



Environmental Remediation

Reimbursement Agreement

November 21, 2019

The City's Consultant Team

- Environmental counsel, Jeff Kray of Marten Law L.L.P.
- Environmental consultant, Jeremy Porter of Aspect Consulting, L.L.C.
- Outside counsel, Kari Sand of Ogden Murphy Wallace, P.L.L.C. (former MI City Attorney)



Commuter Parking Project Site



Approximate Project Footprint



Background

- June 5, 2018 Purchase and Sale Agreement for Tully's/ARCO Property
- Due Diligence Period (extended)
 - Explore all aspects of property (like an inspection report)
 - Determine environmental conditions and estimated remedial action costs
 - Complete Site Survey



Environmental Review

- Phase I Environmental Study
- Phase II Environmental Study (on-going)
- Future Environmental Work as May Be Needed for Regulatory Site Closure (drilling to north in I-90 / WSDOT area)

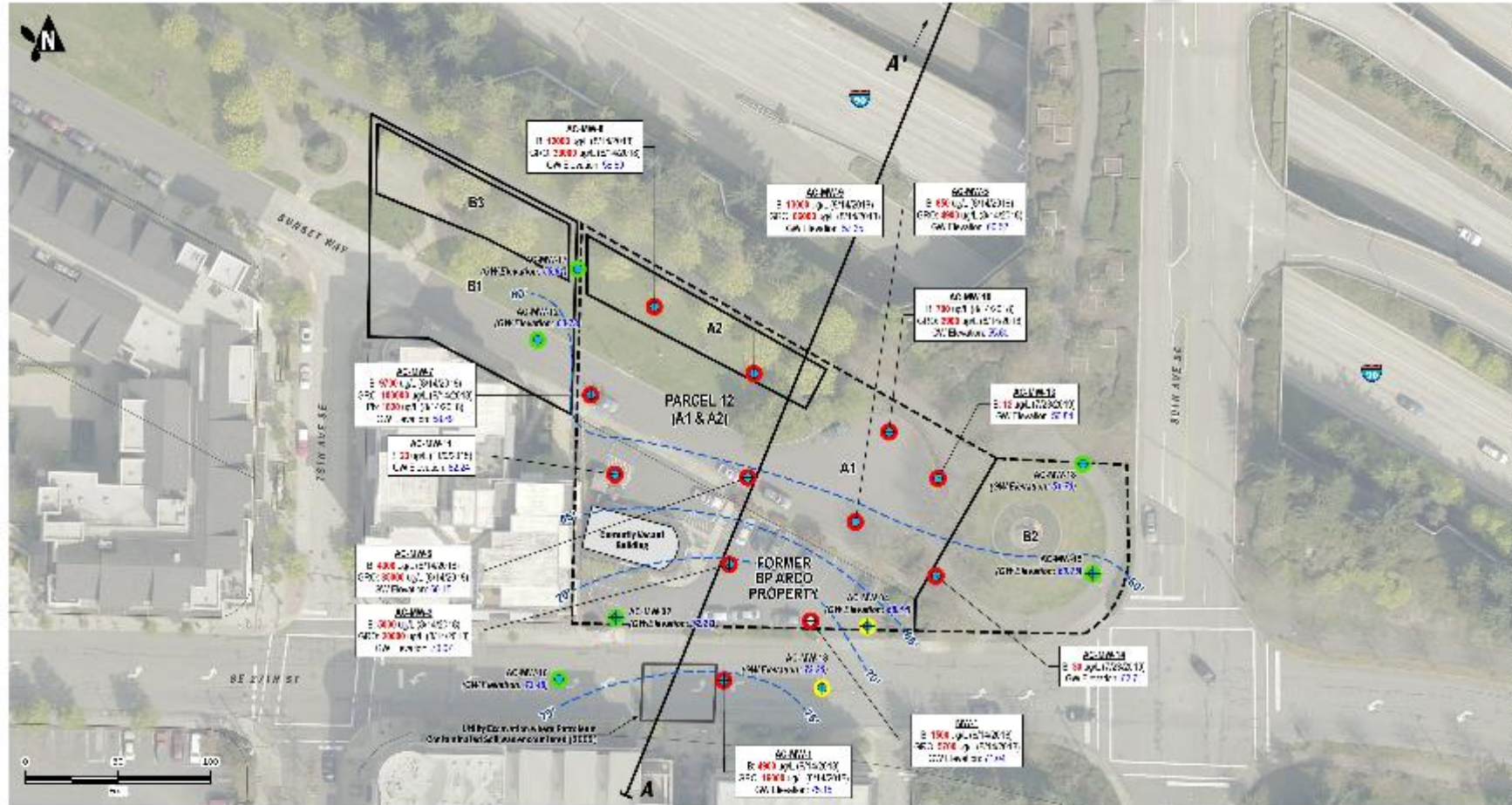


Environmental Findings

- High Level of Confidence in Findings
- Site is Contaminated
- Nature and Extent of Contamination is Known
- Polluter(s) Identified



Groundwater Map



- Concentrations of concern were not detected.
- Concentrations of concern were detected at concentrations less than the MTCM. (MTCM = 4.0 ug/L lead)
- Concentrations of concern were detected at a concentration greater than the MTCM (Medical A Clean-up Level).

