

Item 5, July 2, 2026

Item 5



City Attorney's Office
3939 N. Drinkwater Blvd.
Scottsdale, AZ 85251
480.312.2405

To: Honorable Mayor Borowsky and City Council

From: Karen Tyler, Principal Assistant City Attorney

Date: June 25, 2026

Subject: 2026-124-COS – Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study

This memo is to inform you that the exhibits for Contract No. 2026-124-COS were updated to include the current land use map and the Remedial Investigation/Feasibility Study Statement of Work as approved by the USEPA.

CITY COUNCIL REPORT

Item 5



Meeting Date: **July 2, 2026**
General Plan Element: **Tourism**
General Plan Goal: **Support and expand special events, spaces and venues**

ACTION

Administrative Settlement Agreement and Consent Order.

ADOPT RESOLUTION NO. 13735 authorizing:

- 1) The Administrative Settlement Agreement and Order on Consent of Remedial Investigation and Feasibility Study between the City of Scottsdale, the United States Environmental Protection Agency (EPA), and the Siemens Corporation Contract for Area 7 of the North Indian Bend Wash Superfund Site (Contract No. 2026-124-COS).
- 2) The Cooperation and Allocation Agreement between City of Scottsdale and Motorola Solutions, as indemnitor of Siemens Corporation (Contract No. 2026-125-COS).
- 3) FY 2026/27 budget appropriation transfer to Project 15-Build 200 Space Parking Lot off 75th Street to serve the City Court and Scottsdale Stadium (PP2205) from Water Capital Fund (Fund 6100) Contingency totaling up to \$360,000.
- 4) FY 2026/27 cash transfer to Project 15-Build 200 Space Parking Lot off 75th Street to serve the City Court and Scottsdale Stadium (PP2205) from the Water Operating Fund (Fund 6000) totaling up to \$360,000 to be funded by the *City of Camden, et al. v E.I. DuPont de Nemours and Company*, aqueous film forming foam settlement funds.

BACKGROUND

The City has been a Rule 19 Party (necessary party) to the North Indian Bend Wash (NIBW) Superfund Site since the 1980s. The City's involvement was deemed necessary because groundwater contaminated by others with volatile organic compounds (VOCs) is treated and used by the City.

During the original Remedial Investigation and Feasibility Study (RI/FS), Area 7 was identified as a source area for the contamination. For Area 7, the City was named a Potentially Responsible Party (PRP) and became subject to a 1993 Consent Decree related to vadose zone and soil contamination due to property ownership and previous graphics operations conducted on a portion of the site. Siemens Corporation was also identified as a PRP.

The City and Siemens allocated responsibility for Area 7 through the Participation Agreement that remains in effect today. Under a separate agreement, Motorola Solutions, Inc. has assumed responsibility for fulfilling Siemens' obligations.

In 2017, the EPA identified elevated levels of soil vapor contamination in the surrounding area, including apartments located east of the stadium parking lot and Tom Frenkel's event center. Remedial measures were subsequently installed at those properties to prevent soil vapors from entering the buildings.

In 2023, the EPA issued a demand letter to the City and Siemens requiring a second RI/FS to determine the nature and extent of the soil vapor contamination and evaluate whether additional remedial actions are necessary.

The EPA requires that the RI/FS be conducted pursuant to an Administrative Settlement Agreement and Order on Consent (AOC), executed by the City and Siemens. Motorola will fulfill all of Siemens' obligations under the AOC.

ANALYSIS & ASSESSMENT

Overview – Area 7 is located near the intersection of 2nd Street and 75th Street, across from the Scottsdale City Court building. The City currently owns approximately one-half of Area 7, which is primarily comprised of a City-owned parking lot. The remaining portion of Area 7 is privately owned and includes an event center property. Known contamination extends from Area 7 into the parking lot immediately south of the site. As part of the RI/FS, additional areas may be investigated, including City rights-of-way and adjacent private properties, as necessary to determine the nature and extent of the contamination. All investigation findings will be documented in a final RI/FS report prepared by Motorola.

Upon Council approval, Motorola anticipates commencing the remedial investigation on August 3, 2026. The investigation is expected to be completed prior to the 2027 Spring Training season. The City and Motorola have also negotiated the attached Cooperation and Allocation Agreement, which provides for Motorola to perform all obligations required under the AOC. Under the agreement, the City is responsible for 20 percent of the costs associated with the RI/FS.

Possible Outcomes – The agreements provide for a comprehensive investigation of remaining soil contamination at the site and will allow the EPA to make a final determination regarding any additional remedial actions. Upon completion of the remedial investigation, the feasibility study will evaluate potential remedies, including no further action, institutional controls, engineering controls, and active remediation of the contamination. EPA will evaluate the alternatives and select the remedy it determines appropriate under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Benefits – Completion of the RI/FS is an important step toward resolving outstanding environmental issues associated with Area 7. The City has planned improvements to the public parking lot that supports Scottsdale Stadium and Spring Training operations. Those improvements have been delayed

pending completion of the environmental review process. Completion of the RI/FS will provide the information necessary for the EPA to determine any remaining requirements and may facilitate future parking lot improvements.

RESOURCE IMPACTS

Available funding

Motorola will initially pay all costs associated with the RI/FS. Pursuant to the Cooperation and Allocation Agreement, the City will reimburse Motorola for 20 percent of the costs. The City's share is estimated to be approximately \$360,000. The proposed funding source is water contamination settlement funds within the Water Operating Fund, which currently have an available balance of approximately \$10.3 million.

Future budget implications

Depending on the results of the investigation and subsequent EPA determinations, the City may incur additional costs associated with: 1) incorporating engineering controls into the design and construction of future parking lot improvements; 2) implementing institutional controls, such as deed restrictions on the property; and/or 3) funding a portion of any additional remedial actions required by the EPA.

Maintenance Requirements

The City will be responsible for the ongoing operation and maintenance of the parking lot upon completion of construction.

OPTIONS & STAFF RECOMMENDATION

ADOPT RESOLUTION No. 13735 authorizing:

- 1) The Administrative Settlement Agreement and Order on Consent of Remedial Investigation and Feasibility Study between the City of Scottsdale, the United States Environmental Protection Agency (EPA), and the Siemens Corporation Contract for Area 7 of the North Indian Bend Wash Superfund Site (Contract No. 2026-124-COS).
- 2) The Cooperation and Allocation Agreement between City of Scottsdale and Motorola Solutions, as indemnitor of Siemens Corporation (Contract No. 2026-125-COS).
- 3) FY 2026/27 budget appropriation transfer to Project 15-Build 200 Space Parking Lot off 75th Street to serve the City Court and Scottsdale Stadium (PP2205) from Water Capital Fund (Fund 6100) Contingency totaling up to \$360,000.
- 4) FY 2026/27 cash transfer to Project 15-Build 200 Space Parking Lot off 75th Street to serve the City Court and Scottsdale Stadium (PP2205) from the Water Operating Fund (Fund 6000) totaling up to \$360,000 to be funded by the *City of Camden, et al. v E.I. DuPont de Nemours and Company*, aqueous film forming foam settlement funds.

RESPONSIBLE DEPARTMENT(S)

Enterprise Operations – Scottsdale Stadium

STAFF CONTACT(S)

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APPROVED BY

Scott Selin

Scott Selin, Budget Director
(For Financial Policies Compliance and Budget Appropriation)
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06/16/2026

Date

Judy Doyle

Judy Doyle, Deputy City Manager
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06/16/2026

Date

Greg Caton

Greg Caton, City Manager
(480) 312-7759, gcaton@ScottsdaleAZ.gov

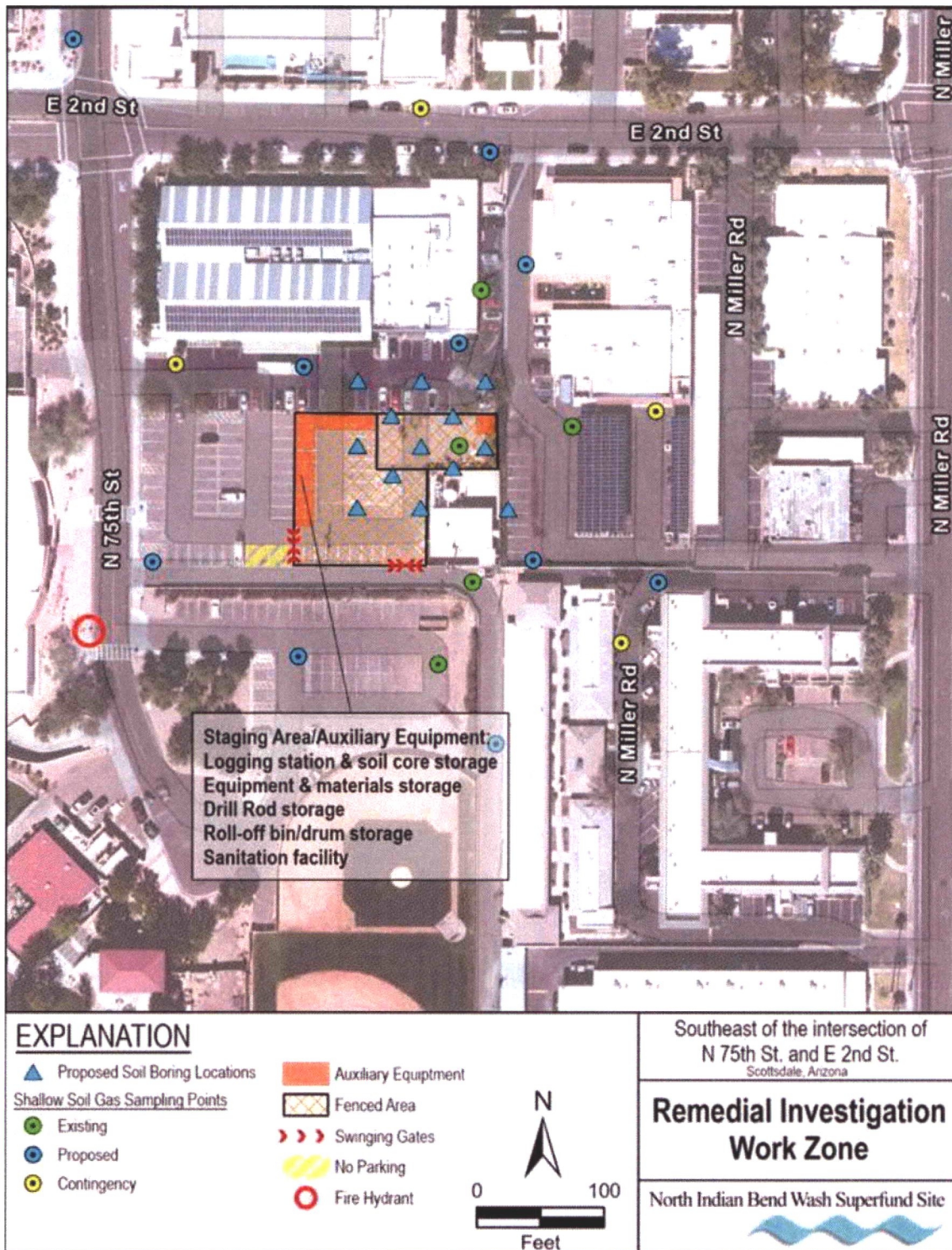
06/16/2026

Date

ATTACHMENTS

1. Area 7 Work Area Map
2. Resolution No. 13735
3. Administrative Settlement Agreement and Order on Consent of Remedial Investigation and Feasibility Study between the City of Scottsdale, the United States Environmental Protection Agency (USEPA) and the Siemens Corporation
4. Cooperation and Allocation Agreement between City of Scottsdale and Motorola Solutions as indemnitor of Siemens Corporation

Attachment 1



RESOLUTION NO. 13735

A RESOLUTION OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE MAYOR TO EXECUTE ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT OF REMEDIAL INVESTIGATION AND FEASIBILITY STUDY NO. 2026-124-COS WITH THE US ENVIRONMENTAL PROTECTION AGENCY AND COOPERATION AND ALLOCATION AGREEMENT CONTRACT NO. 2026-125-COS WITH MOTOROLA SOLUTION INC.

WHEREAS, the City owns property within the North Indian Bend Wash Superfund Site, Area 7, located near East Second Street and North 75th Street (Property);

WHEREAS, the City has been identified as a potentially responsible party by the USEPA due to its ownership of the Property;

WHEREAS, the Property is known to have soil and vapor contamination from volatile organic compounds;

WHEREAS, the City desires to reconstruct a parking lot for use by the Scottsdale City Court and Scottsdale Stadium and cannot do so until the soil and vapor contamination is resolved;

WHEREAS, the USEPA is requiring the City and Siemens Corporation to investigate the full extent of soil and vapor contamination at the Property;

WHEREAS, the City and Motorola Solution Inc., as indemnitor of Siemens Corporation, desire to allocate responsibility for performing the investigation and allocating the cost thereof.

NOW, THEREFORE, LET IT BE RESOLVED, by the Council of the City of Scottsdale, as follows:

Section 1. That the Mayor is authorized and directed to execute the Administrative Settlement Agreement and Order on Consent of Remedial Investigation and Feasibility Study between the City of Scottsdale, the United States Environmental Protection Agency, and the Siemens Corporation, Agreement No. 2026-124-COS.

Section 2. That the Mayor is authorized and directed to execute the Cooperation and Allocation Agreement between the City of Scottsdale and Motorola Solutions as indemnitor of Siemens Corporation Contract No. 2026-125-COS.

Section 3. Authorizes a FY 2026/27 budget appropriation transfer to Project 15-Build 200 Space Parking Lot off 75th Street to serve the City Court and Scottsdale Stadium (PP2205) from Water Capital Fund (Fund 6100) Contingency totaling up to \$360,000.

Section 4. Authorizes a FY 2026/27 cash transfer to Project 15-Build 200 Space Parking Lot off 75th Street to serve the City Court and Scottsdale Stadium (PP2205) from the Water Operating Fund (Fund 6000) totaling up to \$360,000 to be funded by the *City of Camden, et al. v E.I. DuPont de Nemours and Company*, aqueous film forming foam settlement funds.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Arizona, this _____ day of July, 2026.


