
21 drop-off services are provided. The Property is used as a staging area for mulching and transport
22 off-site. No waste is retained at the Property from these activities. The inactive landfill on the
23 property is sometimes referred to as the Bend Demolition Landfill and is referred to herein as the
24 “Landfill.”

25 (7) Deschutes County maintains the Landfill under Solid Waste Disposal Closure
26 Permit #215 (the “Solid Waste Permit”). Coincident with Defendant’s acquisition of the

1 Property, the Solid Waste Permit will be modified to identify Defendant as the permittee, owner
2 and operator, designate Deschutes County as the co-operator, and allocate responsibilities under
3 the Solid Waste Permit between Defendant and Deschutes County.

4 (8) All waste-filled portions of the Landfill have been covered. The cover
5 material varies in depth from approximately 6 inches to 2 feet or more. Only certain types of
6 waste were specifically allowed by permit to be disposed at the Landfill. Typical wastes noted to
7 have been disposed at the Landfill include debris from lumber mills in the area (e.g., sawdust,
8 mill ends), a cabinet shop, a window shop, a mobile home manufacturer, and items such as tires
9 and appliances. Various types of waste were not permitted to be disposed at the landfill,
10 including but not limited to: municipal solid waste, hazardous waste, polychlorinated biphenyl-
11 containing materials regulated under the federal Toxic Substances Control Act and implementing
12 regulations, food waste, dead animals, sewage sludge, septic tank pumpings, liquids (e.g., oils,
13 chemicals), hospital wastes, infectious waste, explosives, contaminated soils, friable asbestos,
14 pesticide containers, discarded or abandoned vehicles, and lead-acid batteries. The Property's
15 owner, Deschutes County, has indicated that it is possible that some forms of unpermitted waste
16 were disposed at the Landfill without its knowledge or consent.

17 (9) Three groundwater monitoring wells are in place at the Property located near
18 the northeast corner of Area 3, the northeast corner of Area 1 and the southern boundary of
19 Area 3, from 265 feet to 315 feet below ground surface. A methane gas monitoring network
20 includes three automated probes along the eastern boundary of Area 1, one manual probe along
21 the northern boundary of Area 1, and two manual probes near the boundary of Area 3 and
22 Simpson Avenue.

23 (10) Recent investigations of the Property provide the following information
24 regarding the presence of hazardous substances there:

25 1. Releases of hazardous substances from the landfill to groundwater have
26 not been identified in samples collected from the three groundwater monitoring wells at the

1 Property. No detections of combustible gases or methane were observed in any of the
2 monitoring probes or structures during 2016 required monitoring. Although the landfill is
3 unlined and contains constituents of concern, the threat of release from the Property to
4 groundwater is not significant as the high groundwater mark is well below (approximately
5 150 to 200 feet below) the waste material.

6 2. Pyrolysis, or a low heat combustion of organic material, has been
7 occurring at the Landfill, in Area 1. The active pyrolysis area is estimated to be a 75 foot-wide
8 strip, 1,390 feet long on the far eastern edge of Area 1.

9 3. Samples collected in 2008 from waste material at the Landfill were found
10 to have concentrations of petroleum hydrocarbons, benzene, trichloroethylene, benzo(a)pyrene,
11 arsenic, and lead above the DEQ risk-based concentrations (“RBCs”) for residential receptors.
12 Samples collected from soil underlying the waste material were sampled in 2008 and two
13 samples had results for arsenic above the DEQ RBCs for residential receptors. Overall,
14 however, the waste constituents do not appear to have impacted the underlying soils. Cover soils
15 were sampled in 2016 and were shown to be below DEQ RBCs for residential receptors.

16 4. Subsurface soil gas samples have been obtained from the Landfill
17 in 2016. Methane was detected in three of the six subsurface soil gas samples above the DEQ
18 guidance concentration for methane mitigation for structures and confined-space entry of 1.25%.
19 These subsurface soil gas samples were also tested for 51 volatile compounds, the results of
20 which were compared to DEQ’s RBCs for urban residential vapor intrusion into buildings.
21 Of the 51 compounds tested, ethylbenzene and naphthalene were observed to exceed DEQ’s
22 RBCs. Potential asbestos-containing materials (“ACM”) were visually observed in refuse at the
23 Property during past investigations.

24 (11) The contaminants discovered in the investigations of the Property summarized
25 above are “hazardous substances” within the meaning of ORS 465.200(16). The presence of
26

1 hazardous substances at the Property constitutes a “release” of hazardous substances within the
2 meaning of ORS 465.200(22), and makes the Property a “facility” within the meaning of
3 ORS 465.200(13).

4 (12) Defendant is acquiring the Property to support its plans to expand the Oregon
5 State University-Cascades Campus. Redevelopment of the Property would thus be for ongoing
6 and productive use consistent with the Property’s current and planned zoning. Defendant intends
7 to complete Remedial Action at the Property including, among other things implementing site
8 restrictions, in the form of institutional and engineering controls, as provided in Subsections 3.A
9 and 3.D to ensure protection of human health, safety and the environment when Defendant
10 acquires the Property, during subsequent redevelopment activities at the Property, if any, and
11 once any redevelopment activities there are complete.

12 (13) Pursuant to ORS 465.255(1)(b), Defendant could become liable to DEQ and
13 other persons for releases of hazardous substances at or from the Property by becoming the
14 owner or operator of the Property with actual or constructive knowledge of the releases.
15 On June 29, 2017, Defendant applied to DEQ for a “prospective purchaser” agreement under
16 ORS 465.327 and agreed to reimburse DEQ’s costs of technical review and preparation. This
17 Consent Judgment is intended to protect Defendant from potential liability for pre-acquisition
18 releases of hazardous substances at or from the Property, in return for Defendant undertaking
19 certain obligations, as described in this Consent Judgment. In determining to propose this
20 Consent Judgment, DEQ considered reasonably anticipated future land uses at the Property and
21 surrounding properties and consulted with the City of Bend and Deschutes County. This
22 Consent Judgment is entered into pursuant to ORS 465.325 and ORS 465.327.

23 (14) On February 1, 2018, DEQ published notice of this proposed Consent
24 Judgment and provided opportunity for public comment in accordance with ORS 465.320(1) and
25 465.325(4)(d). The comment period ended on March 5, 2018. DEQ did not receive any public
26 comments. On March 6, 2018, DEQ finalized its staff memorandum in support of this PPA (the

1 "DEQ Staff Report"), in which it selected the remedial action for the Property as prescribed in
2 this PPA.

3 (15) Consistent with ORS 465.327(1):

4 (a) Defendant is a "person" within the meaning of ORS 465.200(21);

5 (b) Defendant is not liable under ORS 465.255, 466.640, or 468B.310 for
6 the Existing Hazardous Substance Releases;

7 (c) Removal or remedial action is necessary at the Property to protect
8 human health or the environment;

9 (d) Defendant's ownership and operation of the Property will not cause,
10 contribute to, or exacerbate existing contamination, increase health risks, or interfere with
11 remedial measures at the Property; and

12 (e) A substantial public benefit will result from this Consent Judgment.

13 (16) Based on the administrative record, the Director of DEQ determines that:

14 (a) The release from liability set forth in Subsection 5.B satisfies the criteria
15 set forth in ORS 465.327(1);

16 (b) The covenant not to sue set forth in Subsection 5.D satisfies the criteria
17 set forth in ORS 465.325(7)(a) and (d); and

18 (c) This Consent Judgment and Defendant's commitments under this
19 Consent Judgment will expedite removal or remedial action, minimize litigation, be consistent
20 with rules adopted under ORS 465.400, and be in the public interest.

21 3. Work to Be Performed by Defendant

22 A. Remedial Design and Remedial Action

23 Upon acquiring the Property, Defendant shall perform certain remedial action (the
24 "Remedial Action") at the Property in accordance with the Scope of Work ("SOW") attached to
25 and incorporated by reference into this Consent Judgment as Exhibit C. Differing Remedial
26

1 Actions are required when Defendant acquires the Property, during Defendant's subsequent
2 redevelopment activities at the Property, if any, and after redevelopment activities are complete.

3 The SOW does not require Defendant to redevelop any portion of the Property.

4 Whether or not redevelopment occurs is a decision left to Defendant, based upon its needs and
5 available funding. If Defendant proceeds with redevelopment activities at the Property, those
6 activities are expected to occur in multiple phases, with each phase covering a portion of the
7 Property. The SOW will ensure that proper protocols are in place for managing waste materials
8 encountered during and coincident with those activities. Large-scale off-site removal of waste
9 outside of the needs triggered by Defendant's redevelopment of the Property is not intended, nor
10 required by the SOW.

11 The Remedial Action includes:

12 (1) Implementing site restrictions, in the form of institutional and engineering
13 controls, as further provided in Subsection 3.D; and

14 (2) Completing further remedial action at the Property consistent with the
15 attached SOW, including:

16 1. Upon acquisition, implementing a DEQ-approved Pre-Development
17 Access and Exposure Controls detailed in the SOW, and adhering to applicable portions of the
18 Solid Waste Permit;

19 2. If redevelopment occurs, implementing the DEQ-approved Remedial
20 Action Work Plan ("RAP") and supporting plans and documentation, as detailed in the SOW,
21 and adhering to applicable portions of the Solid Waste Permit; and

22 3. After redevelopment occurs, implementing a DEQ-approved Subsurface
23 Soil Management Plan and Monitoring and Maintenance Plan, and adhering to applicable
24 portions of the Solid Waste Permit.

1 B. Modification of SOW or Related Work Plans

2 (1) If DEQ determines that modification to the work specified in the SOW and/or
3 in plans developed pursuant to the SOW is necessary in order to implement or maintain the
4 effectiveness of the remedy set forth in the DEQ Staff Report, DEQ may require that such
5 modification be incorporated in the SOW and/or such work plans, subject to dispute resolution
6 under Subsection 4.M., provided any such modification to the work may be required pursuant to
7 this paragraph only to the extent that the modification is consistent with the scope of the remedy
8 selected in the DEQ Staff Report.

9 (2) Subject to dispute resolution under Subsection 4.M., Defendant will modify
10 the SOW and/or work plans as required by DEQ and implement any work required by the
11 modifications. Before invoking dispute resolution under Subsection 4.M., Defendant and DEQ
12 will make a good-faith effort to resolve any dispute regarding DEQ-requested modifications by
13 informal discussions for no more than 30 days following notice from DEQ of a requested
14 modification.

15 C. Site Restrictions and Periodic Reviews

16 (1) Within 30 days of entry of this Consent Judgment, DEQ will execute and
17 deliver to Defendant the Easement and Equitable Servitudes ("Property EES") attached to this
18 Consent Judgment as Exhibit D. Within 30 days of receipt of the Property EES executed by
19 DEQ or Defendant's acquisition of the Property, whichever comes later, Defendant will execute
20 the Property EES and record it with the County Clerk, Deschutes County. The Property EES
21 incorporates engineering and institutional controls to implement the SOW as equitable
22 servitudes. Defendant will provide DEQ a file-stamped copy of the Property EES within five
23 working days of recording.