- Monitoring Well (Lead, Manganese)
- Existing Monitoring Well (Lead, Earth Strontium, etc)
- Groundwater Control Line (Based on A1 & A2 Data)
- Street Section
- Subject Property
- King County Tax Parcel

Analysis	Analysis Concentration in Groundwater per Liter	Excavation Name	Sample Date	Groundwater Elevation (ft)
AC-UM-14	0.33 ug/L (250.00 ug/L)		11/14/2019	25.27

Well	Well ID	Well Depth	Well Type	Well Status
AC-UM-14	AC-UM-14	10.00	Monitoring	Active

Groundwater Conditions
 Supplemental Phase III EPA Report
 City of Mercer Island Former EPARD Property
 11/19/19 - 11/19/19
 Mercer Island, Washington

DRAFT

DATE	DATE	DATE
11/19/19	11/19/19	11/19/19
ISSUED	APPROVED	REVISION
		7



Environmental Findings

- Gas/Service Stations Operated between 1955-1992
- Petroleum Hydrocarbons (Contaminants) Migrated
- State Environmental Law Requires Sitewide Remediation
- Cleanup Plan Required to include all Site Areas



Area Map



Cost Estimates

Environmental Cleanup and Remediation

- Cost Estimates Differ if Surface Lot or Below Grade Excavation
- Develop and Implement a Cleanup Action Plan w/ Developer and either DOE or PLIA
- Soil Removal
- Other Types of Remediation
- Monitoring
- Final Report
- DOE or PLIA Sign off



Key Terms of Reimbursement Agreement

- Parties
- Recitals
 - “Property” versus “Site”
 - “Redevelopment” versus “No Redevelopment” scenarios (excavation or not)
 - Regulatory closure in either scenario (Ecology or PLIA)
 - Cleanup work will be consistent with environmental state law (MTCA)
 - ARC to reimburse (without admitting liability):
 - City and Owner/Seller for “past costs”
 - City or Developer (or assignees) for “future incremental costs”



Key Terms of Reimbursement Agreement

- “Incremental Costs” definition (Section 5.1)
 - costs incurred by the City or Developer (or assignees) to respond to contamination; and
 - costs incurred in connection with the Project development (or alternative uses) and in connection with regulatory closure that
 - are reasonably necessary for Project development or to obtain regulatory closure and
 - reflect only the increase above and beyond the costs the City or Developer would have incurred in the absence of contamination



Key Terms of Reimbursement Agreement

Area of Site	Current Owner	Contaminated Soil Reimbursement
ARCO (Tully's)	Seller (Burton / Buty)	100%
SE 27 th Street ROW	Seller (Burton / Buty)	100%
A-1 (Parcel 12)	City of Mercer Island	75%
A-2	WSDOT	35%
*B-1 (Parcel 12)	City of Mercer Island	0%
B-2	WSDOT	100%
B-3	WSDOT	0%

Agreement: *Indicates an area outside of the City's proposed Project footprint.



Key Terms of Reimbursement Agreement

- “Past Costs” definition (Section 6)
 - ARC shall reimburse Owner and City for costs related to Remedial Work at the Site
 - Examples: environmental consultants’ (Aspect’s) fees and attorneys’ fees (Marten Law & OMW) and survey work
 - City’s Estimated Range of Past Costs: \$400,000 to \$500,000
 - Past Costs require supporting documentation
 - Reimbursement from ARC within 45 days after City provides supporting documentation



Next Steps

- Complete Acquisition of Tully's Property by End of Year
- Assemble Property together with A1 and small WSDOT A2
- Development Partner, MainStreet Property Group (MSP), to Construct Commuter Parking & Mixed-Use Project
- Achieve Regulatory Closure w/ Written Determination from Ecology or PLIA - No Further Action Required



Proposed Motion:

“ Authorize the Interim City Manager to execute the environmental remediation Reimbursement Agreement with the Atlantic Richfield Company and the Seller of the 7810 SE 27th Street property in substantially the form attached as Exhibit 1.”