ATTEST:

CITY OF SCOTTSDALE, an Arizona
municipal corporation

By: _____
Ben Lane, City Clerk

By: _____
Lisa Borowsky, Mayor

APPROVED AS TO FORM:



Luis E Santaella
City Attorney

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

IN THE MATTER OF:

North Indian Bend Wash Superfund Site
Area 7 Vapor Intrusion Operable Unit
Scottsdale, Arizona

CERCLA Docket No. 2026-09

Siemens Corporation,
Respondent

and

City of Scottsdale,
Respondent

**ADMINISTRATIVE SETTLEMENT
AGREEMENT AND ORDER ON
CONSENT FOR REMEDIAL
INVESTIGATION AND FEASIBILITY
STUDY**

Proceeding Under Sections 104, 107 and 122
of the Comprehensive Environmental
Response, Compensation, and Liability Act

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I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent (“Settlement”) is entered into voluntarily by the United States Environmental Protection Agency (“EPA”), Siemens Corporation (“Respondent Siemens”), and the City of Scottsdale, a municipality and political subdivision of the State of Arizona (“Owner Respondent”) (collectively “Respondents”). This Settlement provides for the performance of a Remedial Investigation and Feasibility Study (“RI/FS”) by Respondents and the payment by Respondents of certain response costs incurred by the United States, at or in connection with the “Area 7 Vapor Intrusion Operable Unit of the North Indian Bend Wash Site” (the “Site”), a portion of Area 7 generally located on the southeast corner of East 2nd Street and North 75th Street in Scottsdale, Maricopa County, Arizona.

2. This Settlement is issued under the authority vested in the President of the United States by sections 104, 107, and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2923 (Jan. 29, 1987), and further delegated to Regional Administrators by EPA Delegation Nos. 14-14C (Administrative Actions through Consent Orders, Jan. 18, 2017) and 14-14D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders, Jan. 18, 2017). This authority was further redelegated by the Regional Administrator of EPA Region 9 to the Assistant Director, Superfund Division, by Regional Delegation 14-14-C and 14-14-D.

3. EPA has notified the State of Arizona of the negotiations that resulted in this Settlement Agreement.

4. EPA and the Respondents recognize that this Settlement has been negotiated in good faith and that the actions undertaken by Respondents in accordance with this Settlement do not constitute an admission of any liability. Respondents do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement, the validity of the findings of facts, conclusions of law, and determinations in Sections IV (EPA’s Findings of Fact) and V (EPA’s Conclusions of Law and Determinations) of this Settlement. Respondents agree not to contest the basis or validity of this Settlement or its terms.

II. PARTIES BOUND

5. This Settlement is binding upon EPA and upon Respondents and their successors. Unless EPA otherwise consents, (a) any change in ownership or corporate or other legal status of any Respondent, including any transfer of assets, or (b) any Transfer of the Site or any portion thereof, does not alter any of Respondents’ obligations under this Settlement. Respondents’ responsibilities under this Settlement cannot be assigned except under a modification executed in accordance with ¶ 89.

6. Respondents shall be responsible for ensuring that their officers, directors, employees, agents, contractors, or any other person representing Respondents perform their respective Work in accordance with the terms of this Settlement. Respondents shall provide

notice of this Settlement to each person representing Respondents with respect to the Site or the Work. Respondents shall provide notice of this Settlement to each contractor performing any Work and shall ensure that notice of the Settlement is provided to each subcontractor performing any Work. EPA acknowledges that Respondent Siemens may delegate Work activities under this Settlement to Motorola Solutions, Inc., as an indemnitor, however Respondent Siemens shall remain fully liable for successful completion of the Work, in accordance with CERCLA § 107(e), 42 U.S.C. § 9607(e).

III. DEFINITIONS

7. Subject to the next sentence, terms used in this Settlement that are defined in CERCLA or the regulations promulgated under CERCLA have the meanings assigned to them in CERCLA and the regulations promulgated under CERCLA. Whenever the terms set forth below are used in this Settlement, the following definitions apply:

“CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675.

“Day” or “day” means a calendar day. In computing any period under this Settlement, the day of the event that triggers the period is not counted and, where the last day is not a working day, the period runs until the close of business of the next working day. “Working Day” means any day other than a Saturday, Sunday, or federal or State holiday.

“Effective Date” means the effective date of this Settlement as provided in Section XXI.

“Engineering Controls” means constructed containment barriers or systems that control one or more of the following: downward migration, infiltration, airborne particles and/or material, or seepage of surface runoff or rain; or natural leaching migration of contaminants through the subsurface over time. Examples include caps, engineered bottom barriers, immobilization processes, and vertical barriers.

“EPA” means the United States Environmental Protection Agency.

“Fund” means the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code, 26 I.R.C. § 9507.

“Future Response Costs” means all costs (including direct, indirect, payroll, contractor, travel, and laboratory costs) that the United States: pays after the Effective Date in implementing, overseeing, or enforcing this Settlement, including: (i) in developing, reviewing and approving deliverables generated under this Settlement; (ii) in overseeing Respondents’ performance of the Work; (iii) in assisting or taking action to obtain access under ¶ 36; (iv) in taking action under ¶ 47 (Access to Financial Assurance); (v) in taking response action described because of Respondents’ failure to take emergency action under Section 6.6 (Emergency Response and Reporting) in the SOW; (vi) in implementing a Work Takeover under ¶ 35; (vii) in implementing community involvement activities including the cost of any technical assistance grant provided under section 117(e) of CERCLA and (viii) in enforcing this Settlement, including all costs paid under Section XIII (Dispute Resolution) and all litigation costs. Future

Response Costs also includes all Interest accrued on EPA's unreimbursed costs under section 107(a) of CERCLA.

"Institutional Controls" means: (a) Proprietary Controls (i.e., easements or covenants running with the land that (i) limit land, water, or other resource use, provide access rights, or both, and (ii) are created under common law or statutory law by an instrument that is recorded, or for which notice is recorded, in the appropriate land records office); and (b) state or local laws, regulations, ordinances, zoning restrictions, or other governmental controls or notices that: (i) limit land, water, or other resource use to minimize the potential for human exposure to Waste Material at or in connection with the Site; (ii) limit land, water, or other resource use to implement, ensure noninterference with, or ensure protectiveness of the response action; (iii) provide information intended to modify or guide human behavior at or in connection with the Site; or (iv) any combination thereof.

"Including" or "including" means "including but not limited to."

"Interest" means interest at the rate specified for interest on investments of the Fund, as provided under section 107(a) of CERCLA, compounded annually on October 1 of each year. The applicable rate of interest will be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year. As of the date EPA signs this Settlement, rates are available online at <https://www.epa.gov/superfund/superfund-interest-rates>.

"National Contingency Plan" or "NCP" means the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to section 105 of CERCLA, codified at 40 C.F.R. part 300, and any amendments thereto.

"Owner Respondent" means the City of Scottsdale, as the City owns or retains a right of reasonable access to all of the properties in Area 7.

"Paragraph" or "¶" means a portion of this Settlement identified by an Arabic numeral or an upper- or lower-case letter.

"Parties" means EPA and Respondents.

"RCRA" means the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992k (also known as the Resource Conservation and Recovery Act)

"RI/FS" means the Remedial Investigation and Feasibility Study required under this Settlement.

"Respondents" means Siemens Corporation and the City of Scottsdale.

"Section" means a portion of this Settlement identified by a Roman numeral.

"Settlement" means this Administrative Settlement Agreement and Order on Consent, all appendices attached hereto (listed in Section XX), and all deliverables approved under and incorporated into this Settlement. If there is a conflict between a provision in Sections I through

XXIV and a provision in any appendix or deliverable, the provision in Sections I through XXIV controls.

“Site” means the Area 7 Vapor Operable Unit of the NIBW Superfund Site, comprising an approximately 2 acre portion of Area 7 generally located on the southeast corner of East 2nd Street and North 75th Street in Scottsdale, Maricopa County, Arizona and depicted generally on the map attached as Appendix A.

“Special Account” means the Indian Bend Wash Special Account, within the Fund, established for the NIBW Site by EPA under section 122(b)(3) of CERCLA.

“State” means the State of Arizona.

“Statement of Work” or “SOW” means the document attached as Appendix B which describes the activities Respondents shall perform to conduct the RI/FS, and any modifications made thereto in accordance with this Settlement.

“Transfer” means to sell, assign, convey, lease, mortgage, or grant a security interest in, or when used as a noun, a sale, assignment, conveyance, or other disposition of any interest by operation of law or otherwise.

“United States” means the United States of America and each department, agency, and instrumentality of the United States, including EPA.

“Waste Material” means (a) any “hazardous substance” under section 101(14) of CERCLA; (b) any pollutant or contaminant under section 101(33) of CERCLA; (c) any “solid waste” under section 1004(27) of RCRA; and (d) any “hazardous material” under Arizona law.

“Work” means all obligations of Respondents under Sections VII (Performance of the Work) through X (Indemnification and Insurance) and obligations of Owner Respondent under Section VIII (Property requirements).

“Work Takeover” means EPA’s assumption of the performance of any of the Work in accordance with ¶ 35.

IV. EPA’S FINDINGS OF FACT

8. EPA makes the following findings of fact:

9. The Indian Bend Wash Superfund Site comprises two separate areas of chlorinated solvent groundwater contamination in Scottsdale, Arizona (North Indian Bend Wash, “NIBW”) and Tempe, Arizona (South Indian Bend Wash, “SIBW”). Indian Bend Wash was added to the National Priorities List (NPL) in 1983 due to the finding of trichloroethylene (TCE) and other volatile organic chemicals (VOCs), first in Scottsdale municipal supply wells and subsequently in groundwater in Tempe.

10. The Phase 2 Remedial Investigation and Feasibility Study Report (CH2MHill, 1991) for NIBW investigated twelve geographic areas, designated as Areas 1 through 12, as well

as the City of Scottsdale's wells and Indian Bend Wash ponds. Area 7 of NIBW is an approximately two-acre area on the southeast corner of East 2nd Street and North 75th Street in Scottsdale, Arizona. The Area 7 Vapor Intrusion Operable Unit is located in NIBW Area 7. Area 7 includes a City of Scottsdale parking lot, a groundwater treatment system, and the Clayton House Event Center ("Event Center"). The area surrounding NIBW Area 7 is mixed use and includes City of Scottsdale civic buildings, a public library, a baseball stadium, commercial businesses, apartments and single-family homes.

11. The Phase 2 Remedial Investigation and Feasibility Study Report (CH2MHill, 1991) reported evidence of on-site disposal of solvents to the ground at Area 7. Two former Area 7 businesses were associated with solvent disposal: (1) Dickson Electronics Corporation, a Delaware corporation, which operated from 1962-1967, and (2) Rolamech, Inc., an Arizona corporation, which operated from 1974-2005.

12. Siemens, Motorola, Inc., and GlaxoSmithKline (collectively the "NIBW Participating Companies"), along with the Salt River Valley Water Users' Association, are signatories to an Amended Consent Decree entered on June 6, 2003, by the District Court of Arizona ("2003 Amended Consent Decree").

13. From 1962 until approximately 1967, Dickson Electronics leased two parcels in the northeast corner of Area 7 for the manufacture of electronic components. These parcels now constitute the eastern portion of the Event Center and parking area, as depicted generally on the maps attached as Appendix C. Dickson Electronics reportedly used trichloroethylene ("TCE") and other solvents on the two parcels.

14. In 1997, the City of Scottsdale acquired most of the former Dickson lease parcels (then identified as Maricopa County Assessor's Parcel No. 130-24-005H) under City Council Resolution No. 3721, authorizing condemnation for slum clearance and redevelopment under Arizona Revised Statutes Title 36. This parcel was reportedly used by the City Parks Department for office and storage space. The City sold the former Dickson lease parcels to 7363 LLC, predecessor of the current owner, in 2015, retaining rights to reasonable access.

15. The northwestern portion of Area 7, currently the western portion of Maricopa County Assessor's Parcel No. 130-24-100 (and formerly referred to as Parcel 130-24-005G) was acquired by the City of Scottsdale from Kirsten Brothers Co. in 1972. After the acquisition, the City operated a graphics shop and warehouse on this parcel. The City sold this parcel to 7363 LLC, predecessor of the current owner, in 2015, retaining rights to reasonable access.

16. Rolamech owned two parcels of Area 7 from the mid-1970s until 1997 to manufacture counter pen holders and operate a machine shop; the westernmost parcel was owned by Rolamech from 1974 to 1997 and the easternmost parcel was owned by Rolamech from 1976 to 1997. These parcels spanned the center of Area 7 from east to west and are now the location of a parking lot south of the Event Center, as depicted generally on the maps attached as Appendix C. Rolamech reportedly used 1,1,1-trichloroethane and cutting oils on the two parcels.

17. In 2005, the City of Scottsdale acquired the Rolamech parcels (then identified as Maricopa County Assessor's Parcel Nos. 130-24-005D and -005J). The City received from EPA

a letter dated June 24, 2005 that based on information then available to EPA, identified reasonable steps that the City should take to make a Bona Fide Prospective Purchaser claim. In connection with the purchase, the City also executed a "Prospective Purchaser Agreement" with the State pursuant to Arizona Revised Statutes section 49-285.01 and A.R.S. section 49-292 that became effective on June 27, 2006. The City demolished former Rolamech buildings and constructed and utilized a parking lot on the former Rolamech lease parcels during its period of ownership. The City sold the former Rolamech lease parcels to 7363 LLC, predecessor of the current owner, in 2015, retaining rights to reasonable access.

18. The current owner of the former Dickson Electronics and Rolamech parcels, Shed Scottsdale, LLC, redeveloped the parcels after acquiring them from the City in 2015 and operates them as the Event Center, a commercial event space and wedding venue that includes a kitchen, two large event rooms, a green room dressing area, three commercial office spaces rented to small businesses, and associated parking and landscaped areas.

19. The southern portion of Area 7, Maricopa County Assessor's Parcel No. 130-24-004 ("Stadium Parking Lot") was acquired by the City of Scottsdale in 1986 under City Council Resolution No. 2492, authorizing condemnation "to provide additional municipal space to carry out the various administrative duties and affairs of the City." Since its acquisition, the City has used the Stadium Parking Lot for parking, storage, city vehicle parking, and as a police impound yard. The Area 7 Groundwater Extraction and Treatment System ("GWETS") is also located on this parcel. The Area 7 GWETS was brought on-line in 1999. The GWETS operates to extract, contain, and treat contaminated groundwater resulting from past releases of contaminants on the property.

20. Historically, chlorinated VOCs, including TCE, perchloroethylene, dichloroethylene, trichloroethane and chloroform have been detected in certain Area 7 soils extending from the vadose zone down to groundwater.