24 (2) Property subject to the Property EES may be freely alienated at any time after
25 recording, provided the deed or other instrument of conveyance refers to or incorporates the
26 Property EES.

1 (3) Any deed, title, or other instrument of conveyance regarding the Property
2 must contain a notice that the Property is the subject of this Consent Judgment. Defendant, in
3 any such deed or conveyance, must also reserve such access (by easement, right-of-way, or
4 otherwise) as might be necessary to carry out Defendant's obligations under this Consent
5 Judgment.

6 (4) At least once every five years, DEQ will review the remedy to ensure that the
7 Property remains protective of public health, safety, and welfare and the environment. Periodic
8 reviews will include evaluation of monitoring data, progress reports, inspection and maintenance
9 reports, land and water uses, compliance with institutional controls, and any other relevant
10 information.

11 4. General Provisions

12 A. Project Managers

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

15 DEQ Project Manager

Defendant Project Manager

16 Bob Schwarz
17 Department of Environmental Quality
18 Eastern Region
19 Columbia Gorge Community College
20 400 E. Scenic Drive, Building 2
The Dalles, OR 97058
Phone: (541) 298-7255 x230
Email: SCHWARZ.Bob@deq.state.or.us

Kelly Sparks
Oregon State University-Cascades
Dining/Academic Building
1500 SW Chandler Avenue
Bend, OR 97702
Phone: (541) 322-3193
Email: kelly.sparks@osucascades.edu

21
22 (2) The Project Managers or their respective designees must be available and
23 have the authority to make day-to-day decisions necessary to complete the work described under
24 Section 3.

1 B. Supervising Contractor

2 (1) All aspects of any Remedial Action to be performed by Defendant associated
3 with redevelopment activities must be performed under the direction and supervision of a
4 qualified employee or contractor having experience in hazardous substance remediation and
5 knowledge of applicable state and federal laws, regulations, and guidance.

6 (2) Before initiation of any Remedial Action associated with redevelopment
7 activities at the Property, Defendant will notify DEQ in writing of the name, title, and
8 qualifications of any proposed supervising contractor. DEQ may for good cause disapprove the
9 proposed contractor. In the event of such disapproval, DEQ will notify Defendant in writing of
10 the reasons for its disapproval within 14 days of receipt of the initial notice from Defendant.
11 Defendant, within 14 days of receiving DEQ's notice of disapproval, will notify DEQ of the
12 name, title, and qualifications of an alternate supervising contractor, subject to DEQ's right to
13 disapprove under the terms and schedule specified above.

14 (3) If, during any Remedial Actions associated with redevelopment activities at
15 the Property, Defendant proposes to change its supervising contractor, Defendant will notify
16 DEQ in accordance with the provisions of the preceding paragraph. DEQ may disapprove such
17 contractor, under the terms and schedule specified in the preceding paragraph.

18 C. DEQ Approvals

19 (1) Where DEQ review and approval is required for any plan or activity under
20 this Consent Judgment, Defendant may not proceed to implement the plan or activity prior to
21 DEQ approval. Any DEQ delay in granting or denying approval correspondingly extends the
22 time for completion by Defendant. Prior approval is not required in emergencies, provided
23 Defendant notifies DEQ immediately after the emergency and evaluates the impact of its actions.

24 (2) After review of any plan, report, or other item required to be submitted for
25 DEQ approval under this Consent Judgment, DEQ will: (a) approve the submission in whole or
26

1 in part; or (b) disapprove the submission in whole or in part, and notify Defendant of its
2 deficiencies and/or request modifications to cure the deficiencies.

3 (3) DEQ approvals, rejections, or identification of deficiencies will be given in
4 writing as soon as practicable, and will state DEQ's reasons with reasonable specificity.

5 (4) In the event of DEQ disapproval or request for modification of a submission,
6 Defendant will, within 30 days of receipt of the DEQ notice or such longer time as may be
7 specified in the notice, either correct the deficiencies and resubmit the revised report or other
8 item for approval, or invoke dispute resolution under Subsection 4.M.

9 (5) In the event of two deficient submittals of the same deliverable that are
10 deficient for the same reasons due to Defendant's failure in good faith to cure the original
11 deficiency, DEQ may modify the submission to cure the deficiency.

12 (6) In the event of approval or modification of a submission by DEQ, Defendant
13 will implement the action(s) required by the plan, report, or other item, as so approved or
14 modified, or invoke dispute resolution under Subsection 4.M.

15 D. Access to Property

16 Defendant will allow DEQ to enter all portions of the Property owned by or
17 under the control of Defendant at all reasonable times and subject to Defendant's reasonable
18 privacy and security requirements for the purpose of overseeing Defendant's performance under
19 this Consent Judgment, including but not limited to: inspecting records relating to work under
20 this Consent Judgment; conducting such tests and taking such samples as DEQ deems necessary,
21 verifying data submitted to DEQ by Defendant; conducting periodic review; and using camera,
22 sound recording, or other recording equipment, subject to Defendant's reasonable requests for
23 privacy and Subsection 4.E.(3). Notwithstanding the above, under this Consent Judgment,
24 Defendant does not provide and DEQ agrees not to seek access to any buildings that Defendant
25 constructs on the Property.

26

1 E. Records

2 (1) In addition to those reports and documents specifically required under this
3 Consent Judgment, Defendant will provide to DEQ, within 10 days of Defendant's receipt of
4 DEQ's written request, copies of any Quality Assurance/Quality Control (QA/QC) memoranda
5 and audits, raw data, final plans, task memoranda, field notes (so long as such documents are not
6 made by or at the direction of Defendant's attorney), and laboratory analytical reports relating to
7 the work to be performed under this Consent Judgment.

8 (2) Defendant will preserve all records and documents in possession or control of
9 Defendant or its employees, agents, or contractors that relate in any way to activities under this
10 Consent Judgment for at least 5 years after certification of completion under Section 9. Upon
11 DEQ's request, Defendant will provide to DEQ, or make available for copying by DEQ, copies
12 of non-privileged records. For a period of 5 years after certification of completion, Defendant
13 will provide DEQ 60 days' notice before destruction or other disposal of such records or
14 documents. After 5 years after certification of completion, Defendant has no further obligation
15 to notify DEQ before destruction or other disposal of such records or documents.

16 (3) Subject to Paragraph 4.E.(4), Defendant may assert a claim of confidentiality
17 under the Oregon Public Records Law regarding any documents or records submitted to or
18 copied by DEQ or produced by DEQ, such as photographs or recorded or videotaped material
19 taken by DEQ, pursuant to this Consent Judgment. DEQ will treat documents or records for
20 which a claim of confidentiality has been made in accordance with ORS 192.410 through
21 192.505. DEQ agrees to provide any documents or records that DEQ produces pursuant to this
22 Consent Judgment and that may be made available to the public to Defendant for review, so that
23 Defendant has an advance opportunity to make a claim of confidentiality. If Defendant does not
24 make a claim of confidentiality at the time the documents or records are submitted to or copied
25 by DEQ, or within 10 working days of when they are first made available to Defendant by DEQ,
26 the documents or records may be made available to the public without notice to Defendant.

1 (4) Defendant will identify to DEQ (by addressor-addressee, date, general subject
2 matter, and distribution) any document, record, or item withheld from DEQ on the basis of
3 attorney-client or attorney work product privilege, except to the extent that such identifying
4 information is itself subject to a privilege. Attorney-client or work product privilege may not be
5 asserted with respect to any records required to be submitted under Paragraph 4.E.(1), except as
6 to those documents made by or at the direction of Defendant's attorney as described therein.
7 DEQ reserves its rights under law to obtain documents DEQ asserts are improperly withheld by
8 Defendant.

9 F. Notice and Samples

10 (1) Defendant will provide DEQ with notice of excavation, drilling, sampling, or
11 other fieldwork to be conducted under this Consent Judgment as provided in the plans developed
12 and approved by DEQ pursuant to the SOW. Upon DEQ's verbal request, Defendant will make
13 every reasonable effort to provide a split or duplicate sample to DEQ or allow DEQ to take a
14 split or duplicate of any sample taken by Defendant while performing work conducted under this
15 Consent Judgment. DEQ will provide Defendant with copies of all analytical data from such
16 samples as soon as practicable.

17 (2) If DEQ conducts any sampling or analysis under this Consent Judgment, DEQ
18 will, except in an emergency, make every reasonable effort to notify Defendant of any
19 excavation, drilling, sampling, or other fieldwork at least five working days before such activity,
20 but in no event less than 24 hours before such activity. Upon Defendant's verbal request, DEQ
21 will make every reasonable effort to provide a split or duplicate sample to Defendant or allow
22 Defendant to take a split or duplicate of any sample taken by DEQ, and will provide Defendant
23 with copies of all analytical data for such samples. Defendant will provide DEQ with copies of
24 all analytical data from such samples as soon as practicable.

25

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1 G. Quality Assurance

2 (1) For the Remedial Action, Defendant will conduct all sampling, sample
3 transport, and sample analysis in accordance with the QA/QC procedures to the extent specified
4 in the DEQ-approved plans developed pursuant to the SOW. All plans prepared and work
5 conducted under this Consent Judgment must be consistent with DEQ's *Environmental Cleanup*
6 *Quality Assurance Policy* (DEQ10-LQ-0063-QAG). Defendant will make every reasonable
7 effort to ensure that each laboratory used by Defendant for analysis performs such analyses in
8 accordance with such provisions.

9 (2) If DEQ conducts sampling or analysis in connection with this Consent
10 Judgment, DEQ will conduct sampling, sample transport, and sample analysis in accordance
11 with the QA/QC provisions of the applicable work plan. Upon written request, DEQ will
12 provide Defendant with copies of DEQ's records regarding such sampling, transport, and
13 analysis.

14 H. Progress Reports

15 (1) If redevelopment activities at the Property occur, Defendant will prepare and
16 deliver to DEQ progress reports containing descriptions of the actions taken over a specific time
17 period and verifying the actions were completed. The content of the progress reports and their
18 submittal frequency will be specified in the RAP.

19 (2) Defendant will provide DEQ with 30 days advance notice of Defendant's
20 intent to commence each phase of redevelopment activities at the Property that would involve
21 excavation in excess of five cubic yards, excluding excavation associated with fence installation
22 or other site security or routine maintenance tasks.

23 I. Other Applicable Laws

24 (1) Subject to ORS 465.315(3), all activities under this Consent Judgment must
25 be performed in accordance with all applicable federal, state, and local laws.