21. The primary health risks of TCE include developmental toxicity, reproductive toxicity, liver toxicity, kidney toxicity, immunotoxicity, neurotoxicity, and cancer from inhalation and dermal exposures.

22. The 1991 Vadose Zone and Upper Alluvial Unit (UAU) Groundwater Record of Decision for NIBW required Soil Vapor Extraction (SVE) to be implemented at Area 7 to address the contaminated soils impacting groundwater. The SVE system operated intermittently from 1994 to 2009. Following rebound testing, EPA concurred that the SVE system had met the Performance Standards of the Vadose Zone and UAU Groundwater Consent Decree Statement of Work. The SVE System was dismantled in 2016. The 2016 Second Five Year Review noted the need to re-assess all twelve NIBW former source areas for potential vapor intrusion risk.

23. In early 2017, the NIBW Participating Companies in cooperation with EPA installed and sampled a number of shallow soil gas sampling points at Area 7 to define the area of potential vapor intrusion risk. In April 2017, EPA mobilized the Trace Atmospheric Gas Analyzer (TAGA) bus, a mobile laboratory, to NIBW Area 7 after the discovery of 850,000 $\mu\text{g}/\text{m}^3$ TCE in soil gas from one of the sampling points within the City of Scottsdale police impound yard on the north side of the Area 7 GWETS, south of the Event Center which was

under construction at the time. EPA analyzed soil gas in the adjacent parking lots, as well as indoor air within the Event Center and a commercial suite in the location of the former Dickson Electronics building, as well as an office building directly east of the Event Center and an apartment complex (currently named "The One") southeast of the Site.

24. In 2018, the NIBW Participating Companies installed a sub-slab depressurization system in four apartments southeast of Area 7 as a preventative measure against potential vapor intrusion from Area 7.

25. On July 10, 2017, EPA sent a letter to Shed Scottsdale LLC, the owner of the former Dickson parcels, recommending that it incorporate a sub-slab vapor mitigation system into the design of the new building then under construction on this property. Shed Scottsdale declined to include a mitigation system into the building construction. EPA continued to monitor the Event Center after construction was completed, until field activities were terminated in March 2020 due to the COVID-19 pandemic. Indoor air sampling resumed in December 2022. TCE concentrations measured in Radiello® passive samplers deployed in the building between December 27, 2022, and January 3, 2023, ranged from a minimum of 2.3 $\mu\text{g}/\text{m}^3$ in the northeast office suite to a maximum of 21 $\mu\text{g}/\text{m}^3$ in the Event Room-East. A similar concentration of 20 $\mu\text{g}/\text{m}^3$ was measured in the green room dressing area. A concentration of 7.2 $\mu\text{g}/\text{m}^3$ was measured in the north central office suite and a maximum of 15 $\mu\text{g}/\text{m}^3$ was measured in the bathrooms on the east side. EPA found that the 7.2 $\mu\text{g}/\text{m}^3$ TCE concentration in the office suites exceeded the 7 $\mu\text{g}/\text{m}^3$ Commercial/Industrial Accelerated Response Action Level (RAL) for TCE established by US EPA Region 9 (EPA, 2014), for a 10-hour workday. The TCE indoor air concentrations up to 20 - 21 $\mu\text{g}/\text{m}^3$ measured in the green room and Event Room-East also approached the 21 $\mu\text{g}/\text{m}^3$ Commercial/Industrial Urgent RAL for TCE.

26. On February 15, 2023, EPA sent a General Notice Letter to Shed Scottsdale, LLC, the owner of the Event Center, the City of Scottsdale as the former owner and current adjacent property owner, and Siemens Corporation, as successor to Dickson Electronics, notifying them of these findings and the need to take immediate action to reduce indoor air concentrations and protect building occupants. In response to the General Notice Letter, Shed Scottsdale installed a sub-slab depressurization system at the Event Center in April 2023. Indoor air monitoring performed by EPA's contractor in May 2023 and January 2024 demonstrated that the sub-slab depressurization system is currently effective at mitigating vapor intrusion within the Event Center.

27. While exposure pathways are currently controlled, remaining contamination in soils continues to be a potential source of vapor intrusion for current or future buildings at Area 7.

28. Remedial alternatives evaluated in the RI/FS may include institutional or engineering controls on properties owned by the Owner Respondent, including the Stadium Parking Lot. A Stadium Parking Lot construction project is scheduled to begin in summer 2027, and will involve re-paving of the area around the GWETS.

V. EPA's CONCLUSIONS OF LAW

29. Based on the Findings of Fact in Section IV, EPA makes the following conclusions of law:

- a. The Site is a "facility" as defined by section 101(9) of CERCLA.
- b. The contamination found at the Site, as identified in the Findings of Fact above, includes "hazardous substances" as defined by section 101(14) of CERCLA and "pollutants or contaminants" as defined by section 101(33) of CERCLA.
- c. Each Respondent is a "person" as defined by section 101(21) of CERCLA.
- d. Each Respondent is a responsible party under section 107(a) of CERCLA.
- e. The conditions described in ¶¶ 23 and 25 of the Findings of Fact constitute an actual and/or threatened release of a hazardous substance from the facility as defined by section 101(22) of CERCLA.
- f. The actions required by this Settlement are necessary to protect the public health or welfare or the environment, are in the public interest, are consistent with CERCLA and the NCP, and will expedite effective remedial action and minimize litigation, in accordance with sections 104(a)(1) and 122(a) of CERCLA.
- g. EPA has determined that Respondents are qualified to conduct the RI/FS within the meaning of section 104(a) of CERCLA and will carry out the Work properly and promptly, in accordance with sections 104(a) and 122(a) of CERCLA if Respondents comply with the terms of this Settlement.

VI. ORDER AND AGREEMENT

30. Based upon the Findings of Fact, Conclusions of Law, and Determinations set forth above, it is hereby Ordered and Agreed that Respondents shall comply with all provisions of this Settlement:

VII. PERFORMANCE OF THE WORK

31. **Performance of Work in Accordance with SOW.** Respondents shall develop and perform the RI/FS in accordance with the SOW and all EPA-approved, conditionally approved, or modified deliverables as required by the SOW. All deliverables required to be submitted for approval under the Settlement or SOW shall be subject to approval by EPA in accordance with Section 7.5 (Approval of Deliverables) of the SOW.

32. Respondents' obligations to finance and perform the Work and to pay amounts due under this Settlement are joint and several. In the event of the insolvency of any Respondent or the failure by any Respondent to participate in the implementation of the Settlement, the remaining Respondents shall complete the Work and make the payments.

33. **Modifications to the Work.** EPA may modify the Work under this Settlement if it determines that additional data are needed or that, in addition to tasks defined in the initially approved Work Plan, other additional work may be necessary to accomplish the objectives of the RI/FS. Respondents also may request modification of the approved Work Plan or other deliverables. EPA may notify Respondents of any modification needed under the foregoing two sentences. Respondents shall, within 45 days thereafter, submit a revised work plan and other deliverables as necessary to EPA for approval. Respondents shall implement the revised work plan and any other deliverables upon EPA's approval in accordance with the procedures of Section 7.5 (Approval of Deliverables) of the SOW.

34. **Compliance with Applicable Law.** Nothing in this Settlement affects Respondents' obligations to comply with all applicable federal and state laws and regulations. The activities conducted in accordance with this Settlement, if approved by EPA, will be deemed to be consistent with the NCP as provided under section 300.700(c)(3)(ii).

35. **Work Takeover**

a. If EPA determines that Respondents: (1) have ceased to perform any portion of the Work; (2) are seriously or repeatedly deficient or late in performing the Work; or (3) are performing the Work in a manner that may cause an endangerment to public health or welfare or the environment, EPA may issue a notice of Work Takeover to Respondents, including a description of the grounds for the notice and a period of time ("Remedy Period") within which Respondents shall remedy the circumstances giving rise to the notice. The Remedy Period will be 20 days, unless EPA determines in its unreviewable discretion that there may be an endangerment, in which case the Remedy Period will be 10 days.

b. If, by the end of the Remedy Period, Respondents do not remedy to EPA's satisfaction the circumstances giving rise to the notice of Work Takeover, EPA may notify Respondents and, as it deems necessary, commence a Work Takeover.

c. EPA may conduct the Work Takeover during the pendency of any dispute under Section XIII but shall terminate the Work Takeover if and when: (1) Respondents remedy, to EPA's satisfaction, the circumstances giving rise to the notice of Work Takeover; or (2) upon the issuance of a final determination under Section XIII that EPA is required to terminate the Work Takeover.

VIII. PROPERTY REQUIREMENTS

36. If the Site, or any other property where access is needed to implement this Settlement, is owned or controlled by Owner Respondent, it shall, commencing on the Effective Date, provide EPA and its representatives, including contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Settlement. Owner Respondent shall refrain from using the Site in any manner that EPA determines will pose an unacceptable risk to public health or welfare or the environment because of exposure to Waste Material or will interfere with or adversely affect the implementation or integrity of the Work. Where any action under this Settlement is to be performed in areas owned or controlled by someone other than Respondents, Respondents shall use best efforts to obtain all

necessary agreements for access, enforceable by Respondents and EPA, within 30 days after the Effective Date, or as otherwise specified in writing by EPA's Project Coordinator. Respondents shall provide a copy of each agreement required under this ¶ 36 to EPA.

37. As used in this Section, "best efforts" means the efforts that a reasonable person in the position of Respondents would use to achieve the goal in a timely manner, including the cost of employing professional assistance and the payment of reasonable sums of money to secure access and/or use restriction agreements, as required by this Section. If Respondents cannot accomplish what is required through "best efforts" in a timely manner, they shall notify EPA, and include a description of the steps taken to achieve the requirements. If EPA deems it appropriate, it may assist Respondents, or take independent action, in obtaining such access and/or use restrictions.

38. Owner Respondent has contractual obligations to the San Francisco Giants sports team that will limit access to the Stadium Parking Lot during baseball games, team events, and public activities. In addition, in partial fulfillment of Owner Respondent's contractual obligations, Owner Respondent is undertaking a construction project that is scheduled to begin in the summer of 2027, and be completed by December 31, 2027, which will include re-paving of the Stadium Parking Lot, aside from the GWETS compound. Owner Respondent shall inform EPA and Respondent Siemens of construction schedules as they become available, and shall cooperate with EPA and Respondent Siemens to provide access at all reasonable times.

39. Owner Respondent shall, prior to entering into a contract to Transfer any of its property that is part of the Site, or 60 days prior to a Transfer of such property, whichever is earlier, (a) give written notice to the proposed transferee that the property is subject to this Settlement; and (b) give written notice to EPA of the proposed Transfer, including the name and address of the transferee. Owner Respondent also agrees to require that their successors comply with this Section and Section XVIII (Records).

40. Owner Respondent has agreed in advance that if the RI/FS results in EPA's selection of a remedial action that includes an institutional and/or engineering control on Area 7 property owned by Owner Respondent, that Owner Respondent will record and maintain any necessary control. Owner Respondent shall cooperate as necessary to allow evaluation in the RI/FS of engineering and institutional controls as elements of remedial alternatives. If necessary for evaluation of engineering and institutional controls, Owner Respondent shall provide to EPA and Respondent Siemens a draft engineering control operation and maintenance plan.

41. Notwithstanding any provision of the Settlement, EPA retains all of its access authorities and rights, as well as all of its rights to require land, water, or other resource use restrictions, including enforcement authorities related thereto under CERCLA, RCRA, and any other applicable statute or regulations.

IX. FINANCIAL ASSURANCE

42. To ensure completion of the Work required under Section VII, Respondents shall secure financial assurance, initially in the amount of \$400,000.00 ("Estimated Cost of the Work"), for the benefit of EPA. The financial assurance must be one or more of the mechanisms

listed below, in a form substantially identical to the relevant sample documents available from EPA, and be satisfactory to EPA. As of the date of signing this Settlement, the sample documents can be found under the "Financial Assurance - Settlements" category on the Cleanup Enforcement Model Language and Sample Documents Database at <https://cfpub.epa.gov/compliance/models/>. Respondents may use multiple mechanisms if they are limited to surety bonds guaranteeing payment, letters of credit, trust funds, insurance policies, or some combination thereof. The following are acceptable mechanisms:

- a. A surety bond guaranteeing payment, performance of the Work, or both, that is issued by a surety company among those listed as acceptable sureties on federal bonds as set forth in Circular 570 of the U.S. Department of the Treasury;
- b. An irrevocable letter of credit, payable to EPA or at the direction of EPA, that is issued by an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency;
- c. A trust fund established for the benefit of EPA that is administered by a trustee that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency;
- d. A policy of insurance that provides EPA with acceptable rights as a beneficiary thereof and that is issued by an insurance carrier that has the authority to issue insurance policies in the applicable jurisdiction(s) and whose insurance operations are regulated and examined by a federal or state agency;
- e. A demonstration by a Respondent that it meets the relevant financial test criteria of ¶ 43; or
- f. A guarantee to fund or perform the Work executed in favor of EPA by a company: (1) that is a direct or indirect parent company of a Respondent or has a "substantial business relationship" (as defined in 40 C.F.R. § 264.141(h)) with a Respondent; and (2) demonstrates to EPA's satisfaction that it meets the financial test criteria of ¶ 43.

43. Respondents seeking to provide financial assurance by means of a demonstration or guarantee under ¶ 42.e or 42.f shall, prior to execution of this Settlement or within 60 days of the Effective Date:

- a. Demonstrate that:
 - (1) the affected Respondent or guarantor has:
 - i. two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

- ii. net working capital and tangible net worth each at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; and
- iii. tangible net worth of at least \$10 million; and
- iv. assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; or

(2) the affected Respondent or guarantor has:

- i. a current rating for its senior unsecured debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's; and
- ii. tangible net worth at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; and
- iii. tangible net worth of at least \$10 million; and
- iv. assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; and

b. submit to EPA for the affected Respondent or guarantor: (1) a copy of an independent certified public accountant's report of the entity's financial statements for the latest completed fiscal year, which must not express an adverse opinion or disclaimer of opinion; and (2) a letter from its chief financial officer and a report from an independent certified public accountant substantially identical to the sample letter and reports available from EPA. As of the date of signature of this Settlement, a sample letter and report are available under the "Financial Assurance - Settlements" subject list category on the Cleanup Enforcement Model Language and Sample Documents Database at <https://cfpub.epa.gov/compliance/models/>.