1 (2) All activities under this Consent Judgment must be performed in accordance
2 with any applicable federal, state, and local laws related to archeological objects and sites and
3 their protection. If archeological objects or human remains are discovered during any
4 investigation, removal, or remedial activity at the Property, Defendant will, at a minimum:
5 (a) stop work immediately in the vicinity of the find; (b) provide any notifications required by
6 ORS 97.745 and ORS 358.920; (c) notify the DEQ Project Manager within 24 hours of the
7 discovery; and (d) use best efforts to ensure that Defendant and its employees, contractors,
8 counsel, and consultants keep the discovery confidential, including but not limited to refraining
9 from contacting the media or any third party or otherwise sharing information regarding the
10 discovery with any member of the public, except as required by applicable law. Any project
11 delay caused by the discovery of archeological objects or human remains is a Force Majeure
12 under Subsection 4.L.

13 J. Reimbursement of DEQ Costs

14 (1) DEQ will submit to Defendant a monthly invoice of costs on or after
15 March 2017 in connection with redevelopment and approval of this Consent Judgment and any
16 activities related to the oversight and periodic review of Defendant's implementation of this
17 Consent Judgment. Each invoice must include a summary of costs billed to date.

18 (2) DEQ oversight costs payable by Defendant include direct and indirect costs.
19 Direct costs include site-specific expenses, DEQ contractor costs, and DEQ legal costs actually
20 and reasonably incurred by DEQ under ORS 465.200 *et seq.* DEQ's direct cost summary must
21 include an Operations Division direct labor summary showing the persons charging time, the
22 number of hours, and the nature of work performed. Indirect costs include those general
23 management and support costs of DEQ and of the Operations Division allocable to DEQ
24 oversight under this Consent Judgment and not charged as direct, site-specific costs. Indirect
25 charges are based on actual costs and applied as a percentage of direct personnel services costs.
26 DEQ will maintain work logs, payroll records, receipts, and other documents to document work

1 performed and expenses incurred under this Consent Judgment and, upon request, will provide
2 copies of such records to Defendant.

3 (3) Within 75 working days of receipt of DEQ's invoice, Defendant will pay the
4 amount of costs billed by check payable to the "State of Oregon, Hazardous Substance Remedial
5 Action Fund" or by an electronic payment method acceptable to DEQ, or invoke dispute
6 resolution under Subsection 4.M. After 75 working days, any unpaid amounts that are not the
7 subject of pending dispute resolution, or that have been determined owing after dispute
8 resolution, become a liquidated debt collectible under ORS 293.250 or other applicable law.

9 (4) Defendant will pay simple interest of 9% per annum on the unpaid balance of
10 any DEQ oversight costs, which interest will begin to accrue at the end of the 75-working-day
11 payment period, unless dispute resolution has been invoked. Interest on any amount disputed
12 under Subsection 4.M will begin to accrue 75 working days from final resolution of any such
13 dispute.

14 K. Financial Assurance

15 (1) Defendant will demonstrate its ability to perform the Remedial Action
16 required under this Consent Judgment corresponding to Defendant's redevelopment activities, if
17 any, at the Property using internal financial information (e.g., financial test) sufficient to
18 demonstrate that Defendant's net worth or available assets are sufficient to complete the
19 Remedial Action associated with Defendant's redevelopment activities. Defendant must submit
20 financial assurance documentation to DEQ covering each phase of redevelopment planned at the
21 Property within 30 days of Defendant's completion of the initial design report for that phase or,
22 if no initial design report is determined to be necessary by Defendant and DEQ, when the
23 amount of total estimated cost of the Remedial Action associated with that phase becomes
24 available.

25 (2) Within 30 days of receipt of Defendant's financial assurance documentation,
26 DEQ will determine its adequacy and communicate that determination to Defendant. If DEQ

1 determines that such assurance or information is inadequate, Defendant will submit additional
2 documentation or another form of assurance to DEQ for approval.

3 (3) During implementation of the Remedial Action corresponding to each phase
4 of redevelopment at the Property, DEQ may require Defendant to revise the cost estimates used
5 to demonstrate Defendant's financial assurance for that phase, and Defendant at its own election
6 may revise the cost estimate for the required work from time to time. If a revised cost estimate is
7 significantly higher or lower than the original cost estimate, DEQ may require Defendant to
8 submit revised financial assurance under the terms and schedule set forth in the preceding
9 paragraphs adequate to assure financial capability at the level of the revised cost estimate.

10 L. Force Majeure

11 (1) If any event occurs that is beyond Defendant's reasonable control and that
12 causes or might cause a delay or deviation in performance of the requirements of this Consent
13 Judgment despite Defendant's reasonable efforts ("Force Majeure"), Defendant will promptly,
14 upon learning of the event, notify DEQ's Project Manager verbally of the cause of the delay or
15 deviation, its anticipated duration, the measures that have been or will be taken to prevent or
16 minimize the delay or deviation, and the timetable by which Defendant proposes to carry out
17 such measures. Defendant will confirm in writing this information within five working days of
18 the verbal notification. Failure to comply with these notice requirements precludes Defendant
19 from asserting Force Majeure for the event and for any additional delay caused by the event.

20 (2) If Defendant demonstrates to DEQ's satisfaction that the delay or deviation
21 has been or will be caused by Force Majeure, DEQ will extend times for performance of related
22 activities under this Consent Judgment as appropriate. Circumstances or events constituting
23 Force Majeure might include but not be limited to acts of God, unforeseen strikes or work
24 stoppages, unanticipated site conditions, fire, explosion, riot, sabotage, war, and delays in
25 receiving a governmental approval or permit. Normal inclement weather, increased cost of
26

1 performance, or changed business or economic circumstances may not be considered Force
2 Majeure.

3 M. Dispute Resolution

4 (1) If Defendant disagrees with DEQ regarding any matter relating to this
5 Consent Judgment, Defendant will promptly notify DEQ in writing of its objection. DEQ and
6 Defendant then will make a good-faith effort to resolve the disagreement within 14 days of
7 Defendant's written objection. At the end of the 14-day period, DEQ will provide Defendant
8 with a written statement of its position from DEQ's Eastern Region Cleanup Manager. If
9 Defendant still disagrees with DEQ's position, then Defendant, within 14 days of receipt of
10 DEQ's position, will provide Defendant's position and rationale in writing to DEQ's Eastern
11 Region Administrator. The Eastern Region Administrator may discuss the disputed matter with
12 Defendant and, in any event, will provide Defendant with DEQ's final position in writing as
13 soon as practicable after receipt of Defendant's written position.

14 (2) If Defendant refuses or fails to follow DEQ's final position pursuant to
15 Paragraph 4.M.(1), and DEQ seeks to enforce its final position, the Parties, subject to Subsection
16 2.A., Section 5, and Section 7, are entitled to such rights, remedies, and defenses as are provided
17 by applicable law.

18 (3) During the pendency of any dispute resolution under this subsection, the time
19 for completion of work or obligations affected by such dispute is extended for a period of time
20 not to exceed the actual time taken to resolve the dispute. Elements of work or obligations not
21 affected by the dispute must be completed in accordance with the applicable schedule.

22 N. Effect of Consent Judgment

23 (1) If Defendant fails to comply with this Consent Judgment, DEQ may seek civil
24 penalties under ORS 465.900 and enforcement of this Consent Judgment by this Court. If DEQ
25 seeks enforcement of this Consent Judgment by this Court, DEQ may seek monetary sanctions,
26 such as civil penalties, only if DEQ has not assessed and collected any civil penalties under

1 ORS 465.900 regarding the same violation.

2 (2) Subject to Section 2, Defendant does not admit any liability, violation of law,
3 factual or legal findings, conclusions, or determinations asserted in this Consent Judgment.

4 (3) Nothing in this Consent Judgment is intended to create any cause of action in
5 favor of any person not a party to this Consent Judgment.

6 (4) Subject to Section 2 and Section 7, nothing in this Consent Judgment prevents
7 DEQ, the State of Oregon, or Defendant from exercising any rights each might have against any
8 person not a party to this Consent Judgment.

9 (5) If for any reason the Court declines to approve this Consent Judgment in the
10 form presented, this settlement is voidable at the sole discretion of any Party and the terms of the
11 settlement may not be used in evidence in any litigation among or against the Parties.

12 (6) DEQ and Defendant intend for this Consent Judgment to be construed as a
13 judicially approved settlement by which Defendant has resolved its liability to the
14 State of Oregon, within the meaning of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2),
15 regarding Matters Addressed, and for Defendant not to be liable for claims for contribution
16 regarding Matters Addressed to the extent provided by Section 113(f)(2) of CERCLA,
17 42 U.S.C. § 9613(f)(2).

18 (7) Unless specified otherwise, the use of the term "days" in this Consent
19 Judgment means calendar days.

20 (8) This Consent Judgment is void and of no effect if Defendant does not
21 complete acquisition of the Property by January 2, 2019, unless this date is extended in writing
22 signed by both DEQ and Defendant.

23 O. Indemnification and Insurance

24 (1) To the extent funds are lawfully available for such a purpose at the time of a
25 claim, Defendant will indemnify and hold harmless the State of Oregon and its commissions,
26 agencies, officers, employees, contractors, and agents from and against any and all third party

1 claims arising from acts or omissions of Defendant or its officers, employees, contractors,
2 agents, receivers, trustees, or assigns related to this Consent Judgment. DEQ may not be
3 considered a party to any contracts made by Defendant or its agents in carrying out activities
4 under this Consent Judgment.

5 (2) To the extent permitted by Article XI, Section 7, of the Oregon Constitution
6 and by the Oregon Tort Claims Act, the State of Oregon will indemnify and hold harmless
7 Defendant and its respective officers, employees, contractors, and agents, and indemnify the
8 foregoing, from and against any and all third party claims arising from acts or omissions of the
9 State of Oregon or its commissions, agencies, officers, employees, contractors, or agents (except
10 for acts or omissions constituting approval or disapproval of any activity of Defendant under this
11 Consent Judgment) related to this Consent Judgment. Defendant may not be considered a party
12 to any contract made by DEQ or its agents in carrying out activities under this Consent
13 Judgment.

14 (3) Before commencing any on-site work under this Consent Judgment,
15 Defendant will obtain and maintain for the duration of this Consent Judgment comprehensive
16 general liability and automobile insurance with limits of \$2 million, combined single limit per
17 occurrence, naming as an additional insured the State of Oregon. Upon DEQ request, Defendant
18 will provide DEQ a copy or other evidence of the insurance. If Defendant demonstrates by
19 evidence satisfactory to DEQ that its contractor(s) or subcontractor(s) maintain equivalent
20 coverage, or coverage for the same risks but in a lesser amount or for a lesser term, Defendant
21 may provide only that portion of the insurance that is not maintained by its contractor(s) or
22 subcontractor(s).

23 P. Parties Bound

24 This Consent Judgment is binding on the Parties and their respective successors,
25 agents, and assigns. The undersigned representative of each party certifies that he or she is fully
26 authorized to execute and bind such party to this Consent Judgment. No change in ownership,

1 corporate, or partnership status relating to the Property in any way alters Defendant's obligations
2 under this Consent Judgment, unless otherwise approved in writing by DEQ.