44. Respondents providing financial assurance by means of a demonstration or guarantee under ¶ 42.e or 42.f shall also:

a. annually resubmit the documents described in ¶ 43.b within 90 days after the close of the affected Respondent's or guarantor's fiscal year. Respondent Siemens may

submit one set of documents annually to satisfy Financial Assurance requirements of both the 2003 Amended Consent Decree and this Settlement, provided the amounts reflected in such documents are sufficient to cover the Work required under both agreements;

b. notify EPA within 30 days after the affected Respondent or guarantor determines that it no longer satisfies the relevant financial test criteria and requirements set forth in this Section; and

c. provide to EPA, within 30 days of EPA's request, reports of the financial condition of the affected Respondent or guarantor in addition to those specified in ¶ 43.b; EPA may make such a request at any time based on a belief that the affected Respondent or guarantor may no longer meet the financial test requirements of this Section.

45. Respondents shall, within 60 days after the Effective Date, seek EPA's approval of the form of Respondents' financial assurance.

46. Respondents shall diligently monitor the adequacy of the financial assurance. If any Respondent becomes aware of any information indicating that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, such Respondent shall notify EPA of such information within 7 days. If EPA determines that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, EPA will notify the affected Respondent of such determination. Respondents shall, within 30 days after notifying EPA or receiving notice from EPA under this Paragraph, secure and submit to EPA for approval a proposal for a revised or alternative financial assurance mechanism that satisfies the requirements of this Section. EPA may extend this deadline for such time as is reasonably necessary for the affected Respondent, in the exercise of due diligence, to secure and submit to EPA a proposal for a revised or alternative financial assurance mechanism, not to exceed 60 days. Respondents shall follow the procedures of ¶ 48 (Modification of Amount, Form, or Terms of Financial Assurance) in seeking approval of, and submitting documentation for, the revised or alternative financial assurance mechanism. Respondents' inability to secure financial assurance in accordance with this Section does not excuse performance of any other obligation under this Settlement.

47. Access to Financial Assurance

a. If EPA issues a notice of a Work Takeover under ¶ 35.b, then, in accordance with any applicable financial assurance mechanism, EPA may require: (1) the performance of the Work; and/or (2) that any funds guaranteed be paid in accordance with ¶ 47.d.

b. If EPA is notified that the issuer of a financial assurance mechanism intends to cancel the mechanism, and the affected Respondent fails to provide an alternative financial assurance mechanism in accordance with this Section at least 30 days prior to the cancellation date, the funds guaranteed under such mechanism must be paid prior to cancellation in accordance with ¶ 47.d.

c. If, upon issuance of a notice of a Work Takeover under ¶ 35, either: (1) EPA is unable for any reason to promptly secure the resources guaranteed under any applicable financial assurance mechanism, whether in cash or in kind, to continue and complete the Work; or (2) the financial assurance is a demonstration or guarantee under ¶ 42.e or 42.f, then EPA is entitled to demand an amount, as determined by EPA, sufficient to cover the cost of the remaining Work to be performed. Respondents shall, within 20 days of such demand, pay the amount demanded as directed by EPA.

d. Any amounts required to be paid under this ¶ 47 will be, as directed by EPA: (i) paid to EPA in order to facilitate the completion of the Work by EPA, the State, or by another person; or (ii) deposited into an interest-bearing account, established at a duly chartered bank or trust company that is insured by the Federal Deposit Insurance Corporation (“FDIC”), in order to facilitate the completion of the Work by another person. If payment is made to EPA, EPA may deposit the payment into the Fund or into the Indian Bend Wash Special Account to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the Fund.

48. Modification of Amount, Form, or Terms of Financial Assurance. Beginning after the first anniversary of the Effective Date or at any other time agreed to by the Parties, Respondents may request to change the form, terms, or amount of the financial assurance mechanism. Respondent shall submit any request to EPA in accordance with ¶ 46, and shall include an estimate of the cost of the remaining Work, an explanation of the bases for the cost calculation, and a description of the proposed changes, if any, to the form or terms of the financial assurance. EPA will notify Respondents of its decision regarding the request. Respondents may modify the form, terms, or the amount of the financial assurance mechanism only in accordance with: (a) EPA’s approval; or (b) any resolution of a dispute on the appropriate amount of financial assurance under Section XIII. Any decision made by EPA on a request submitted under this Paragraph to change the form or terms of a financial assurance mechanism shall not be subject to challenge by Respondents pursuant to the dispute resolution provisions of this Settlement or in any other forum. Respondents shall submit to EPA, within 30 days after receipt of EPA’s approval, or consistent with the terms of the resolution of the dispute, documentation of the change to the form, terms, or amount of the financial assurance instrument.

49. Release, Cancellation, or Discontinuation of Financial Assurance. Respondents may release, cancel, or discontinue any financial assurance provided under this Section only: (a) if EPA issues a Notice of Completion of Work under Section 7.7 of the SOW (Notice of Completion of RI/FS Work); (b) in accordance with EPA’s approval of such release, cancellation, or discontinuation; or (c) if there is a dispute regarding the release, cancellation, or discontinuance of any financial assurance, in accordance with the agreement or final decision resolving such dispute under Section XIII.

X. INDEMNIFICATION AND INSURANCE

50. Indemnification

a. EPA does not assume any liability by entering into this Settlement or by virtue of any designation of Respondents as EPA’s authorized representative under

section 104(e)(1) of CERCLA. Respondents shall indemnify and save and hold harmless EPA and its officials, agents, employees, contractors, subcontractors, and representatives for or from any claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on Respondents' behalf or under their control, in carrying out activities under this Settlement, including any claims arising from any designation of Respondents as EPA's authorized representatives under section 104(e)(1) of CERCLA. Further, Respondents agree to pay EPA all costs it incurs including attorneys' fees and other expenses of litigation and settlement arising from, or on account of, claims made against EPA based on negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control in carrying out activities under this Settlement. EPA may not be held out as a party to any contract entered into by or on behalf of Respondents in carrying out activities under this Settlement. The Respondents and any such contractor may not be considered an agent of EPA.

b. EPA may give Respondents notice of any claim for which EPA plans to seek indemnification in accordance with this ¶ 50, and shall consult with Respondents prior to settling such claim.

51. Respondents covenant not to sue and shall not assert any claim against EPA for damages or reimbursement or for set-off of any payments made or to be made to EPA, arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work or other activities on or relating to the Site, including claims on account of construction delays. In addition, Respondents shall indemnify and save and hold EPA harmless with respect to any claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of work at or relating to the Site, including claims on account of construction delays.

52. **Insurance.** Respondent Siemens, in coordination with the NIBW Participating Companies as needed for the requirements under this Paragraph, shall secure, by no later than 15 days before commencing any on-site Work, the following insurance: (a) commercial general liability insurance with limits of liability of \$5 million per occurrence and in the aggregate; (b) automobile liability insurance with limits of liability of \$5 million per accident; and (c) excess liability insurance may be utilized to meet the required commercial general liability and automobile liability limits. The general liability and automobile liability insurance policies must include EPA as an additional insured with respect to all liability arising out of the activities performed by or on behalf of Respondent Siemens under this Settlement. Respondent Siemens shall maintain this insurance until the first anniversary after EPA's issuance of the Notice of Completion of RI/FS Work under Section 7.7 of the SOW. In addition, for the duration of this Settlement, Respondent Siemens shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondent Siemens in furtherance of this Settlement. Prior to commencement of the Work, Respondent Siemens shall provide to EPA certificates of such insurance. Respondent Siemens shall resubmit such certificates each year on the anniversary of the Effective Date. If Respondent Siemens

demonstrates by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then, with respect to that contractor or subcontractor, Respondent Siemens need provide only that portion of the insurance described above that is not maintained by the contractor or subcontractor. Respondent Siemens shall ensure that all submittals to EPA under this Paragraph identify the NIBW Area 7, Scottsdale, Arizona and the EPA docket number of this case.

XI. PAYMENTS FOR RESPONSE COSTS

53. Payments by Respondents for Future Response Costs

a. **Periodic Bills.** On a periodic basis, EPA will send Respondents a bill for Future Response Costs, including a standard cost summary listing direct costs paid by EPA, its contractors, and subcontractors and related indirect costs. Respondents may initiate a dispute under Section XIII regarding a Future Response Cost billing, but only if the dispute relates to one or more of the following issues: (i) whether EPA has made an arithmetical error; (ii) whether EPA has included a cost item that is not within the definition of Future Response Costs; or (iii) whether EPA has paid excess costs as a direct result of an EPA action that was inconsistent with a specific provision or provisions of the NCP. If Respondents submit a Notice of Dispute, Respondents shall within the 30-day period, also as a requirement for initiating the dispute, pay all uncontested Future Response Costs to EPA in the manner described in ¶ 53.b. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XIII shall be the exclusive mechanisms for resolving disputes regarding Respondents' obligation to reimburse EPA for its Future Response Costs. Respondents shall specify in the Notice of Dispute the contested costs and the basis for the objection.

b. **Payment of Bill.** Respondents shall pay the bill, or if they initiate dispute resolution, the uncontested portion of the bill, if any, within 90 days after receipt of the bill. Respondents shall pay the contested portion of the bill determined to be owed, if any, within 30 days after the determination regarding the dispute. Each payment for: (i) the uncontested bill or portion of bill, if late, and; (ii) the contested portion of the bill determined to be owed, if any, must include an additional amount for Interest accrued from the date of receipt of the bill through the date of payment. Respondents shall make payment at <https://www.pay.gov> using the "EPA Miscellaneous Payments Cincinnati Finance Center" link, and including references to the Site/Spill ID number listed in ¶ 87 and the purpose of the payment. Respondents shall send notice of this payment to EPA.

54. **Deposit of Payments.** EPA may, in its unreviewable discretion, deposit the amounts paid under ¶ 53 in the Fund, in the Special Account, or both. EPA may, in its unreviewable discretion, retain and use any amounts deposited in the Special Account to conduct or finance response actions at or in connection with the Site, or transfer those amounts to the Fund.

XII. FORCE MAJEURE

55. "Force majeure," for purposes of this Settlement, means any event arising from causes beyond the control of Respondents, of any entity controlled by Respondents, or of

Respondents' contractors that delays or prevents the performance of any obligation under this Settlement despite Respondents' best efforts to fulfill the obligation. Given the need to protect public health and welfare and the environment, the requirement that Respondents exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure and best efforts to address the effects of any potential force majeure (a) as it is occurring and (b) following the potential force majeure such that the delay and any adverse effects of the delay are minimized to the greatest extent possible. "Force majeure" does not include financial inability to complete the Work or increased cost of performance.

56. If any event occurs for which Respondents will or may claim a force majeure, Respondents shall notify EPA's Project Coordinator by email. The deadline for the initial notice is 5 days after the date Respondents first knew or should have known that the event would likely delay performance. Respondents shall be deemed to know of any circumstance of which any contractor of, subcontractor of, or entity controlled by Respondents knew or should have known. Within 10 days thereafter, Respondents shall send a further notice to EPA that includes: (i) a description of the event and its effect on Respondents' completion of the requirements of the Settlement; (ii) a description of all actions taken or to be taken to prevent or minimize the adverse effects or delay; (iii) the proposed extension of time for Respondents to complete the requirements of the Settlement; (iv) a statement as to whether, in the opinion of Respondents, such event may cause or contribute to an endangerment to public health or welfare or the environment; and (v) all available proof supporting their claim of force majeure. Failure to comply with the notice requirements herein regarding an event precludes Respondents from asserting any claim of force majeure regarding that event, provided, however, that if EPA, despite late or incomplete notice, is able to assess to its satisfaction whether the event is a force majeure under ¶ 55 and whether Respondents have exercised their best efforts under ¶ 55, EPA may, in its unreviewable discretion, excuse in writing Respondents' failure to submit timely or complete notices under this Paragraph.

57. EPA will notify Respondents of its determination whether Respondents are entitled to relief under ¶ 55, and, if so, the duration of the extension of time for performance of the obligations affected by the force majeure. An extension of the time for performance of the obligations affected by the force majeure shall not, of itself, extend the time for performance of any other obligation. Respondents may initiate dispute resolution under Section XIII regarding EPA's determination within 15 days after receipt of the determination. In any such proceeding, Respondents have the burden of proving that they are entitled to relief under ¶ 55 and that their proposed extension was or will be warranted under the circumstances.

58. The failure by EPA to timely complete any activity under the Settlement is not a violation of the Settlement, provided, however, that if such failure prevents Respondents from timely completing a requirement of the Settlement, Respondents may seek relief under this Section.

XIII. DISPUTE RESOLUTION

59. Unless otherwise provided in this Settlement, Respondents shall use the dispute resolution procedures of this Section to resolve any dispute arising under this Settlement.

60. A dispute will be considered to have arisen when one or more parties sends a written notice of dispute (“Notice of Dispute”) to EPA. A notice is timely if sent within 30 days after receipt of the EPA notice or determination giving rise to the dispute or within 15 days in the case of a force majeure determination. Disputes arising under this Settlement must in the first instance be the subject of informal negotiations between the parties to the dispute. The period for informal negotiations may not exceed 20 days after the dispute arises, unless EPA otherwise agrees. If the parties cannot resolve the dispute by informal negotiations, the position advanced by EPA is binding unless Respondents initiate formal dispute resolution under ¶ 48.

61. Formal Dispute Resolution

a. **Statement of Position.** Respondents may initiate formal dispute resolution by serving on EPA, within 20 days after the conclusion of informal dispute resolution under ¶ 60, an initial Statement of Position regarding the matter in dispute. EPA’s responsive Statement of Position is due within 20 days after receipt of the initial Statement of Position. All statements of position must include supporting factual data, analysis, opinion, and other documentation. A reply, if any, is due within 10 days after receipt of the response. If appropriate, EPA may extend the deadlines for filing statements of position for up to 45 days and may allow the submission of supplemental statements of position.

b. **Formal Decision.** The Director of the Superfund & Emergency Management Division, EPA Region 9, will issue a formal decision resolving the dispute (“Formal Decision”) based on the statements of position and any replies and supplemental statements of position. The Formal Decision is binding on Respondents.

62. The initiation of dispute resolution procedures under this Section does not extend, postpone, or affect in any way any requirement of this Settlement, except as EPA agrees. Stipulated penalties with respect to the disputed matter will continue to accrue, but payment is stayed pending resolution of the dispute, as provided in ¶ 66.