3 Q. Modification

4 DEQ and Defendant may modify this Consent Judgment by written agreement,
5 subject to approval by this Court. DEQ and Defendant may modify the SOW, EES or any work
6 plan prepared pursuant to this Consent Judgment without having to obtain court approval,
7 provided the modification is consistent with the DEQ Staff Report.

8 R. Recording

9 Within 30 days of Defendant's acquisition of the Property, Defendant will submit a
10 copy or original of this Consent Judgment (whichever is required by the county) to be recorded
11 in the real property records of Deschutes County, Oregon. Defendant will provide DEQ with
12 written evidence of such recording within 14 days of recording.

13 S. Service

14 Each Party designates in Exhibit E the name and address of an agent authorized to
15 accept service of process by mail on behalf of the Party with respect to any matter relating to this
16 Consent Judgment. Each Party agrees to accept service in such manner, and waives any other
17 service requirements set forth in the Oregon Rules of Civil Procedure or local rules of this Court.
18 The Parties agree that Defendant need not file an answer to the complaint in this action unless or
19 until the Court expressly declines to approve this Consent Judgment.

20 5. Releases from Liability and Covenant Not to Sue

21 A. Pursuant to ORS 465.327(3), this Consent Judgment is a "prospective purchaser
22 agreement" entered as a judicial consent judgment in accordance with ORS 465.325. Thus, this
23 Consent Judgment contains related but independent liability provisions pursuant to both
24 ORS 465.327 and 465.325. The ORS 465.327 liability provisions are set forth below in
25 Subsections 5.B. and 6.B. The ORS 465.325 liability provisions are set forth below in
26 Subsections 5.D., 6.A., and 6.C. In addition to these state law provisions, this Consent Judgment

1 may affect Defendant's rights and liabilities under federal and other laws, as described in
2 Paragraph 4.N.(6) and Subsection 5.E.

3 B. Pursuant to ORS 465.327, and subject to Subsection 5.C. and the substantial
4 satisfactory performance by Defendant of its obligations under this Consent Judgment,
5 Defendant is not liable to the State of Oregon under ORS 465.200 to 465.545 and 465.900,
6 466.640, or 468B.310 regarding Existing Hazardous Substance Releases. Defendant bears the
7 burden of proving by a preponderance of the evidence that a hazardous substance release (for all
8 hazardous substances, hazardous materials, and oil described in Paragraph 2.B.(3)) existed as of
9 the date of Defendant's acquisition of ownership or operation of the Property.

10 C. The release from liability under Subsection 5.B. does not affect liability of
11 Defendant for claims arising from:

12 (1) A release of hazardous substances, spill or release of oil or hazardous
13 material, or entry of oil into the waters of the state at or from the Property that is not an Existing
14 Hazardous Substance Release;

15 (2) Contribution to or exacerbation of, on or after the date of Defendant's
16 acquisition of ownership or operation of the Property, an Existing Hazardous Substance Release;

17 (3) Interference or failure to cooperate, on or after the date of Defendant's
18 acquisition of ownership or operation of the Property, with DEQ or other persons conducting
19 remedial measures under DEQ's oversight at the Property;

20 (4) Failure to exercise due care or take reasonable precautions, on or after the date
21 of Defendant's acquisition of ownership or operation of the Property, with respect to any
22 hazardous substance at the Property;

23 (5) Disposal or management of hazardous substances or solid waste removed
24 from the Property by or on behalf of Defendant;

25 (6) Criminal liability;

26

1 (7) Violation of federal, state, or local law on or after the date of Defendant's
2 acquisition of ownership or operation of the Property;

3 (8) Any matters as to which the State of Oregon is owed indemnification under
4 Paragraph 4.O.(1); and

5 (9) Claims based on any failure by Defendant to meet any requirements of this
6 Consent Judgment.

7 D. Pursuant to ORS 465.325, subject to satisfactory performance by Defendant of its
8 obligations under this Consent Judgment, the State of Oregon covenants not to sue or take any
9 other judicial or administrative action against Defendant under ORS 465.200 to 465.545 and
10 465.900 regarding Matters Addressed, except that the State of Oregon reserves all rights against
11 Defendant with respect to claims and liabilities described in Subsection 5.C.

12 E. Subject to satisfactory performance by Defendant of its obligations under this
13 Consent Judgment, DEQ releases Defendant from liability to DEQ under any federal or state
14 statute, regulation, or common law, including but not limited to CERCLA, 42 U.S.C. § 9601 *et*
15 *seq.*, regarding the release or threatened release of hazardous substances addressed in this
16 Consent Judgment, except that DEQ reserves all rights against Defendant with respect to claims
17 and liabilities described in Subsection 5.C.

18 6. Third-Party Actions

19 A. This Consent Judgment is a judicially approved settlement within the meaning of
20 ORS 465.325(6)(b), pursuant to which Defendant has resolved its liability to the State of Oregon
21 and is not liable for claims for contribution regarding Matters Addressed.

22 B. Subject to the substantial satisfactory performance by Defendant of its obligations
23 under this Consent Judgment, Defendant is not liable to any person under ORS 465.200 to
24 465.545, 466.640, or 468B.310 regarding Existing Hazardous Substance Releases.

25 C. Subject to Section 7, Defendant may seek contribution in accordance with
26 ORS 465.325(6)(c)(B).

1 7. Defendant Waivers

2 A. Defendant waives any claim or cause of action it might have against the State of
3 Oregon regarding Existing Hazardous Substance Releases, provided Defendant reserves all
4 rights concerning the obligations of DEQ under this Consent Judgment.

5 B. Defendant waives any rights it might have under ORS 465.260(7) and 465.325(2) to
6 seek reimbursement from the Hazardous Substance Remedial Action Fund or the Orphan Site
7 Account for costs incurred under this Consent Judgment or related to the Property.

8 8. Benefits and Burdens Run with the Land

9 A. Pursuant to ORS 465.327(5), the benefits and burdens of this Consent Judgment run
10 with the land, provided the releases from liability and covenant not to sue set forth in Section 5
11 limit or otherwise affect the liability only of persons who: (1) are not potentially liable under
12 ORS 465.255, 466.640, or 468B.310 for Existing Hazardous Substance Releases; and (2)
13 expressly assume in writing, and are bound by, the terms of this Consent Judgment applicable to
14 the Property as of the date of their acquisition of ownership or operation.

15 B. Upon transfer of ownership of the Property, or any portion of the Property, from
16 Defendant to a person or entity, Defendant and the new owner will provide written notice to the
17 DEQ Project Manager within 10 days after the transfer. No change in ownership of the Property
18 or the corporate or partnership status of Defendant in any way alters Defendant's obligations
19 under this Consent Judgment, unless otherwise approved in writing by DEQ.

20 9. Certification of Completion

21 A. The remedial action work required by this Consent Judgment shall be deemed
22 complete when (1) the Property EES has been recorded, and (2) OSU has determined the
23 property redevelopment is complete, in accordance with the Consent Judgment, such that the
24 only tasks required by this Consent Judgment remaining to be completed are compliance with the
25 Property EES and, as applicable, the Solid Waste Permit. Upon Defendant's completion of the
26 requisite work in accordance with the Consent Judgment (i.e., items (1) and (2) listed above),

1 Defendant will submit a final closeout report to DEQ signed both by an Oregon-registered
2 professional engineer and Defendant's Project Manager certifying that the work for the Property
3 has been completed in accordance with this Consent Judgment. The report must summarize the
4 work performed and include all necessary supporting documentation.

5 B. DEQ will preliminarily determine whether the remedial action work has been
6 performed for the Property and all oversight costs and penalties have been paid in accordance
7 with this Consent Judgment. Upon a preliminary determination that the remedial action work for
8 the Property has been satisfactorily performed and all costs and penalties paid, DEQ will provide
9 public notice and opportunity to comment on a proposed certification decision in accordance
10 with ORS 465.320 and 465.325(10)(b). After consideration of public comment, and within
11 90 days after receiving Defendant's closeout report, the Director of DEQ will issue a final
12 certification decision. The certification decision will subsequently be submitted by DEQ to this
13 Court, which shall terminate this Consent Judgment. A certification of completion of the
14 remedial action does not affect Defendant's obligations that survive termination of this Consent
15 Judgment.

16 10. Continuing Jurisdiction

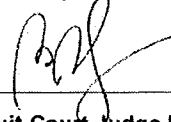
17 Notwithstanding termination of this Consent Judgment pursuant to Section 9, this Court
18 will retain jurisdiction over the Parties and the subject matter of this Consent Judgment regarding
19 the following obligations and subsections of this Consent Judgment, which shall survive
20 termination: 3.D. (Site Restrictions); 4.D. (Access to Property); 4.E. (Records); 4.J.
21 (Reimbursement of DEQ Costs); 5.A. - 5.E (Releases from Liability and Covenant Not to Sue);
22 6.A - 6.C (Third Party Actions); 7.A - 7.B (Defendant Waivers); and 8.A - 8.B (Benefits and
23 Burdens Run With the Land).

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25


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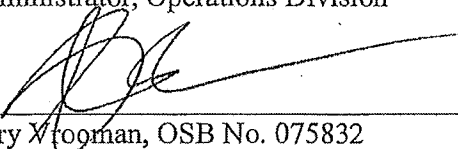
Signed: 3/23/2018 02:33 PM