XIV. STIPULATED PENALTIES

63. Unless the noncompliance is excused under Section XII (Force Majeure), Respondents are liable to EPA for the following stipulated penalties:

a. for any failure: (i) to pay any amount due under Section XI; (ii) to establish and maintain financial assurance in accordance with Section IX ; (iii) to submit timely or adequate deliverables, including the Remedial Investigation Work Plan and Draft Feasibility Study.

Period of Noncompliance	Penalty Per Noncompliance Per Day
1st through 14th day	\$3000
15th through 30th day	\$6000
31st day and beyond	\$9000

b. for any failure to submit timely or adequate deliverables required by this Settlement other than those specified in ¶ 63.a:

Period of Noncompliance	Penalty Per Noncompliance Per Day
1st through 14th day	\$2000
15th through 30th day	\$4000
31st day and beyond	\$6000

64. **Work Takeover Penalty.** If EPA commences a Work Takeover under ¶ 35, Respondents are liable for a stipulated penalty in the amount of \$800,000. This stipulated penalty is in addition to the remedy available to EPA under ¶ 47 (Access to Financial Assurance).

65. Unless the noncompliance is excused under Section XII (Force Majeure), Owner Respondent is liable to EPA for the following stipulated penalties for failure to comply with Property Requirements as required by Section VIII:

Period of Noncompliance	Penalty Per Noncompliance Per Day
1st through 14th day	\$2000
15th through 30th day	\$4000
31st day and beyond	\$6000

66. **Accrual of Penalties.** Stipulated penalties accrue from the date performance is due, or the day a noncompliance occurs, whichever is applicable, until the date the requirement is completed or the final day of the correction of the noncompliance. Nothing in this Settlement prevents the simultaneous accrual of separate penalties for separate noncompliances with this Settlement. Stipulated penalties accrue regardless of whether Respondents have been notified of their noncompliance, and regardless of whether Respondents have initiated dispute resolution under Section XIII, provided, however, that no penalties will accrue as follows:

a. with respect to a submission that EPA subsequently determines is deficient under ¶ 6.5 of the SOW, during the period, if any, beginning on the 31st day after EPA’s receipt of such submission until the date that EPA notifies Respondents of any deficiency; or

b. with respect to a matter that is the subject of dispute resolution under Section XIII, during the period, if any, beginning on the 21st day after the later of the date that EPA’s Statement of Position is received or the date that Respondents’ reply thereto (if any) is received until the date of the Formal Decision under ¶ 61.b.

67. **Demand and Payment of Stipulated Penalties.** EPA may send Respondents a demand for stipulated penalties. The demand will include a description of the noncompliance and will specify the amount of the stipulated penalties owed. Respondents may initiate dispute resolution under Section XIII within 30 days after receipt of the demand. Respondents shall pay the amount demanded or, if they initiate dispute resolution, the uncontested portion of the amount demanded, within 30 days after receipt of the demand. Respondents shall pay the contested portion of the penalties determined to be owed, if any, within 30 days after the resolution of the dispute. Each payment for: (a) the uncontested penalty demand or uncontested portion, if late; and (b) the contested portion of the penalty demand determined to be owed, if

any, must include an additional amount for Interest accrued from the date of receipt of the demand through the date of payment. Respondents shall make payment at <https://www.pay.gov> using the link for “EPA Miscellaneous Payments Cincinnati Finance Center,” including references to the Site/Spill ID number listed in ¶ 87, and the purpose of the payment. Respondents shall send a notice of this payment to EPA. The payment of stipulated penalties and Interest, if any, does not alter any obligation by Respondents under the Settlement.

68. Nothing in this Settlement limits the authority of EPA: (a) to seek any remedy otherwise provided by law for Respondents’ failure to pay stipulated penalties or interest; or (b) to seek any other remedies or sanctions available by virtue of Respondents’ noncompliances with this Settlement or of the statutes and regulations upon which it is based, including penalties under section 122(l) of CERCLA, and punitive damages pursuant to section 107(c)(3) of CERCLA, provided, however, that EPA may not seek civil penalties under section 122(l) of CERCLA or punitive damages pursuant to section 107(c)(3) of CERCLA for any noncompliance for which a stipulated penalty is provided for in this Settlement, except in the case of a willful noncompliance with this Settlement.

69. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued under this Settlement.

70. No action or decision by EPA pursuant to this Settlement gives rise to any right to judicial review, except as set forth in section 113(h) of CERCLA.

XV. COVENANTS BY EPA

71. **Covenants for Respondents.** Subject to ¶ 73, EPA covenants not to sue or to take administrative action against Respondents under sections 106 and 107(a) of CERCLA regarding the Work and Future Response Costs.

72. The covenants under ¶ 71: (a) take effect upon the Effective Date; (b) are conditioned on the complete and satisfactory performance by Respondents of the requirements of this Settlement; (c) extend to the successors of each Respondent but only to the extent that the alleged liability of the successor of the Respondent is based solely on its status as a successor of the Respondent; and (d) do not extend to any other person.

73. **General Reservations.** Notwithstanding any other provisions of this Settlement, EPA reserves, and this Settlement is without prejudice to, all rights against Respondents regarding the following:

- a. liability for failure by Respondents to meet a requirement of this Settlement;
- b. liability for performance of response action other than the Work;
- c. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site;

d. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry regarding the Site;

e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments; and

f. criminal liability.

74. Subject to ¶ 6071, nothing in this Settlement limits any authority of EPA to take, direct, or order all appropriate action to protect public health and welfare and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the Site, or to request a Court to order such action.

XVI. COVENANTS BY RESPONDENTS

75. Covenants by Respondents

a. Subject to ¶ 76, Respondents covenant not to sue and shall not assert any claim or cause of action against the United States under CERCLA, RCRA § 7002(a), the United States Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, the State Constitution, State law, or at common law regarding the Work or Future Response Costs.

b. Subject to ¶ 76, Respondents covenant not to seek reimbursement from the Fund through CERCLA or any other law for costs of the Work and Future Response Costs.

76. **Respondents' Reservation.** The covenants in ¶ 75 do not apply to any claim or cause of action brought, or order issued, after the Effective Date by the United States to the extent such claim, cause of action, or order is within the scope of a reservation under ¶¶ 73.a through 73.e.

XVII. EFFECT OF SETTLEMENT; CONTRIBUTION

77. The Parties agree that: (a) this Settlement constitutes an administrative settlement under which each Respondent has, as of the Effective Date, resolved its liability to the United States within the meaning of sections 113(f)(2), 113(f)(3)(B), and 122(h)(4) of CERCLA; and (b) each Respondent is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by sections 113(f)(2) and 122(h)(4) of CERCLA, or as may be otherwise provided by law, for the "matters addressed" in this Settlement. The "matters addressed" in this Settlement are the Work and Future Response Costs, provided, however, that if the United States exercises rights against Respondents under the reservations in ¶¶ 73.a through 73.e, the "matters addressed" in this Settlement do not include those response costs or response actions that are within the scope of the exercised reservation.

78. Each Respondent shall, with respect to any suit or claim brought by it for matters related to this Settlement, notify EPA no later than 60 days prior to the initiation of such suit or claim. Each Respondent shall, with respect to any suit or claim brought against it for matters related to this Settlement, notify EPA within 10 days after service of the complaint on such

Respondent. In addition, each Respondent shall notify EPA within 10 days after service or receipt of any Motion for Summary Judgment and within 10 days after receipt of any order from a court setting a case for trial.

79. **Res Judicata and Other Defenses.** In any subsequent administrative or judicial proceeding initiated against any Respondent by EPA or by the United States on behalf of EPA for injunctive relief, recovery of response costs, or other appropriate relief relating to the Site, Respondents shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, claim preclusion (res judicata), issue preclusion (collateral estoppel), claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case.

80. Nothing in this Settlement diminishes the right of the United States under sections 113(f)(2) and (3) of CERCLA to pursue any person not a party to this Settlement to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to section 113(f)(2).

81. **Respondents' Certification.** Each Respondent certifies individually that: (a) it has implemented a litigation hold on documents and electronically stored information relating to the Site, including information relating to its potential liability under CERCLA regarding the Site, since the earlier of notification of potential liability by the United States or the State or the filing of suit against it regarding the Site; and (b) it has fully complied with any and all EPA requests for information under sections 104(e) and 122(e) of CERCLA, and section 3007 of RCRA.

XVIII. RECORDS

82. Retention of Records and Information

a. Respondents shall retain, and instruct their contractors and agents to retain, the following documents and electronically stored data ("Records") until 10 years after the Notice of Completion of the Work under Section 6.7 of the SOW (the "Record Retention Period"):

- (1) All records regarding Respondents' liability under CERCLA regarding the Site;
- (2) All reports, plans, permits, and documents submitted to EPA in accordance with this Settlement, including all underlying research and data; and
- (3) All data developed by, or on behalf of, Respondents in the course of performing the Work.

b. At the end of the Record Retention Period, Respondents shall notify EPA that it has 90 days to request the Respondents' Records subject to this Section. Respondents shall retain and preserve their Records subject to this Section until 90 days after EPA's receipt of the

notice. These record retention requirements apply regardless of any corporate record retention policy.

83. Respondents shall provide to EPA, upon request, copies of all Records and information required to be retained under this Section. Respondents shall also make available to EPA, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

84. Privileged and Protected Claims

a. Respondents may assert that all or part of a record requested by EPA is privileged or protected as provided under federal law, in lieu of providing the record, provided that Respondents comply with ¶ 84.b, and except as provided in ¶ 84.c.

b. If Respondents assert a claim of privilege or protection, they shall provide EPA with the following information regarding such record: its title; its date; the name, title, affiliation (e.g., company or firm), and address of the author, of each addressee, and of each recipient; a description of the record's contents; and the privilege or protection asserted. If a claim of privilege or protection applies only to a portion of a record, Respondents shall provide the record to Plaintiff in redacted form to mask the privileged or protected portion only. Respondents shall retain all records that they claim to be privileged or protected until EPA has had a reasonable opportunity to dispute the privilege or protection claim and any such dispute has been resolved in Respondents' favor.

c. Respondents shall not make any claim of privilege or protection regarding: (1) any data regarding the Site, including all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, radiological or engineering data, or the portion of any other record that evidences conditions at or around the Site; or (2) the portion of any record that Respondents are required to create or generate in accordance with this Settlement.

85. **Confidential Business Information Claims.** Each Respondent is entitled to claim that all or part of a record submitted to EPA under this Section is Confidential Business Information ("CBI") that is covered by section 104(e)(7) of CERCLA and 40 C.F.R. § 2.203(b). Respondents shall segregate all records or parts thereof submitted under this Settlement which it claims are CBI and label them as "claimed as confidential business information" or "claimed as CBI." Records that a submitter properly labels in accordance with the preceding sentence will be afforded the protections specified in 40 C.F.R. part 2, subpart B. If the records are not properly labeled when they are submitted to EPA, or if EPA notifies the submitter that the records are not entitled to confidential treatment under the standards of section 104(e)(7) of CERCLA or 40 C.F.R. part 2, subpart B, the public may be given access to such records without further notice to the submitter.

86. Notwithstanding any provision of this Settlement, EPA retains all of its information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

XIX. NOTICES AND SUBMISSIONS

87. All agreements, approvals, consents, deliverables, modifications, notices, notifications, objections, proposals, reports, waivers, and requests specified in this Settlement must be in writing unless otherwise specified. Whenever a notice is required to be given or a report or other document is required to be sent by one Party to another under this Settlement, it must be sent as specified below. All notices under this Section are effective upon receipt, unless otherwise specified. In the case of emailed notices, there is a rebuttable presumption that such notices are received on the same day that they are sent. Any Party may change the method, person, or address applicable to it by providing notice of such change to all Parties.

As to EPA: *via email to:*
Wiraatmadja.Vicky@epa.gov
Re: Site ID # A9EF

As to
Respondents: City of Scottsdale
3939 Drinkwater Boulevard
Scottsdale, Arizona 85251
Attn: City Attorney

City of Scottsdale
7447 E. Indian School Rd.
Scottsdale, Arizona 85251
Attn: Judy Doyle, Deputy City Manager

and

adria.reimer@siemens.com
brandon.dhande@siemens.com
with a copy to

john.pekala@motorolasolutions.com
peter.carlson@motorolasolutions.com

XX. APPENDICES

88. The following appendixes are attached to and incorporated into this Settlement:

“Appendix A” is the map of the Site.

“Appendix B” is the Statement of Work.

“Appendix C” is a set of maps of relevant historical and current parcels in Area 7.

XXI. MODIFICATIONS TO SETTLEMENT

89. Except as provided in ¶ 33 (Modifications to the Work), both nonmaterial and material modifications to the Settlement and ¶ 7.5 of the SOW (Approval of Deliverables) must be in writing and are effective when signed (including electronically signed) by the Parties.

XXII. SIGNATORIES

90. The undersigned representative of EPA and each undersigned representative of a Respondent certifies that he or she is authorized to enter into the terms and conditions of this Settlement and to execute and legally bind such party to this Settlement.

XXIII. INTEGRATION

91. This Settlement constitutes the entire agreement among the Parties regarding the subject matter of the Settlement and supersedes all prior representations, agreements, and understandings, whether oral or written, regarding the subject matter of the Settlement embodied herein.

XXIV. EFFECTIVE DATE

92. This Settlement is effective when EPA issues notice to Respondents that the Regional Administrator or their delegatee has signed the Settlement.