Circuit Court Judge Beth M. Bagley

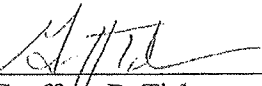
1 STATE OF OREGON, DEPARTMENT OF ENVIRONMENTAL QUALITY

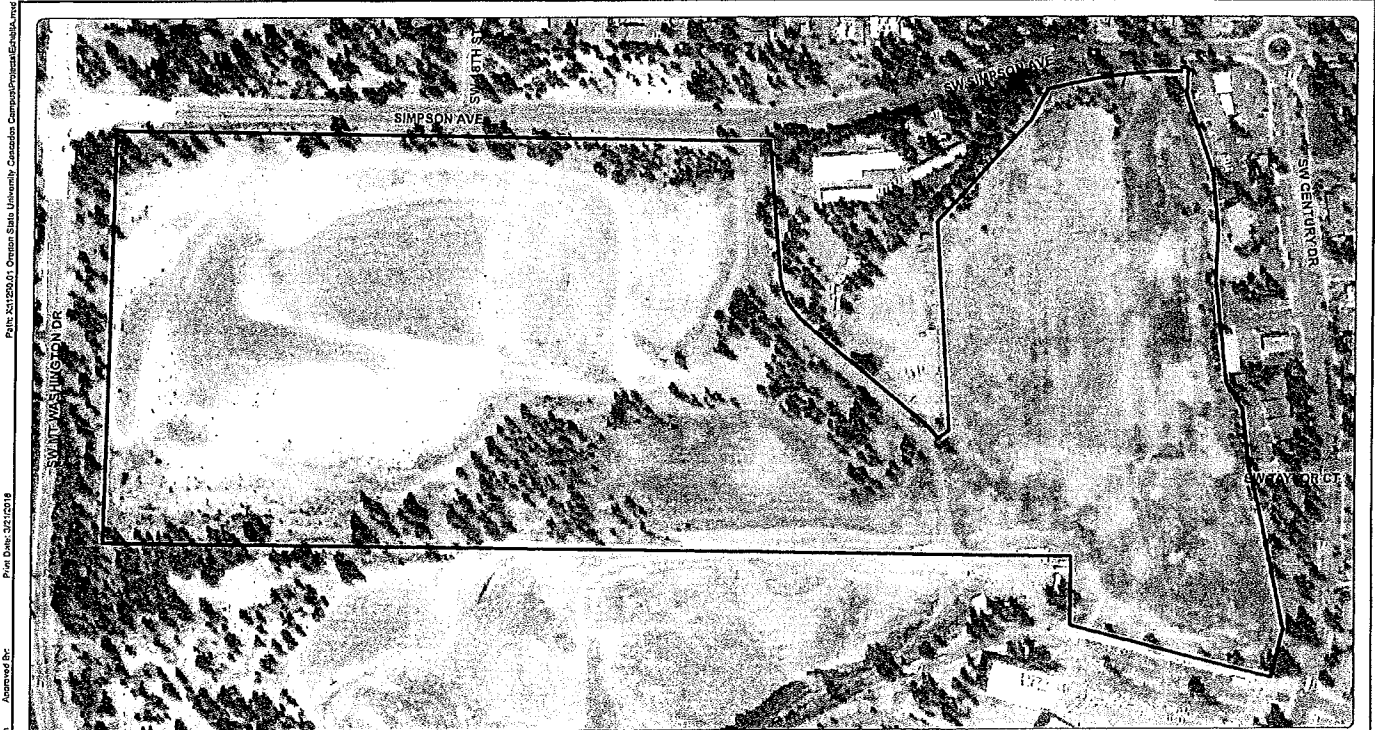
2
3 By:  Date: 3-21-18
4 Lydia Emer
5 Administrator, Operations Division

6 By:  Date: 3/23/18
7 Gary Wrooman, OSB No. 075832
8 Assistant Attorney General
9 Oregon Department of Justice
10 100 SW Market Street
11 Portland, OR 97201
12 Attorney for DEQ

12 OREGON STATE UNIVERSITY

13
14 By:  Date: 3/12/18
15 Name: Michael J. Green
16 Title: Vice President for Finance and Administration

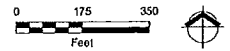
17 By:  Date: 3/9/18
18 Geoffrey B. Tichenor, OSB No. 050958
19 Stoel Rives LLP
20 760 SW 9th Ave #3000
21 Portland, OR 97205
22 Attorney for Oregon State University



Source: Aerial photograph obtained from Esri
ArcGIS Online; streets and tax lots datasets (2017)
obtained from Deschutes County.

Legend
Approximate
Property
Boundary

Exhibit A
Vicinity Map
Client: Oregon State University
Bend, Oregon



Project: Prepared by: Submitted by: Approved by: Print Date: 3/27/2018 P:\1\2018\01_Oregon State University_Canadian Camp\Project\ExhibitA.mxd

EXHIBIT B

Property Legal Description

A parcel of land lying in Section Six (6), Township Eighteen (18) South, Range Twelve (12) East, Willamette Meridian, Deschutes County, Oregon, said parcel being more particularly described as follows:

Beginning at the West 1/4 corner of said Section 6, thence along the West boundary of the Northwest 1/4 of said Section 6 North 00°36'35" East 27.75 feet to the TRUE POINT OF BEGINNING; thence continuing along said West boundary North 00°36'35" East 1000.70 feet to a point on the South Right-Of-Way of Simpson Avenue as described in Dedication Deed 2012-018731 Deschutes County Official Records; thence leaving said West boundary and along said South Right-Of-Way and Dedication Deed South 89°40'51" East 97.02 feet; and North 73°17'42" East 198.10 feet; thence leaving said Dedication Deed and along said South Right-Of-Way South 89°40'51" East 1394.85 feet; and 53.02 feet along the arc of a 1313.24 foot radius curve to the left, the chord of which bears North 89°09'46" East 53.01 feet to the Northwest corner of that property described in Volume 383, Page 2759, and Volume 339, Page 2841 Deschutes County Official Records; thence leaving said South Right-Of-Way and along the West line of said property described in Volume 383, Page 2759 and Volume 339, Page 2841 South 05°21'46" East 344.64 feet; and 164.18 feet along the arc of a 206.52 foot radius curve to the left, the chord of which bears South 28°08'15" East 159.89 feet; and South 50°54'44" East 401.11 feet; and 61.51 feet along the arc of a 289.27 foot radius curve to the right, the chord of which bears South 44°49'14" East 61.39 feet to the Southwest corner of said property described in Volume 383, Page 2759; thence leaving said West line of said Volume 339, Page 2841 continuing along the South Line of said Volume 383, Page 2759 North 51°21'52" East 35.21 feet to the East line of said Volume 383, Page 2759 thence North 4°25'20" West 552.35 feet; and North 41°48'23" East 208.21 feet to a point on the Northwest line of that property described in Volume 383, Page 2756; thence leaving said East line and along the Northwest line of said Volume 383, Page 2756 North 41°48'23" East 155.97 feet; and North 27°56'07" East 93.42 feet to the Northwest corner of said Volume 383, Page 2756 also being a point on the South Right-Of-Way of Simpson Avenue; thence along the North line of said Volume 383, Page 2756 and along said South Right-Of-Way North 76°49'47" East 71.43 feet to a point of intersection of the North-South centerline of said Section 6 said point being on the North line of said Volume 339, Page 2841; thence along said North line of Volume 339, Page 2841 and along said South Right-Of-Way North 76°49'47" East 6.27 feet; thence 278.39 feet along the arc of a 1233.24 foot radius curve to the right, the chord of which bears North 83°17'48" East 277.80 feet to a point of a nontangent

line; thence North 00°14'12" West 10.00 feet; thence North 89°45'48" East 18.48 feet; thence leaving said South Right-Of-Way of Simpson Avenue and along the East line of said Volume 383, Page 2756 the following courses: South 00°10'08" West 75.12 feet; and South 19°28'17" East 213.30 feet; and South 06°12'55" East 147.20 feet; and South 01°15'17" West 138.86 feet; and South 07°05'26" East 270.11 feet; and South 32°25'27" East 82.74 feet; and South 06°50'42" East 156.42 feet; and South 14°44'53" East 119.08 feet; and South 12°00'01" East 318.12 feet; and South 12°59'44" West 128.49 feet to the Southeast corner of said Volume 339, Page 2841 said point being on the North line of Lot 19, Century Washington Center, Phases I, II, III, & IV, Deschutes County, Oregon; thence leaving said Southeast corner along the North line of said Lot 19 South 76°20'18" East 77.98 feet to the Northeast corner of said Lot 19 said corner being the Northeast Corner of that property described in Volume 2014, Page 01969 Deschutes County Official Records said point also being a point of non-tangent curvature lying on the Westerly Right-Of-Way of Century Drive; thence leaving said Northeast corner and along the East line of said Lot 19, said Volume 2014, Page 01969, and said Right-Of-Way 15.00 feet along the arc of a 1859.86 foot radius curve to the left, the chord of which bears South 12°15'27" West 15.00 feet; thence leaving said East line of said Lot 19 and said Right-Of-Way along the South line of said Volume 2014, Page 01969 the following courses: North 76°20'18" West 68.80 feet, and South 55°58'21" West 13.53 feet, and North 76°20'18" West 191.31 feet, and North 76°06'18" West 349.49 feet to a point of intersection of the North-South centerline of said Section 6; thence leaving said South line and along said North-South centerline North 00°41'16" West 25.83 feet to the most Southwest corner of said Volume 339, Page 2841; thence along said North-South centerline and most Southerly West line of said Volume 339, Page 2841 North 00°41'16" West 182.75 feet to the Southeast corner of the Northwest 1/4 of said Section 6; thence leaving said North-South centerline of said Section 6 and said most Southerly West line of Volume 339, Page 2841 along the South line of said Northwest 1/4 and South line of Volume 339, Page 2841 North 89°48'24" West 274.28 feet to the most West Southwest corner of said Volume 339, Page 2841, said point being on said South line of said Northwest 1/4, said point also being the Southwest corner of said property described in Volume 339, Page 2841; thence leaving said point along said South boundary North 89°48'24" West 60.51 feet to a point on the North line of that property described in Volume 2014, Page 00910 Deschutes County Official Records; thence leaving said South boundary along said North line South 01°03'20" East 20.00 feet; and North 89°48'24" West 991.18 feet; and North 00°16'18" West 20.00 feet to a point on the South boundary of said Northwest 1/4; thence leaving said South boundary and continuing along said North Line North 06°03'46" East 27.90 feet; and North 89°48'24" West 1240.78 feet to the TRUE POINT OF BEGINNING containing 72.20 acres, more or less.

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"),¹
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

¹ 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.² It is anticipated that DEQ will approve this as a case-specific beneficial use. The waste used in this Processed Engineered Fill will

² 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.

ATTACHMENT C.1

REMEDICATION AND REDEVELOPMENT PHASING

Property redevelopment and associated active remedial measures are expected to be conducted in phases, contingent on and aligned with projected funding. If redevelopment takes place, Defendant anticipates three active phases, as described below.¹ Each phase is expected to be conducted over an approximately two-year period.²

PRIOR TO REDEVELOPMENT

Prior to redevelopment, certain actions are required of the Defendant, as described in the SOW. These involve, primarily, site access controls, adherence to the Solid Waste Permit, entering into and recording an Easement and Equitable Servitudes, and implementing a Pre-Development Access and Exposure Control Plan.

REDEVELOPMENT PHASING

PHASE 1

Phase 1 is preliminarily projected to involve development of campus roadways north of the pumice mine and pumice mine reclamation. Remedial elements of Phase 1 will potentially include excavation and processing/management of a large portion of Cell 2 waste and a small portion of Cell 1 waste and will involve:

- Excavating waste.
- Screening portions of the waste.
- Blending the screened material (fines) with Cell 2 excess cover soils and available pumice mine soils to create Processed Engineered Fill for use as backfill.
- Placing Processed Engineered Fill in the pumice mine per site redevelopment needs.
- Excavated tires and Unauthorized Waste (see Attachment C.2) will be removed and disposed of offsite. Alternately, these materials may remain onsite, if found to be acceptable to OSU and DEQ per the Waste Management attachment to the SOW, Attachment C.3, and similar protocols, including the requirement of processing of tires prior to disposal on-site per OAR 340-064-0052. Oversize materials and those materials not amenable to screening or which do not pass the screen will be placed in Cell 3 if approved by DEQ.

PHASE 2

Phase 2 of the Property redevelopment is preliminarily projected to address the remainder of Cell 2 and the southern portion of Cell 1 and will include:

¹ The three-phased approach described in this Attachment C.1 is preliminary, and are subject to change as design review, study, and redevelopment progress.

² This expectation is preliminary and the timeline for each phase of the Property's redevelopment is subject to change.

ATTACHMENT C.1

- Excavating waste.
- Screening portions of the waste.
- Blending the screened material (fines) with excess cover soil from Cells 1, 2, and 3 and clean soil from on-site grading to create Processed Engineered Fill.
- Backfilling Cells 1 and 2 with Processed Engineered Fill to a specific subgrade; the balance of the screened material will be used for Cell 3 cover soil and landscaping topsoil.
- Materials not used for blending (e.g., unprocessed waste) will be managed as described above.

PHASE 3

Phase 3 may include remediation of the remaining portion of Cell 1 and would include:

- Excavating waste.
- Screening portions of the waste.
- Excavated material from the identified pyrolysis area will be processed^{3,4} to remove excess heat and moisture prior to being relocated in an expanded Cell 3 (to prevent future pyrolysis).
- Blending as described above with Cell 1 cover soil and excess cover soil from Cell 3.
- Backfilling Cell 1 (and adjacent areas) with Processed Engineered Fill to specified subgrade.
- Screened material (fines) will be blended with Cell 1 cover soil and excess cover soil from Cell 3.
- Materials not used for blending (e.g., unprocessed waste) will be managed as described above.

³ Planned additional site characterization will be conducted to establish the extent of pyrolysis waste in Cell 1.

⁴ Processing may include onsite land farming or similar material management options, to be determined during design.

ATTACHMENT C.2

MATERIAL HANDLING AND BLENDING DURING SITE REDEVELOPMENT

EXCAVATION

During the phased site redevelopment process, materials including waste are expected to be excavated from Cells 1 and 2 (in distinct phases to be determined), and then stockpiled for screening, blending and use as Processed Engineered Fill¹, with a portion relocated to Cell 3². Prior to any excavation of waste within Cells 1 and 2, cover soils will be removed and stockpiled for direct reuse or blending then reuse as Processed Engineered Fill. Preliminary estimates indicate that roughly 3% (by volume) of all waste at the Property within Cells 1 and 2 is unsuitable for recycling or reuse, and some may not be appropriate for placement in Cell 3. Within the framework specified in the Remedial Action Work Plan (RAP) and generally following the procedures described in Attachment C.3, the Defendant will select management methods for such unsuitable materials. If asbestos containing material is encountered, it will be managed as specified in the RAP and consistent with the general procedures described in Attachment C.3.

Excavated material slated for processing for use as Processed Engineered Fill, as described below, will be hauled to on-site stockpile/screening areas. Identified potentially Unauthorized Waste within the reject material (i.e., material that cannot be manufactured into Processed Engineered Fill) will be transported and secured in a separate area, as needed, pending management determinations. Details of this methodology will be specified in the RAP and associated documents and will generally follow the procedures outlined in Attachment C.3.

Worker and ambient air monitoring will be conducted during all major waste removal, handling, and processing activities to ensure worker and public safety as detailed in the RAP. Applicable criteria (e.g., OSHA standards, Oregon DEQ Risk-Based Concentrations) will be used as appropriate to ensure safety.

STOCKPILE MANAGEMENT

If needed, material will be wetted to prevent excess dust emissions during stockpiling activities. Protocols for monitoring and mitigation of dust will be established during design, and will follow industry standards as will be described in the RAP.

PYROLYSIS MANAGEMENT WITHIN CELL 1

Pyrolysis is understood to be occurring in Cell 1 along the pumice face located at the far eastern edge of Area 1. The active pyrolysis area is estimated to be a 75-foot wide strip along the 1,390-foot long pumice face. The average thickness of waste along this face is approximately 50 feet, with pyrolysis noted to be occurring primarily at the deeper extent of the waste. Addressing pyrolysis in-situ creates difficulties in ensuring the pyrolysis is fully remediated and requires extensive design elements to mitigate differential settlement effects, with associated long-term monitoring and

¹ Capitalized Terms not defined have the same meanings as are provided in the PPA Consent Judgment and/or Scope of Work.

² Small amounts of Cell 3 waste may also be excavated for road construction or other site development needs.

ATTACHMENT C.2

maintenance. In-situ management would delay and interfere with Defendant's redevelopment objectives and activities and is therefore neither proposed by Defendant nor required by the Department.

Ex situ treatment via excavation is Defendant's preferred and approved method to address active pyrolysis in Cell 1 and to ready that area for future redevelopment. Ex situ treatment within the Cell 1 pyrolysis area will generally occur as described below and will be further described in the RAP.

Prior to moving excavation equipment on Cell 1, ground density monitoring will be conducted to test for and avoid sinkholes in active working zones. During excavation within Cell 1:

- Temperature surveying will be employed to identify pyrolysis areas and ensure worker safety;
- A fire suppression system will be available on-site during excavation of the suspected pyrolysis material; and
- The exposed east face within Cell 1 may require shoring, such as soil nails, to provide a sufficient factor of safety for support of existing buildings to the east off-Property.

These and other excavation management protocols will, as appropriate, be more specifically defined during Remedial Action design.

For example, the Remedial Action may, as appropriate, incorporate a method for pyrolysis material removal where the material is isolated in small cells using vertical slurry walls extended to stable former daily cover soil layers. In this way, the pyrolysis work/control area could be confined. Water or slurry may be injected into the isolated cell to stabilize and cool the material prior to excavation.

Material that is undergoing pyrolysis is not suitable for reuse as Processed Engineered Fill feedstock. The pyrolysis material will be processed following protocols established during design that will prevent future pyrolysis conditions. Following excavation, processes may include staging in windrows for cooling to ambient temperatures and further manipulation (e.g., turning). The processed waste will then be relocated in an expanded Cell 3.

Pre-design site characterization is expected to provide further details about the pyrolysis extent and characteristics. These data, coupled with existing information, will form the basis for establishing pyrolysis identification, handling, and processing details, which will be included in the Design Reports.

WASTE SCREENING

Areas within Cells 1 and 2 containing proportionately large amounts of soil will be candidates for waste screening activities to generate feedstock to produce Processed Engineered Fill. The waste screening process is anticipated to generate several by-products such as fines, large wood debris, metals, and reject material. Screened fines will be blended with on-site cover or clean soil from on- or off-site (including from the Defendant's adjacent pumice mine) to create the Processed Engineered Fill. The Processed Engineered Fill may be used, at Defendant's election, on-site or in the adjacent pumice mine owned by the Defendant.

ATTACHMENT C.2

The waste screening methods will be established during Remedial Action design and will be described in the Design Reports. Screening method options being considered include deck covers to manage dust generated during the screening process, vacuum headers to remove fine particles, and roller screens to minimize break-down of wood waste.

A materials management pilot study is under development to determine the most efficient method for screening excavated material and reducing the breakdown of larger wood material. This study is expected to inform the design specifications.

MATERIAL REUSE

As noted above, screened fines separated from excavated waste from Cells 1 and 2 will be blended with soil (e.g., excess cover soil and excavated native material, including from the adjacent pumice mine) to produce Processed Engineered Fill. This is a productive use of the material, with the quantity of Processed Engineered Fill replacing the need for importing of fill from various off-site sources.

The Processed Engineered Fill, which will thus represent an effective substitute for a valuable raw material (i.e., fill), will be produced to meet specific engineering standards. Initial analysis indicates that an organic content of approximately 4% or less is optimal for use as structural backfill³. The applicable Processed Engineered Fill engineering standards will be established during Remedial Action design.

These specifications for Processed Engineered Fill will be provided in the Design Reports, and are expected to cover 1) geotechnical requirements; and 2) maximum organic content, below which methane generation and pyrolysis cannot occur, with an appropriate factor of safety applied.

To ensure no adverse impact to public health, safety, welfare or the environment, the following activities will be conducted:

- The source material for the Processed Engineered Fill will be managed during storage, transportation and processing to prevent releases to the environment or nuisance conditions.
- Representative samples of Processed Engineered Fill will be tested to establish the levels of volatiles within fill material to determine whether vapor barriers or other controls for future structures built on or placed over Processed Engineered Fill are needed. The frequency of sampling will be stated in the RAP, and is expected to initially be in the range of one sample per 1,000 cubic yards.⁴
- Testing for volatiles or other constituents may also be conducted to determine if any worker safety protocols as defined in the Health and Safety Plan may be safely reduced. Perimeter

³ The 4% value relates to geotechnical characteristics. Maximum organic content levels designed to avoid methane generation and pyrolysis will also be established.

⁴ During the design phase, OSU will consider whether soil gas testing post-fill placement and prior to building construction would further inform mitigation measures.

ATTACHMENT C.2

monitoring or other procedures established to ensure worker and public safety may be informed by testing, if conditions warrant it.

- Additional testing will be conducted of representative samples of Processed Engineered Fill that is placed within the depths of potential 1) construction or excavation worker contact (e.g., where utilities, building foundation, or similar excavation may be conducted) or 2) occupational receptor contact. An additional factor of safety will be applied (e.g. additional two foot depth). These data will inform the Subsurface Soil Management Plan and ensure that Processed Engineered Fill placed within these depths will not exceed acceptable risk levels for construction/excavation worker or occupational receptor contact. Testing is expected to include: asbestos, polychlorinated biphenyls, volatile organic compounds, semi-volatile organic compounds, and RCRA-8 metals. The frequency of sampling will be stated in the RAP, and is expected to initially be in the range of one sample per 1,000 cubic yards. In addition, the RAP may include applicable and achievable criteria and specify preferred placement of materials.
- Any identified hazardous waste and non de minimis Unauthorized Waste will be excluded from reuse as Processed Engineered Fill per Attachment C.3.
- Processed Engineered Fill may be wetted during placement to enhance compaction, and minimize dust and other potential nuisance conditions.

The quantities of material excavated from Cells 1 and 2 to be processed each year into Processed Engineered Fill will vary based upon the redevelopment timing and phasing.

Excess screened fines that do not meet the engineering standards for Processed Engineered Fill could potentially be reused elsewhere at the Property as landfill cell cover soil and topsoil for landscape areas, or relocated in Cell 3. The parameters for reuse of excess screened fines will also be established during Remedial Action design and included in Defendant's Design Reports.

ATTACHMENT C.3

WASTE MANAGEMENT

DEFINITIONS

Permitted Waste:

Permitted waste includes materials that were specifically allowed for disposal at the Bend Demolition Landfill pursuant to the current or any previous version of the Landfill's Solid Waste Permit¹. For purposes of this PPA, permitted waste includes demolition and construction wastes, tires, brush/land-clearing debris, industrial wood wastes, appliances, rock, soil, concrete rubble, and similar non-putrescible materials.