Signature Page for Administrative Settlement Agreement regarding the Area 7 Vapor Operable Unit of the NIBW Superfund Site

IT IS SO AGREED AND ORDERED:

**BY THE U.S. ENVIRONMENTAL
PROTECTION AGENCY:**

Dated

Sharon Lin
Assistant Director
States and Islands Branch
Superfund and Emergency Management Division
U.S. EPA Region 9

Signature Page for Administrative Settlement Agreement Regarding the Area 7 Vapor Operable Unit of the NIBW Superfund Site

FOR SIEMENS CORPORATION

Dated

Name:
Title:
Address:

Dated

Name:
Title:
Address:

Signature Page for Administrative Settlement Agreement regarding the Area 7 Vapor Operable Unit of the NIBW Superfund Site

CITY OF SCOTTSDALE, an Arizona municipal corporation (“City”)

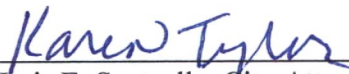
ATTEST:

By: _____
Ben Lane, City Clerk

By _____
Lisa Borowsky, Mayor

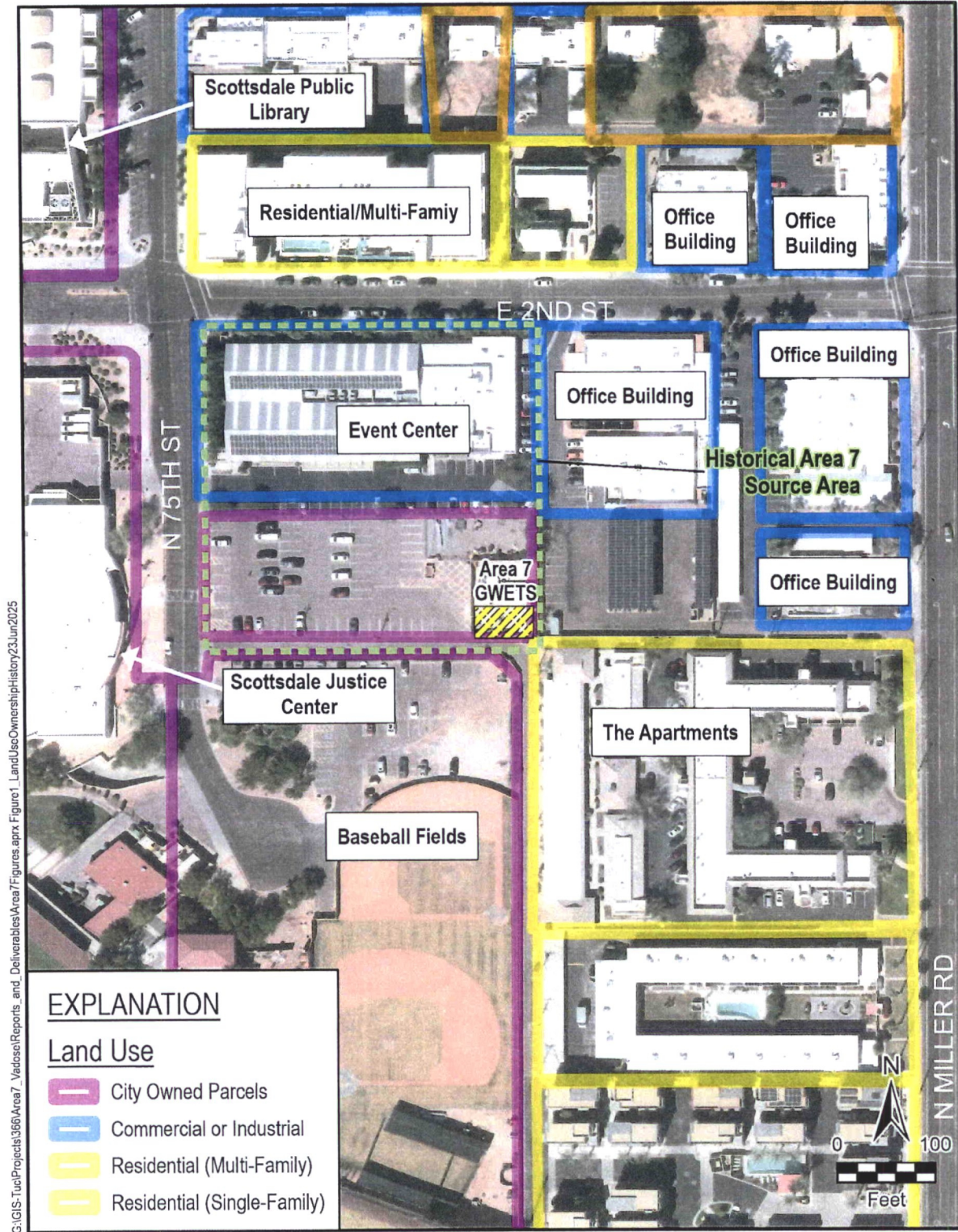
Date: _____

APPROVED AS TO FORM:



Luis E. Santaella, City Attorney
By: Karen Tyler, Principal Assistant City Attorney

Appendix A



G:\GIS-TUC\Projects\366\Area7_Videos\Reports_and_Deliverables\Area7\Figures.aprx.Figure1_LandUseOwnershipHistory23Jun2025

Figure: Area 7 Vicinity with Current Land Use

Appendix B

**REMEDIAL INVESTIGATION/FEASIBILITY STUDY
STATEMENT OF WORK**

NORTH INDIAN BEND WASH SUPERFUND SITE

Area 7 Vapor Intrusion Operable Unit

Scottsdale, Maricopa County, State of Arizona

EPA Region 9

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1. INTRODUCTION

Area 7 of the North Indian Bend Wash site is an approximately two-acre area on the southeast corner of East 2nd Street and North 75th Street in Scottsdale, Arizona (the Site). A City of Scottsdale parking lot and a privately owned event center are located within Area 7. The area surrounding Area 7 is mixed use and includes City of Scottsdale civic buildings, a public library, baseball fields and associated stadium, commercial businesses, apartments and single-family homes. Area 7 also houses a treatment system for remediation of groundwater being conducted pursuant to the Consent Decree II, civil action #91-1835 dated April 23, 1992 and the Amended Consent Decree, civil action #91-1835-PHX-FJM dated June 6, 2023.

Vadose zone investigations at Area 7 initially commenced in February 1987, with the collection of numerous shallow soil gas samples throughout Area 7. Since that time, investigations have been conducted in 1988, 1992, 1993, and 1994 which included soil and soil gas sampling. In 1993, a soil vapor monitoring and extraction well network was installed and active remediation commenced in 1994 to address the threat of contaminant migration to groundwater. Approximately 8,000 pounds of trichloroethylene (TCE) were extracted from the vadose zone prior to decommissioning the SVE system in 2016 with EPA approval.

A comprehensive vapor intrusion and indoor air investigation was prompted in 2016 after TCE toxicity values were revised, and the 2016 Five Year Review requested a reassessment of the source areas to determine if the existing remedy is protective with respect to vapor intrusion. Subsequent soil gas sampling conducted across a broad area within and adjacent to Area 7 demonstrated that subsurface vapor concentrations dissipate rapidly away from the source, defining a focus area with exceedances of soil gas screening levels used at the NIBW Site during previous vapor intrusion investigations. Results from indoor air sampling at Area 7 that followed indicated indoor air concentrations exceeded the new long-term TCE regional screening levels in portions of two nearby buildings and in one residence located further to the east.

An air filter was deployed by the Participating Companies at the residence to the east, which was investigated and deemed to be not directly related to the Area 7 vapor intrusion source. At the apartment complex, the Participating Companies installed a sub-slab depressurization system to capture and vent TCE to mitigate vapor intrusion in four apartments. Indoor air sampling and operations and maintenance events for that system have been conducted annually through 2025 and have demonstrated that the system is successfully addressing vapor intrusion at the apartment complex. In 2023, EPA requested and oversaw installation of a sub-slab depressurization system in the second Area 7 building with indoor air TCE concentration exceedances, an event center. Indoor air monitoring performed by EPA's contractor in May 2023 and January 2024 demonstrated that the sub-slab depressurization system is effective at mitigating vapor intrusion within the event center.

The 2021 Five Year Review acknowledged protective measures that were already in place (apartment complex) or pending at the time (event center) and concluded that for the remedy at the Site to be protective in the long term, vapor intrusion concerns in Area 7 need to be addressed. Therefore, EPA requested that the Potentially Responsible Parties (PRPs) for the Area 7 vadose zone implement a focused Remedial Investigation and Feasibility Study (RI/FS). This Statement of Work ("SOW") reflects a focused effort to supplement historical TCE and other volatile organic compound (VOC) data at the Site in order to define the extent of the vapor intrusion source at Area 7 and determine an

appropriate permanent remedy.

- 1.1 **Purpose of the SOW.** This SOW sets forth the procedures, requirements, and recommendations for implementing the Work to develop and perform the remedial investigation (“RI”) and the feasibility study (“FS”) for NIBW Area 7 Vapor Intrusion Operable Unit of the Site. This SOW is a part of and incorporated into the Administrative Settlement Agreement and Order on Consent, CERCLA Docket No. 2026-09 (“Settlement”).
- 1.2 The terms used in this SOW that are defined in CERCLA, in regulations promulgated under CERCLA, or in the Settlement, have the meanings assigned to them in CERCLA, in such regulations, or in the Settlement, except that the term “Paragraph” or “¶” means a paragraph of the SOW and that the term “Section” means a section of the SOW, unless otherwise stated. If there is a conflict between this SOW and the Settlement, the provisions of the Settlement shall govern.
- 1.3 At the completion of the RI/FS, EPA will be responsible for identifying a preferred remedy, soliciting, and reviewing public comments on the proposed plan, and the selection of a site remedy, and will document this selection in a record of decision (“ROD”). The remedial action alternative selected by EPA will meet the cleanup standards specified in CERCLA § 121. As specified in CERCLA § 104(a)(1), as amended, EPA or its representatives will provide oversight of Respondents’ activities throughout the RI/FS.
- 1.4 Modifications to the SOW will follow procedures described in Sections VII (Performance of the Work) and XXI in the Settlement. Respondents shall refer to the Guidance for Conducting Remedial Investigations and Feasibility Studies, OSWER 9355.3-01, EPA/540/G-89/004 (Oct. 1988) (“RI/FS Guidance”) in performing their responsibilities under this SOW.
- 1.5 This SOW is not intended to modify current EPA guidance or regulations, including but not limited to the guidance documents referenced in ¶ 9.1. Current EPA guidance and regulations shall control in the event of any conflict between the SOW and current EPA guidance and regulations.

2. COMMUNITY INVOLVEMENT

As requested by EPA, Respondents shall conduct community involvement activities under EPA’s oversight as provided for, and in accordance with this Section. Such activities must include designation of a Community Involvement Coordinator (“CI Coordinator”).

2.1 Community Involvement Responsibilities

EPA has the lead responsibility for developing and implementing community involvement (“CI”) activities at sites. This includes compliance with 40 C.F.R. § 300.430(c)(2) (outlining the lead agency’s community involvement responsibilities) and the preparation of a Community Involvement Plan (CIP) specifying the CI activities expected to be undertaken during the remedy response.

- (A) Such activities include compliance with 40 CFR § 300.815(a) (making administrative record available to the public) and 40 CFR § 300.430(f)(3)(i)(C) (providing reasonable opportunity for submission of comments on the RI/FS and Proposed Plan).
- (B) **Respondents' CI Coordinator.** Respondents shall designate and notify EPA of Respondents' CI Coordinator. Respondents may hire a contractor for this purpose. Respondents' notice shall include the name, title, and qualifications of their CI Coordinator. Respondents' CI Coordinator is responsible for providing support regarding EPA's CI activities, including coordinating with EPA's CI Coordinator regarding responses to the public's inquiries and/or requests for information or data about the Site.
- (C) Respondents shall participate in and/or conduct community involvement activities, including participation in (1) the preparation of information regarding the field sampling activities for dissemination to the public, with consideration given to including local and mass media and/or internet notification, and (2) public meetings that may be held or sponsored by EPA to explain activities at or relating to the Site. EPA may describe in its CIP Respondents' responsibilities for community involvement activities. All community involvement activities conducted by Respondents are subject to EPA's oversight.

2.2 Information for the Community.

- A. Upon EPA's request, Respondents shall provide copies of relevant documents to the Administrative Record housed at the Scottsdale Civic Center Library located at 3839 North Drinkwater Boulevard in Scottsdale, Arizona.
- B. If requested by EPA, Respondents shall develop and provide to EPA information about the RI/FS including: (1) any validated data from field sampling activities (2) schedules (3) dates that Respondents completed each task listed in the schedules; and (4) digital photographs of the Work being performed, together with descriptions of the Work depicted in each photograph, the purpose of the Work, the equipment being used, and the location of the Work. The EPA Remedial Project Manager may use this information for communication to the public via EPA's website, social media, or local and mass media. The information provided to EPA shall be suitable for sharing with the public (e.g., drafted in plain language) and the education levels of the community.
- C. If requested by EPA, Respondents shall describe all community impact mitigation activities to be performed: (i) to reduce impacts (e.g., air emissions, dust, odor, traffic, noise, temporary relocation, negative economic effects) to residential areas, schools, playgrounds, healthcare facilities, or recreational public areas frequented by community members ("Community Areas") during field sampling activities; (ii) to conduct monitoring in Community Areas of impacts from field sampling activities; (iii) to communicate validated sampling data; and (iv) to make adjustments during field sampling activities in order to further reduce negative impacts to affected Community Areas. Descriptions shall contain information about impacts to

Community Areas that is sufficient to assist EPA's site team in performing the evaluations recommended under the *Superfund Community Involvement Handbook*, OLEM 9230.0-51 (Mar. 2020). EPA's Remedial Project Manager ("RPM") and CI Coordinator will review and approve all proposed activities.

3. COORDINATION AND SUPERVISION

3.1 Selection of Project Coordinator

- (A) Respondents have proposed, and EPA has authorized Respondents to proceed, designating John Pekala (john.pekala@motorolasolutions.com) as the Project Coordinator and Montgomery & Associates as the Supervising Contractor.
- (B) Respondents shall notify EPA, at least 10 days prior to any proposed change in Respondent's Project Coordinator.
- (C) Respondents' Project Coordinator (i) must have sufficient technical expertise to carry out their responsibilities; (ii) may not be attorneys representing Respondents in this matter; and (iii) may not have a conflict of interest regarding the project. The Supervising Contractor must have a quality assurance system that complies with the most recent version of Quality Systems for Environmental Data and Technology Programs -- Requirements with Guidance for Use (American National Standard), ANSI/ASQC E4 (Feb. 2014).
- (D) EPA shall issue a notice of disapproval and/or authorization to proceed regarding any proposed change in Project Coordinator and Supervising Contractor, as applicable. Any EPA disapproval must be based on the criteria under ¶ 3.1(C).

- 3.2 EPA has designated Vicky Wiraatmadja (Wiraatmadja.vicky@epa.gov) as its Remedial Project Manager (RPM). EPA may, with notice to Respondents, designate an alternate Remedial Project Manager. EPA may designate other representatives including contractors or consultants to oversee the Work.

4. REMEDIAL INVESTIGATION

- 4.1 **Previous Investigation Summary.** The RI/FS Work Plan as described in ¶ 4.3 below includes a summary of previous investigation results. The summary includes available data and information relevant for vapor intrusion, including information relating to the varieties and quantities of hazardous substances, pollutants, or contaminants at the Site and previous remedial actions performed at the Site. Available data includes results from previous sampling or other investigations and actions that have been conducted. Respondents have referred to Table 2-1 of the *Guidance for Conducting Remedial Investigations and Feasibility Studies*, OSWER 9355.3-01, EPA/540/G-89/004 (Oct. 1988) for a comprehensive list of data collection information sources. The summary describes past reported uses and potential releases of hazardous substances, pollutants or contaminants into the environment at the Site to the extent reliable information is available.

4.2 Conceptual Site Model Development. The Conceptual Site Model (“CSM”) is a representation of the Site that summarizes and helps project teams visualize and understand available information, and which is updated as additional information becomes available. The RI/FS Work Plan as described in ¶ 4.3 below includes the Area 7 Vadose Zone CSM. The CSM is based upon available site-specific information relevant to vapor intrusion of VOCs, primarily TCE. References consulted in the development of, and the CSM are provided in the RI/FS Work Plan. Respondents shall update the CSM, as requested by EPA, to account for information obtained during the RI, and summarize the updated CSM in the FS Report described in ¶ 5.2 below.

4.3 Remedial Investigation/Feasibility Study Work Plan (“RI/FS Work Plan”). Respondents have submitted an RI/FS Work Plan to EPA and ADEQ for review and approval consistent with OSWER Directive 9835.1(c). The RI/FS Work Plan includes a comprehensive description of the RI Work to be performed, including the scope, methodologies, and schedule for completion. The RI/FS Work Plan describes areas of the Site that may pose potential current or future unacceptable risk to public health or welfare or the environment due to the release or threat of release of chemicals related to vapor intrusion. The RI/FS Work Plan describes the release or threat of release of hazardous substances, pollutants or contaminants at or from the Site relevant to vapor intrusion of TCE and other pertinent VOCs (collectively referred to in the RI/FS Work Plan as the Area 7 Remedial Investigation Vapor Intrusion Constituents of Potential Concern, or RI COPCs). Relevant site background information, the CSM for the vadose zone and vapor intrusion, and a description of current and anticipated future land use at the Site are included in the RI/FS Work Plan.

Respondents have developed a specific project scope based on EPA’s remedial strategy for the Site (“Site Strategy”). EPA’s Site Strategy was provided via verbal and email communication during a series of meetings and follow-up communications in February through May 2024. The RI, as described in the RI/FS Work Plan, consists of collecting data to characterize the nature and extent of the RI COPC vapor intrusion source in soil at the Site, characterize the magnitude and extent of RI COPC vapors with the potential to result in vapor intrusion into buildings at concentrations above EPA regional screening levels (RSLs), and assess risk to human health, including sensitive populations (40 C.F.R. § 300.430(d)(2)(vii)). The FS will evaluate the potential performance and cost of treatment technologies to address vapor intrusion at the Site. Although it is not anticipated at this time, the RI/FS may include conducting treatability testing as necessary to assist in evaluating the potential performance and cost of treatment technologies being considered.

Climate-related or environmental hazards (e.g., sea level changes, increased severity of wildfire, increased storm intensity, increased flood and/or drought risk, etc.) may affect the potential remedies at the Site. To the extent applicable, as part of the FS, Respondents shall use forward-looking climate data to evaluate the current and potential chemical releases associated with vapor intrusion of RI COPCs.

A baseline environmental footprint assessment was conducted, as described in the RI/FS Work Plan, and presented in the draft Field Sampling Plan submitted to EPA and ADEQ. The results of the baseline environmental footprint evaluation were used to identify areas

to focus footprint reduction efforts through the application of sustainable Best Management Practices (BMPs) during the RI field work. The RI report will include an estimate of the reduction in the environmental footprint as a result of the application of selected sustainable BMPs. The RI/FS Work Plan is consistent with the *Consideration of Greener Cleanup Activities in the Superfund Cleanup Process* (Aug. 2, 2016). These considerations for greener cleanups are not intended to allow cleanups that do not satisfy threshold requirements for protectiveness, or do not meet other site-specific cleanup objectives. Greener cleanup activities refer to strategies designed to help minimize the environmental footprint of cleaning up contaminated sites and ensure a protective remedy within the applicable CERCLA statutory and regulatory framework.

4.4 RI/FS Work Plan Deliverables. The Respondents shall submit the following deliverables for EPA review and approval unless EPA decides that one or more provisions is not necessary. To the extent any of the deliverables below are already in place, they need only be supplemented as necessary for this RI/FS:

- a) **Quality Assurance Project Plan.** Respondents shall collect, produce, evaluate, or use environmental information under a Quality Assurance Project Plan (“QAPP”) reviewed and approved by EPA with ADEQ consultation. No environmental information, as defined by AQS/ANSI E-4, will be collected, produced, evaluated, or used without an EPA approved QAPP. The QAPP will be consistent with EPA Guidance, EPA Quality Assurance Project Plan Standard CIO 2105-S-02.0 (March 7, 2023), the 2012 Uniform Federal Policy for Quality Assurance Project Plans, Optimized UFP-QAPP Worksheets, the most recent version of ASQ/ANSI E-4 (Quality Management Systems for Environmental Information and Technology Programs Requirements with Guidance For Use), and EPA/G-5 (EPA requirements for QAPPs). A draft QAPP has been submitted to EPA and is currently under review by EPA. The final QAPP may be combined with the final Field Sampling Plan (“FSP”) for submittal to EPA as a single deliverable.
- b) **Field Sampling Plan.** The Field Sampling Plan (“FSP”) shall be written so that personnel unfamiliar with the project will be able to gather the samples and field information required. The FSP shall be prepared in accordance with RI/FS Guidance. A draft FSP has been submitted to EPA and is currently under review by EPA. The FSP may be combined with the QAPP for submittal to EPA as a single deliverable.
- c) **Emergency Response (ER) and Notification Plan.** The ER and Notification Plan shall describe procedures to be used in the event of an accident or emergency at the Site (e.g., power outages, water impoundment failure, treatment plant failure, slope failure, etc.). The ER and Notification Plan will be incorporated into the Health and Safety Plan (“HASP”) addendum described below and shall include:
 - (1) Name of the person or entity responsible for responding in the event of an emergency incident;
 - (2) Plan and date(s) for meeting(s) with the local community, if necessary, including local, State, and federal agencies involved in the cleanup, as well as local emergency squads and hospitals;

- (3) If applicable, a Spill Prevention, Control, and Countermeasures Plan consistent with the requirements of 40 C.F.R. part 112 (describing measures to prevent, and contingency plans for spills and discharges);
 - (4) Notification activities in accordance with ¶ 6.6(B) (Release Reporting) in the event of a release of hazardous substances requiring reporting under sections 103 or 111(g) of CERCLA, or section 304 of the Emergency Planning and Community Right-to-know Act (“EPCRA”), 42 U.S.C. § 11004; and
 - (5) A description of all necessary actions to ensure compliance with Section 6.6 (Emergency Response and Reporting) in the event of an occurrence during the performance of the Work that causes or threatens a release of a hazardous substance, pollutant or contaminant at or from the Site that constitutes an emergency or may present an immediate threat to human health or welfare or the environment.
- d) **Health and Safety Plan.** A Health and Safety Plan (“HASP”) for use during the RI field investigation will be prepared prior to implementation of the RI field program. The HASP will include the ER and Notification Plan described in 4.4(c) above. The HASP shall describe all activities to be performed to protect on-site personnel from physical, chemical, and all other hazards posed by the field sampling. The HASP shall: (1) be prepared in accordance with EPA’s *Emergency Responder Health and Safety Manual* and Occupational Safety and Health Administration (“OSHA”) requirements under 29 C.F.R. §§ 1910 and 1926; and (2) shall address RI Work and include contingency planning. A draft HASP has been submitted to EPA and is currently under review by EPA. EPA does not approve the HASP but will review it to ensure that all necessary elements are included and that the plan provides for the protection of human health and the environment.
- e) **Identification of Preliminary RAOs, PRGs and ARARs.** In the RI/FS Work Plan, Respondents have developed preliminary remedial action objects (“RAOs”), which are medium-specific goals for protecting human health or the environment that specify the chemicals of concern, exposure route(s) and receptor(s), and preliminary remediation goals (“PRGs”). Respondents have also identified potential state and federal chemical-specific and location-specific applicable or relevant and appropriate requirements (“ARARs”). ARAR identification will continue as site conditions, contamination, and remedial action alternatives are refined. RAOs, ARARs, and PRGs will be refined if necessary and provided in the FS report as described in ¶ 5.2(A).

4.5 Field Summary Report. Respondents shall prepare a report after the field activity demobilization and receipt and validation of field and laboratory data that summarizes the sampling results, describing the collection, processing, management, distribution, and archival of data and information. This report will be reviewed and approved by EPA with ADEQ consultation.

- 4.6 **Baseline HHRA.** Respondents shall perform the Baseline Human Health Risk Assessment (“Baseline HHRA”) in accordance with this SOW and the NCP (National Contingency Plan), including the 40 C.F.R. § 300.430(d)(2)(vii) provision on sensitive populations, RI/FS Work Plan, and applicable EPA guidance. The purpose of the Baseline HHRA is to provide an understanding of the potential risks to human health associated with current and anticipated future land use to support risk management strategies and to inform the public regarding possible risks. The Baseline HHRA shall evaluate human health risk associated with potential exposure to RI COPCs as if no interim mitigation measures have been taken, as well as under current conditions where mitigation measures have been implemented. Respondents shall ensure that the Baseline HHRA incorporates site-specific exposure assumptions, to the extent possible. Site- and use-specific exposure assumptions shall be developed and applied in the risk assessment. The risk assessment will be reviewed and approved by EPA with ADEQ consultation. Respondents shall identify and document all sources of information reviewed to assess human health risks.
- 4.7 **Draft RI Report.** Respondents shall submit to EPA for review and approval pursuant to ¶ 7.5 (Approval of Deliverables), a draft RI report consistent with the SOW, RI/FS Work Plan, and with EPA guidance and regulations. This report shall summarize results of field activities to characterize the Site, including the sources, nature and extent, and fate and transport of contaminants relevant to vapor intrusion of RI COPCs at the Site. Respondent will refer to the RI/FS Guidance for an outline of the report format and contents. Following receipt of comments by EPA and ADEQ, Respondents will prepare a final RI report which satisfactorily addresses these comments.

5. FEASIBILITY STUDY

- 5.1 **Feasibility Study.** Consistent with relevant RI/FS Guidance and results of the Baseline HHRA, the FS shall identify and evaluate remedial alternatives to prevent, mitigate, or otherwise respond to or remediate the release or threatened release of hazardous substances, pollutants or contaminants relevant to vapor intrusion of RI COPCs at or from the Site. If there is potential commingling of hazardous substances with pollutants or contaminants at the Site, then the evaluation of the potential performance and cost of the treatment technologies should also take into account the ability of those treatment technologies to address the commingled contamination (e.g., hazardous substances comingled with pollutants or contaminants) and any adverse impacts the comingled contamination may have on the ability and cost of the treatment technologies to address the release or threatened release at the Site. The remedial alternatives evaluated shall include, but shall not be limited to, the range of alternatives described in the NCP, 40 C.F.R. § 300.430(e), and shall include remedial actions that utilize permanent solutions and alternative treatment technologies or resource recovery technologies to the extent practicable. Pursuant to NCP 40 C.F.R. § 300.430(e), a preliminary screening step will be implemented to eliminate from consideration alternatives that are technically or administratively infeasible. Respondents shall also evaluate potential impacts that treatment technologies have on other hazardous substances, pollutants or contaminants at or from the site. In evaluating the alternatives, Respondents shall address the factors required by section 121 of CERCLA, and 40 C.F.R. § 300.430(e).

5.2 FS Deliverables. The Respondents shall prepare a draft and final FS report for EPA review and approval that includes the following components, unless EPA decides that one or more provisions is not necessary:

- (A) **Refine RAOs, PRGs and ARARs.** Respondents shall revise the RAOs, PRGs, and ARARs to include potential ARARs specific to actions and locations described in ¶ 4.4(e) based on the findings of the Baseline HHRA and RI Report. Respondents will review and, if necessary, modify the site-specific RAOs, specifically the PRGs, that were established in the RI/FS Work Plan, and considering comments made by EPA. The revised RAOs and PRGs will be documented in the FS Report that will be reviewed and approved by EPA. These modified PRGs will specify the contaminant(s) and media of interest, exposure pathways and receptors, and an acceptable contaminant level or range of levels (at locations for each exposure route), basis for the value, and the associated residual risk. This analysis will include the consideration of sensitive subgroups in determining the acceptable exposure levels for sites with systemic toxicants, in accordance with 40 C.F.R. § 300.430(e)(2)(i)(A)(1). In addition, the analysis will include, if relevant, whether the ARARs may not be sufficiently protective given the presence of multiple contaminants at the site or multiple pathways of exposure for sites with known or suspected carcinogens, in accordance with 40 C.F.R. § 300.430(e)(2)(i)(A)(2).

- (B) **Identify and Evaluate Remedial Technologies and Assemble Alternatives.** Concurrent with ¶ 5.2(A), Respondents shall assemble combinations of technologies, and the media to which they would be applied, into remedial alternatives that address contamination for the Area 7 Vapor Intrusion Operable Unit. This analysis will be included in the FS Report and reviewed and approved by EPA with ADEQ consultation. Respondents shall: (i) develop general response actions to address RI COPC vapor intrusion impacts at the Site that may be taken to satisfy the RAOs for the Site; (ii) identify volumes or areas of media to which general response actions might be applied, taking into account the requirements for protectiveness as identified in the RAOs and the chemical and physical characterization of the Site; and (iii) identify and screen the technologies applicable to each general response action to eliminate those that cannot be implemented technically at the Site. The general response actions shall be further refined to specify remedial technology types, as appropriate (e.g., the general response action of treatment can be further defined to include chemical or biological technology types). Respondents shall assemble the selected representative technologies into alternatives representing a range of treatment and containment combinations, as appropriate.