Unpermitted Waste:

For purposes of this PPA, unpermitted wastes include all wastes not specifically permitted by the Department of Environmental Quality to be disposed at the Landfill, including but not limited to:

- Municipal solid waste,
- Hazardous waste under ORS 466.005,
- Polychlorinated biphenyl- (PCB-) containing materials regulated under the Toxic Substances Control Act (TSCA), Title 40 CFR Part 761
- Food waste,
- Dead animals,
- Sewage sludges,
- Septic tank pumpings,
- Oils,
- Chemicals,
- Liquids,
- Hospital wastes, including untreated infectious waste,
- Explosives,
- Soils contaminated by hazardous materials,
- Friable asbestos,
- Pesticide containers,
- Discarded or abandoned vehicles,

¹ Capitalized Terms not defined have the same meanings as are provided in the PPA Consent Judgment and/or Scope of Work.

ATTACHMENT C.3

- Discarded large home or industrial appliances,
- Used oil, and
- Lead-acid batteries.

Unauthorized Waste

- As noted above, only certain types of waste were permitted by Oregon DEQ to be disposed at the Landfill. Material other than Permitted Waste or material that must be removed from the Landfill to prevent an unacceptable risk to human health or the environment is, collectively, Unauthorized Waste ("UAW").

Nuisance Material (e.g., cable/tires):

- These materials (in substantial volume) are unsuitable for backfill, but are not hazardous to human health or the environment whether maintained onsite or offsite. These materials, to the extent encountered, visible and separated during Property redevelopment work, will be temporarily contained on-site and then either hauled offsite for salvage² or disposal, or placed in Cell 3. If tires are placed in Cell 3, tires will be processed per OAR 340-064-0052 prior to placement. This processed tire material may also be considered for beneficial reuse onsite, with approval from DEQ.

WASTE HANDLING AND MANAGEMENT

Pre- and Post-Development

Only minimal volumes of waste at the Property are expected to be encountered prior to and after redevelopment activities occur. In the event waste handling and management is necessary prior to or after redevelopment, the Defendant will follow requirements specified in the Solid Waste Permit or work plans developed under this SOW, as applicable.

During Redevelopment

As indicated in Section III of the SOW, the Remedial Action to be completed by Defendant if Property redevelopment occurs will be pursuant to a DEQ-approved RAP. The RAP will set forth applicable remedial actions, which shall be limited to activities necessary to protect human health and the environment while large-scale bulk waste excavation and relocation occurs to make the Property, or portions of it, suitable for redevelopment and productive reuse.

During site redevelopment, identification and separation/management of UAW will not be a primary component or focus of the Remedial Action. Instead, identification and separation/management of UAW will be completed only to the extent that non de minimis

²Note, the solid waste permit states: "Salvaging and recycling related to landfill reclamation is authorized if conducted in a safe, controlled, and orderly manner approved by DEQ."

ATTACHMENT C.3

volumes³ of UAW are encountered and actually observed (visually or by odor) during the normal course of waste excavation, relocation, screening and blending activities completed as part of the redevelopment work. Defendant will ensure that the bulk waste excavation and relocation activities are performed, as appropriate, by workers trained to identify (by sight and smell) potential UAW. Potential UAW that is observed will be separated and managed as described below. Except as provided above, Defendant shall not have any obligation to specifically search for potential UAW that may be located on the Property.

Potential UAW identified as described above will be segregated, stockpiled, secured, tested (as needed), and, if confirmed, later removed for offsite disposal. Non-de minimis visually impacted or odorous soil/wood waste material directly surrounding potential UAW will be managed similarly. Specific UAW management and removal procedures will be specified in the Design Reports. Alternatively, if the Defendant, working with the DEQ, finds it preferable to manage the material onsite following procedures that are determined by DEQ to be protective of human health and the environment, the material may remain.

To the extent significant volumes of UAW are discovered during redevelopment by the Defendant, DEQ will work with the Defendant to develop a rational, cost-effective method for addressing the materials discovered in ways that will be protective of human health and the environment.

- *Processed Engineered Fill:* Excavated waste suitable for use as an engineered fill feedstock (subset of the woodwaste) will be screened and blended with on-site soil to produce Processed Engineered Fill in accordance with the SOW and consistent with Attachment C.2.
- *Monitoring:* Worker and ambient air monitoring will be conducted during all major waste excavation, relocation, screening and blending activities to ensure worker and public safety and will be described in the RAP.
- *Waste Designation:* UAW that is identified in the normal course of the redevelopment activities is not “generated” for disposal and management purposes until it is characterized and the decision is made for the waste to be disposed offsite. To that end, the RAP and Design Reports will contain specific waste management / profiling requirements. In addition, the Defendant will work with the disposal facility to establish analytical profiles based on generator information.
- *Asbestos:* Potential bulk asbestos-containing material (ACM) and asbestos-containing soil (ACS) that are suspected to contain greater than 1% asbestos (e.g. friable insulation, floor tiles) encountered during the normal course of the redevelopment activities will be segregated, stockpiled, and secured pending testing, as will be described in the RAP. Contractors will be trained to visually identify such materials.

³ De minimis is defined as 10 or less cubic yards of consolidated and discretely identifiable UAW material or any single 55 gallon drum or larger container of UAW that is observed intact and closed.

ATTACHMENT C.3

A certified asbestos abatement supervisor will establish an appropriate buffer between suspected ACM/ACS soil-handling activities and the edge of the regulated area (e.g. a 100-foot boundary from the soil-handling operations may be appropriate, depending on activities being performed and weather conditions).

Samples will be collected of the suspected ACM/ACS to confirm and establish disposal options.

Upon confirmation, bulk ACM removed from disturbed soil will be placed in DEQ-approved containers pending on-site or off-site disposal. If large volumes of ACM are identified in amounts that make the removal and management plans as described in the RAP infeasible, the Defendant and DEQ will establish plans for the waste to remain onsite in its current location, capped and secured, in a manner that is protective of human health and the environment.

If bulk ACM is confirmed to be present, the soil directly surrounding the area in which the ACM was found will be segregated and sampled to determine whether it must be handled as ACS.

As noted above, worker and ambient air monitoring will be conducted during all major waste removal, handling, and processing activities to ensure worker and public safety. Upon suspicion of uncontrolled ACM/ACS, engineering control methods including dust suppression will be utilized by the certified asbestos abatement supervisors.

Upon control of the ACM and confirmation that soil is not ACS or has been controlled, engineering controls may cease.

Space above this line for Recorder's use.

After recording, return to:

Grantee

Oregon DEQ
400 E Scenic Dr., Suite 307
The Dalles, OR 97058
Attention: Bob Schwarz

Grantor

Oregon State University
1500 SW Chandler Ave
Bend, OR 97702

EASEMENT AND EQUITABLE SERVITUDES

This grant of Easement and acceptance of Equitable Servitudes ("EES") is made on _____, 2018 between The State of Oregon, acting by and through the Board of Trustees of Oregon State University ("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 Bend, in Deschutes County, Oregon, within Tax Lots 1812060000110, 181206A000719, 1812060000111, and 1812060000100 (the "Property"), the location of which is more particularly described in Exhibit A to this EES and is generally illustrated on Exhibit B. The Property is referenced under the name, Bend Demolition Landfill, ECSI# 4884, in the files of DEQ's Environmental Cleanup Program at the Eastern Region office located at 400 E Scenic Dr., Suite 307, The Dalles, Oregon, and telephone 541-298-7255.

B. On _____, the Director of the Oregon Department of Environmental Quality or delegate selected the remedial action for the Property set forth in the memorandum entitled *Bend Demolition Landfill, ECSI # 4884; Recommendation to proceed with a Prospective Purchaser Agreement with Oregon State University*. The remedial action selected requires, among other things, compliance with plans for access, exposure control and monitoring before the property is redeveloped, if redevelopment occurs and after redevelopment occurs.

C. On _____, 2018, Grantor entered into a Consent Judgment, Case No. _____ Deschutes County Circuit Court ("Consent Judgment") with DEQ, under which Grantor agreed to implement the selected remedial action, including the required institutional controls.

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

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

1. DEFINITIONS

- 1.1 "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.
- 1.2 "Owner" means any person or entity, including Grantor, who at any time owns fee simple title 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 fee simple 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 security for the payment of an obligation and does not possess or control use of the Property.
- 1.3 "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 entering the Consent Judgment, 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.

2.2 Each condition and restriction set forth in this EES touches and concerns the Property. The equitable servitudes granted in Section 3 and easement granted in Section 4 below run with the land for all purposes, are binding upon all current and future owners of the Property as set forth in this EES, and inure 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 **Institutional Control - Upon Acquisition.** The Consent Judgment requires Owner, upon its acquisition of the Property, to implement a DEQ-approved Pre-Development Access and Exposure Control Plan (the "Pre-Development Plan"). The Pre-Development plan must be submitted to DEQ within 90 days after the Consent Judgment is separately recorded. Owner shall control access to the Property where wastes are present to avoid excess exposure and safety hazards in accordance with the DEQ-approved Pre-Development Plan, a copy of which will be posted under ECSI# 4884 in the files of DEQ's Environmental Cleanup Program

at the Eastern Region Office located at 400 E Scenic Dr., Suite 307, The Dalles, Oregon.

3.2 Institutional Control - If Redevelopment Occurs. The Consent Judgment requires Owner, if it undertakes redevelopment activities at the Property, to implement a DEQ-approved Remedial Action Work Plan ("RAP"). Owner must notify DEQ 90 days in advance of its expected development of the RAP. Thereafter, Owner shall control access to the Property and redevelopment activities at the Property where wastes are present to avoid excess exposure and safety hazards in accordance with the DEQ-approved RAP, a copy of which will be posted if and when it is issued under ECSI# 4884 in the files of DEQ's Environmental Cleanup Program at the Eastern Region Office located at 400 E Scenic Dr., Suite 307, The Dalles, Oregon.

3.3 Institutional Control - Following Redevelopment. The Consent Judgment requires Owner, if it has completed redevelopment activities at the Property, to implement a DEQ-approved Subsurface Soil Management Plan and Monitoring and Maintenance Plan ("Post-Redevelopment Plan"). The Post-Redevelopment Plan will apply to areas where waste has been removed and residual contaminants may remain or where processed engineered fill has been placed on the Property pursuant to the Consent Judgment. Owner must implement post-redevelopment activities at the Property in accordance with the Post-Redevelopment Plan, a copy of which will be posted if and when it is issued under ECSI# 4884 in the files of DEQ's Environmental Cleanup Program at the Eastern Region Office located at 400 E Scenic Dr., Suite 307, The Dalles, Oregon.

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)

4.1 Right of Entry. During reasonable hours and subject to reasonable privacy and security requirements, DEQ may enter upon and inspect any portion of the Property to determine whether the requirements of this EES have been or are being complied with. Except when necessary to address an imminent threat to human health or the environment, DEQ will use its best efforts to notify the Owner 72 hours before DEQ entry to the Property. 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 this EES, 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.

4.2 The right of entry provided in Section 4.1 does not provide DEQ with a right to enter or inspect any buildings constructed on the Property.

5. RELEASE OF RESTRICTIONS

5.1. Owner 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 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.** 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 Owner's fee interest in the Property. Such notice must include the full name and address of the Party to whom Owner has transferred an interest or right of occupancy.

6.2. **Reference in Deed.** A reference to this EES, including its location in the public records, must be recited in any deed conveying 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 and recorded in the deed records of Deschutes County, certifying that the condition or restriction is no longer required to protect human health or the environment.

6.3. **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.

6.4. **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 Judgment or seek available legal or equitable remedies to enforce this EES, including civil penalties as set forth in ORS 465.900.

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

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

GRANTOR: The State of Oregon, Acting By and Through the Board of Trustees of Oregon State University

By: _____ Date: _____
Michael J. Green, Vice President for Finance and Administration

STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument is acknowledged before me this _____ day of _____, 2018, by _____ of the State of Oregon, Acting By and Through the Board of Trustees of Oregon State University on its behalf.

NOTARY PUBLIC FOR OREGON
My commission expires: _____

GRANTEE: State of Oregon, Department of Environmental Quality

By: _____ Date: _____
David Anderson, Cleanup, Emergency Response, Hydrogeology Manager, Eastern
Region

STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument is acknowledged before me this _____ day of
_____, 2018, by _____ David Anderson 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 A

Property Legal Description

A parcel of land lying in Section Six (6), Township Eighteen (18) South, Range Twelve (12) East, Willamette Meridian, Deschutes County, Oregon, said parcel being more particularly described as follows:

Beginning at the West 1/4 corner of said Section 6, thence along the West boundary of the Northwest 1/4 of said Section 6 North 00°36'35" East 27.75 feet to the TRUE POINT OF BEGINNING; thence continuing along said West boundary North 00°36'35" East 1000.70 feet to a point on the South Right-Of-Way of Simpson Avenue as described in Dedication Deed 2012-018731 Deschutes County Official Records; thence leaving said West boundary and along said South Right-Of-Way and Dedication Deed South 89°40'51" East 97.02 feet; and North 73°17'42" East 198.10 feet; thence leaving said Dedication Deed and along said South Right-Of-Way South 89°40'51" East 1394.85 feet; and 53.02 feet along the arc of a 1313.24 foot radius curve to the left, the chord of which bears North 89°09'46" East 53.01 feet to the Northwest corner of that property described in Volume 383, Page 2759, and Volume 339, Page 2841 Deschutes County Official Records; thence leaving said South Right-Of-Way and along the West line of said property described in Volume 383, Page 2759 and Volume 339, Page 2841 South 05°21'46" East 344.64 feet; and 164.18 feet along the arc of a 206.52 foot radius curve to the left, the chord of which bears South 28°08'15" East 159.89 feet; and South 50°54'44" East 401.11 feet; and 61.51 feet along the arc of a 289.27 foot radius curve to the right, the chord of which bears South 44°49'14" East 61.39 feet to the Southwest corner of said property described in Volume 383, Page 2759; thence leaving said West line of said Volume 339, Page 2841 continuing along the South Line of said Volume 383, Page 2759 North 51°21'52" East 35.21 feet to the East line of said Volume 383, Page 2759 thence North 4°25'20" West 552.35 feet; and North 41°48'23" East 208.21 feet to a point on the Northwest line of that property described in Volume 383, Page 2756; thence leaving said East line and along the Northwest line of said Volume 383, Page 2756 North 41°48'23" East 155.97 feet; and North 27°56'07" East 93.42 feet to the Northwest corner of said Volume 383, Page 2756 also being a point on the South Right-Of-Way of Simpson Avenue; thence along the North line of said Volume 383, Page 2756 and along said South Right-Of-Way North 76°49'47" East 71.43 feet to a point of intersection of the North-South centerline of said Section 6 said point being on the North line of said Volume 339, Page 2841; thence along said North line of Volume 339, Page 2841 and along said South Right-Of-Way North 76°49'47" East 6.27 feet; thence 278.39 feet along the arc of a 1233.24 foot radius curve to the right, the chord of which bears North 83°17'48" East 277.80 feet to a point of a nontangent

line; thence North 00°14'12" West 10.00 feet; thence North 89°45'48" East 18.48 feet; thence leaving said South Right-Of-Way of Simpson Avenue and along the East line of said Volume 383, Page 2756 the following courses: South 00°10'08" West 75.12 feet; and South 19°28'17" East 213.30 feet; and South 06°12'55" East 147.20 feet; and South 01°15'17" West 138.86 feet; and South 07°05'26" East 270.11 feet; and South 32°25'27" East 82.74 feet; and South 06°50'42" East 156.42 feet; and South 14°44'53" East 119.08 feet; and South 12°00'01" East 318.12 feet; and South 12°59'44" West 128.49 feet to the Southeast corner of said Volume 339, Page 2841 said point being on the North line of Lot 19, Century Washington Center, Phases I, II, III, & IV, Deschutes County, Oregon; thence leaving said Southeast corner along the North line of said Lot 19 South 76°20'18" East 77.98 feet to the Northeast corner of said Lot 19 said corner being the Northeast Corner of that property described in Volume 2014, Page 01969 Deschutes County Official Records said point also being a point of non-tangent curvature lying on the Westerly Right-Of-Way of Century Drive; thence leaving said Northeast corner and along the East line of said Lot 19, said Volume 2014, Page 01969, and said Right-Of-Way 15.00 feet along the arc of a 1859.86 foot radius curve to the left, the chord of which bears South 12°15'27" West 15.00 feet; thence leaving said East line of said Lot 19 and said Right-Of-Way along the South line of said Volume 2014, Page 01969 the following courses: North 76°20'18" West 68.80 feet, and South 55°58'21" West 13.53 feet, and North 76°20'18" West 191.31 feet, and North 76°06'18" West 349.49 feet to a point of intersection of the North-South centerline of said Section 6; thence leaving said South line and along said North-South centerline North 00°41'16" West 25.83 feet to the most Southwest corner of said Volume 339, Page 2841; thence along said North-South centerline and most Southerly West line of said Volume 339, Page 2841 North 00°41'16" West 182.75 feet to the Southeast corner of the Northwest 1/4 of said Section 6; thence leaving said North-South centerline of said Section 6 and said most Southerly West line of Volume 339, Page 2841 along the South line of said Northwest 1/4 and South line of Volume 339, Page 2841 North 89°48'24" West 274.28 feet to the most West Southwest corner of said Volume 339, Page 2841, said point being on said South line of said Northwest 1/4, said point also being the Southwest corner of said property described in Volume 339, Page 2841; thence leaving said point along said South boundary North 89°48'24" West 60.51 feet to a point on the North line of that property described in Volume 2014, Page 00910 Deschutes County Official Records; thence leaving said South boundary along said North line South 01°03'20" East 20.00 feet; and North 89°48'24" West 991.18 feet; and North 00°16'18" West 20.00 feet to a point on the South boundary of said Northwest 1/4; thence leaving said South boundary and continuing along said North Line North 06°03'46" East 27.90 feet; and North 89°48'24" West 1240.78 feet to the TRUE POINT OF BEGINNING containing 72.20 acres, more or less.

EXHIBIT B

Drawing Generally Depicting the Property



Product: By: gscapadon
Approved: B1
File Date: 3/21/2018
Project: 20170601 Oregon State University Cascade Campus/Project/Gabb/B

Source: Aerial photograph obtained from Esri
ArcGIS Online; streets and tax lots datasets (2017)
obtained from Deschutes County.

Legend
Approximate
Property
Boundary

Exhibit B
Vicinity Map
Client: Oregon State University
Bend, Oregon

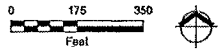


Exhibit E

Service List

FOR PLAINTIFF:

Gary Vrooman, OSB No. 075832

Assistant Attorney General

Oregon Department of Justice

101 SW Market Street

Portland, OR 97201

FOR DEFENDANT:

Geoffrey Tichenor, OSB No. 050958

Stoel Rives LLP

760 SW Ninth Avenue, Suite 3000

Portland, OR 97205

1
2 CERTIFICATE OF COMPLIANCE with UTCR 5.100
3

4 The Parties to this to this action have stipulated to and approved of the Consent Judgment
5 pursuant to ORS 465.325 and ORS 465.327.

6 This proposed order or judgment is ready for judicial signature because:

7 1. Each opposing party affected by this order or judgment has stipulated to the order
8 or judgment, as shown by each opposing party's signature on the document being submitted.

9 2. Each opposing party affected by this order or judgment has approved the order or
10 judgment, as shown by signature on the document being submitted or by written confirmation of
11 approval sent to me.

12 3. I have served a copy of this order or judgment on all parties entitled to service and:

13 a. No objection has been served on me.

14 b. I received objections that I could not resolve with the opposing party despite
15 reasonable efforts to do so. I have filed a copy of the objections I received and indicated which
16 objections remain unresolved.

17 c. After conferring about objections, [role and name of opposing party] agreed to
18 independently file any remaining objection.

19 4. The relief sought is against an opposing party who has been found in default.

20 5. An order of default is being requested with this proposed judgment.

21 6. Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or
22 otherwise.

23 ///

24 ///

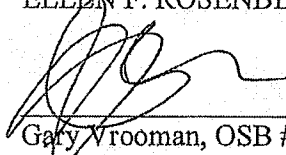
25 ///

26 ///

1 7. [] This is a proposed judgment that includes an award of punitive damages and notice
2 has been served on the Director of the Crime Victims' Assistance Section as required by
3 subsection (4) of this rule.

4
5 DATED this 23rd day of March, 2018.

6
7 Attorney General
8 ELLEN F. ROSENBLUM

9
10 

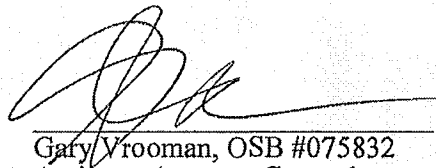
11 _____
12 Gary Vrooman, OSB #075832
13 Assistant Attorney General
14 Of Attorneys for Plaintiff
15 Department of Justice
16 100 SW Market Street
17 Portland, OR 97201
18 Phone: 971-673-1878
19 Fax: 971-673-1884
20 gary.l.vrooman@doj.state.or.us

1 CERTIFICATE OF SERVICE

2 I certify that on March 23, 2018, I served a true copy of the foregoing of COMPLAINT
3 and CONSENT JUDGMENT and, in Oregon State University upon the party hereto by the
4 method indicated below, and addressed to the following:

5
6 Mr. Geoffrey B Tichenor
7 Stoel Rives LLP
8 760 SW Ninth Ave., Ste. 3000
9 Portland OR 97205

Hand Delivery
 Mail Delivery
 Overnight Mail
 Telecopy (fax)
 E-Mail

10
11
12 

13 Gary Vrooman, OSB #075832
14 Assistant Attorney General
15 Of Attorneys for Plaintiff
16 Department of Justice
17 100 SW Market Street
18 Portland, OR 97201
19 Phone: 971-673-1878
20 Fax: 971-673-1886
21 gary.l.vrooman@doj.state.or.us