- (C) **Comparative Analysis of Alternatives.** After completion of ¶ 5.2(A) and (B), Respondents shall conduct a comparative analysis of the remaining alternatives to evaluate the relative performance of each alternative in relation to the nine evaluation criteria identified below in this paragraph and include a summary of this analysis in the FS Report. This range of alternatives shall include, as

appropriate, options in which treatment is used to reduce the toxicity, mobility, or volume of wastes, but varying in the types of treatment, the amount treated, and how long-term residuals or untreated wastes are managed. The analysis will include options involving treatment and/or containment and a no-action alternative. The evaluation criteria are: (1) overall protection of human health and the environment; (2) compliance with ARARs; (3) long-term effectiveness and permanence; (4) reduction of toxicity, mobility, or volume through treatment; (5) short-term effectiveness; (6) implementability; (7) cost; (8) state (or support agency) acceptance; and (9) community acceptance. Criteria (1) and (2) are Threshold Criteria, statutory requirements that must be satisfied by any alternative for it to be eligible as a selected alternative. Criteria (3) through (7) are Primary Balancing Criteria, used to identify major tradeoffs between remedial alternatives which are balanced to identify the preferred alternative and to select the final remedy. Criteria (8) and (9) are Modifying Criteria, fully considered after any public comment period on EPA's Proposed Plan for the Site. The analysis shall (consistent with 40 C.F.R. § 300.430(e)(9)(iii)(C) and *Consideration of Climate Resilience in the Superfund Cleanup Process for Non-Federal National Priorities List Sites* OLEM 9355.1-120, June 30, 2021) include an assessment of the vulnerability of the protectiveness of each alternative to the impacts of climate change and, for each alternative where appropriate, an evaluation of the possible addition of further measures to ensure the resilience of a particular alternative's protectiveness to the impacts of climate change. In addition, where appropriate for particular evaluation criteria, Respondents shall also evaluate, to the extent practicable, opportunities to reduce the environmental footprint of each alternative. Such evaluation shall include the consideration of green remediation best management practices and/or application of the ASTM Standard for Greener Cleanups, consistent with *Consideration of Greener Activities in the Superfund Cleanup Process* (Aug. 6, 2016). These considerations for greener cleanups are not intended to allow cleanups that do not satisfy threshold requirements for protectiveness, or do not meet other site-specific cleanup objectives.

For each alternative, Respondents shall provide: (1) a description of the alternative that outlines the waste management strategy involved and identifies the key ARARs associated with each alternative, and (2) a discussion of the individual criterion assessment. If the Respondents do not have direct input on criteria (8), state (or support agency) acceptance, and criteria (9), community acceptance, these will be addressed by EPA. Criteria (8) and (9) are not generally addressed until after the Proposed Plan.

- (D) **IC Evaluation.** Concurrent with ¶ 5.2(A), Respondents shall conduct an institutional control (IC) evaluation as appropriate based on the findings of the Baseline HHRA and RI Report. ICs need to be enforceable under CERCLA, rather than relying on local controls, such as zoning. The IC evaluation will describe potential land and/or resource use restrictions and their relationship to the RAOs. The IC evaluation will also identify potential IC instruments, including those persons potentially responsible for implementing, maintaining, and enforcing the ICs. The IC evaluation will include an estimate for how long IC

instruments shall remain in place. The IC evaluation shall also identify how the IC components may be utilized in conjunction with each remedial alternative evaluated per the NCP (40 C.F.R. § 300.430(e)(9)(iii)) such as: compliance with ARARs; long-term effectiveness and permanence; short-term effectiveness; implementability; cost; state acceptance; and community acceptance. The IC analysis shall be included in the FS Report submitted for review and approval by EPA.

- (E) **Draft FS Report.** Following ¶¶5.2(A) through (D), Respondents shall submit to EPA a draft FS report for review and approval pursuant to ¶ 7.5 (Approval of Deliverables). Respondents shall refer to Table 6-5 of the RI/FS Guidance for report content and format. The FS report and the administrative record shall provide sufficient information to support the remedial alternatives analysis and remedy selection under sections 113(k) and 117(a) of CERCLA. Respondents will prepare a final FS report which satisfactorily addresses EPA and ADEQ comments.

6. MEETINGS, PERMITS, and REPORTS

- 6.1 **Kickoff Meeting.** Within 14 days of the Effective Date of the Settlement, if deemed necessary, Respondents shall schedule a kickoff meeting with technical staff, EPA, and other stakeholders to discuss this SOW and the RI/FS Work Plan. EPA and the Respondents will discuss the site-specific objectives of the RI. The meeting will also be used to outline project-specific requirements including: field program objectives, data gaps, potential sampling and analysis methods, and performance goals. The deliverable after the kickoff meeting will be an updated project schedule if changes to the schedule previously presented in the RI/FS Work Plan are necessary. The kickoff meeting and progress reports delivered during monthly Technical Committee meetings referenced in ¶ 6.2 will be documented in the QAPP.
- 6.2 **Progress Report Meetings.** The Respondents, EPA, ADEQ, and other Technical Committee parties hold meetings for the NIBW site on a consistent and typically monthly basis. Progress reports for the RI/FS Work will be given by the Respondents to the Technical Committee, including EPA, during these project Technical Committee meetings through completion of the RI/FS Work. The progress reports will be documented in meeting minutes prepared and distributed by the Participating Companies following each meeting, and will generally cover the following, as appropriate:
- (A) Actions that have been taken under this SOW;
 - (B) Results of sampling and tests and other data received and passed through the initial QA process by Respondents;
 - (C) Work planned for the next two months, with schedules relating such Work to the overall project schedule for RI/FS completion, and anticipated schedule changes;

- (D) Problems encountered in complying with the requirements of this SOW, anticipated problems, actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays;
- (E) Modifications to the work plans or other schedules Respondents have proposed or that have been approved by EPA; and
- (F) Activities undertaken in support of the CIP during the reporting period and those to be undertaken in the next reporting period.

6.3 Notice of Schedule Changes. If the schedule for any activity described in the Progress Reports, including deliverables required under Section 7, changes, Respondents shall notify EPA of such change at least seven days prior to the previously-reported schedule.

6.4 Investigation Derived Waste. Respondents may ship Investigation Derived Waste ("IDW") from the Site to an off-site facility only if they comply with section 121(d)(3) of CERCLA, section 300.440 ("Off-Site Rule") of the NCP, *EPA's Guide to Management of Investigation Derived Waste*, OSWER 9345.3-03FS (Jan. 1992). Wastes shipped off-site to a laboratory for characterization, and RCRA hazardous wastes that meet the requirements for an exemption from RCRA under 40 C.F.R. § 261.4(e) shipped off-site for treatability studies, are not subject to section 300.440 of the NCP.

6.5 Permits

- (A) As provided in CERCLA § 121(e), and section 300.400(e) of the NCP, no permit is required for any portion of the Work conducted entirely on-site (*i.e.*, within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Work). Where any portion of the Work that is not on-site requires a federal or state permit or approval, Respondents shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals.
- (B) Respondents may seek relief under the provisions of Section XII (Force Majeure) of the Settlement for any delay in the performance of the Work resulting from a failure to obtain, or a delay in obtaining, any permit or approval referenced in ¶ 6.5(A) and required for the Work, provided that they have submitted timely and complete applications and taken all other actions necessary to obtain all such permits or approvals.
- (C) Nothing in the Settlement or this SOW constitutes a permit issued under any federal or state statute or regulation.

6.6 Emergency Response and Reporting

- (A) **Emergency Action.** If any event occurs during performance of the Work that causes or threatens to cause a release of hazardous substances, pollutants or contaminants on, at, or from the Site and that either constitutes an emergency situation or that may present an immediate threat to public health or welfare or the

environment, Respondents shall: (1) immediately take all appropriate action to prevent, abate, or minimize such release or threat of release; (2) immediately notify the authorized EPA officer (as specified in ¶ 6.6(C) orally; and (3) take such actions in consultation with the authorized EPA officer and in accordance with all applicable provisions of the Health and Safety Plan, the Emergency Response Plan, and any other deliverable approved by EPA under the SOW.

- (B) **Release Reporting.** Upon the occurrence of any event during performance of the RI Work that Respondents are required to report pursuant to sections 103 and 111(g) of CERCLA, or section 304 of EPCRA, Respondents shall immediately notify the authorized EPA officer orally.
- (C) The “authorized EPA officer” for purposes of immediate oral notifications and consultations is the EPA Remedial Project Manager, the EPA Alternate Remedial Project Manager or the Manager of the Arizona Cleanup Section if the EPA Remedial Project Manager and Alternate Remedial Project Manager are not available.
- (D) For any event covered by ¶ 6.6, Respondents shall: (1) within 10 days after the onset of such event, submit a report to EPA describing the actions or events that occurred and the measures taken, and to be taken, in response thereto; and (2) within 30 days after the conclusion of such event, submit a report to EPA describing all actions taken in response to such event.
- (E) The reporting requirements under ¶ 6.6 are in addition to the reporting required by CERCLA §§ 103 and 111(g) or EPCRA § 304.

7. DELIVERABLES

7.1 General Requirements for Deliverables

- (A) Respondents shall submit deliverables for EPA approval or for EPA comment as specified in the SOW. If neither is specified, the deliverable does not require EPA’s approval or comment. Paragraph 7.3 (Data Format Specifications) applies to all deliverables. Paragraph 7.4 (Certification) applies to any deliverable that is required to be certified. Paragraph 7.5 (Approval of Deliverables) applies to any deliverable that is required to be submitted for EPA approval. All deliverables shall be submitted by the deadlines in the RI/FS Schedule in ¶ 8.1.
- (B) Respondents shall submit all deliverables in electronic form. Respondents shall submit deliverables in paper form if unable to submit electronically. Data format specifications for sampling, analytical and monitoring data, and spatial data are addressed in ¶ 7.3. All other deliverables shall be submitted in the electronic form specified by EPA’s Remedial Project Manager. If any deliverable includes maps, drawings, or other exhibits that are larger than 11 x 17 inches, Respondents shall also provide EPA and ADEQ paper copies of such exhibits, if requested by EPA or ADEQ. Respondents shall not submit deliverables to EPA or ADEQ that are

marked as "copyright," "trademark," or confidential", as the deliverables are part of the administrative record for the Site and as such are available to the public.

7.2 State Copies. Respondents shall, at any time they send a deliverable to EPA, send a copy to the ADEQ. EPA shall, at any time it sends a notice, authorization, approval, disapproval, or certification to Respondents, send a copy to the ADEQ.

7.3 Data Format Specifications

Sampling, analytical and monitoring data shall be submitted in standard regional Scribe-compatible Electronic Data Deliverable format. Other delivery methods (Excel, pdf, Word formats) may be allowed if electronic direct submission presents a significant burden or as technology changes.

- (A) Spatial data, including spatially-referenced data and geospatial data, shall be submitted: (1) in the ESRI File Geodatabase format and (2) as unprojected geographic coordinates in decimal degree format using North American Datum 1983 (NAD83) or World Geodetic System 1984 (WGS84) as the datum. If applicable, submissions shall include the collection method(s). Projected coordinates may optionally be included but shall be documented. Spatial data shall be accompanied by metadata, and such metadata shall be compliant with the Federal Geographic Data Committee ("FGDC") Content Standard for Digital Geospatial Metadata and its EPA profile, the EPA Geospatial Metadata Technical Specification. An add-on metadata editor for ESRI software, the EPA Metadata Editor complies with these FGDC and EPA metadata requirements and is available at <https://www.epa.gov/geospatial/epa-metadata-editor>.
- (B) Each file shall include an attribute name for each site unit or sub-unit submitted. Consult <https://www.epa.gov/geospatial/geospatial-policies-and-standards> for any further available guidance on attribute identification and naming.
- (C) Spatial data submitted by Respondents does not, and is not intended to, define the boundaries of the Site.

7.4 Certification. All deliverables that require compliance with this Section must be signed (which may include electronically signed) by Respondents' Project Coordinator, or other responsible official of Respondents, and shall contain the following statement:

I certify under penalty of perjury that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

7.5 Approval of Deliverables

(A) Initial Submissions

- (1) After review of any deliverable that is required to be submitted for EPA approval under this SOW, EPA shall: (i) approve, in whole or in part, the submission; (ii) approve the submission upon specified conditions; (iii) disapprove, in whole or in part, the submission; or (iv) any combination of the foregoing.
- (2) EPA also may modify the initial submission to cure deficiencies in the submission if: (i) EPA determines that disapproving the submission and awaiting a resubmission would cause substantial disruption to the Work; or (ii) previous submission(s) have been disapproved due to material defects and the deficiencies in the initial submission under consideration indicate a bad faith lack of effort to submit an acceptable deliverable.

- (B) **Resubmissions.** Upon receipt of a notice of disapproval under ¶ 7.5(A) (Initial Submissions), or if required by a notice of approval upon specified conditions under ¶ 7.5(A), Respondents shall, within 30 days or such longer time as specified by EPA in such notice or otherwise approved by EPA after a request from Respondents, correct the deficiencies and resubmit the deliverable for approval. After review of the resubmitted deliverable, EPA may: (1) approve, in whole or in part, the resubmission; (2) approve the resubmission upon specified conditions; (3) modify the resubmission; (4) disapprove, in whole or in part, the resubmission, requiring Respondents to correct the deficiencies; or (5) any combination of the foregoing.
- (C) **Implementation.** Upon approval, approval upon conditions, or modification by EPA under ¶ 7.5(A) (Initial Submissions) or ¶ 7.5(B) (Resubmissions), of any deliverable, or any portion thereof: (1) such deliverable, or portion thereof, will be incorporated into and enforceable under the Settlement; and (2) Respondents shall take any action required by such deliverable, or portion thereof. The implementation of any non-deficient portion of a deliverable submitted or resubmitted under ¶ 7.5(A) or ¶ 7.5(B) does not relieve Respondents of any liability for stipulated penalties under Section XIV (Stipulated Penalties) of the Settlement.
- (D) Notwithstanding the receipt of a notice of disapproval, Respondents shall proceed to take any action required by any non-deficient portion of the submission, unless otherwise directed by EPA.
- (E) In the event that EPA takes over some of the tasks, Respondents shall incorporate and integrate information supplied by EPA into those reports.
- (F) Respondents shall not proceed with any activities or tasks dependent on the following deliverables until receiving EPA approval, approval on condition, or modification of such deliverables: RI/FS Work Plan; Field Sampling Plan; QAPP,

draft RI Report; and draft FS Report. While awaiting EPA approval, approval on condition, or modification of these deliverables, Respondents shall proceed with all other tasks and activities that may be conducted independently of these deliverables, in accordance with the schedule set forth under this Settlement.

- (G) For all remaining deliverables not listed in ¶ 7.5(F), Respondents shall proceed with all subsequent tasks, activities, and deliverables without awaiting EPA approval of the submitted deliverable. EPA reserves the right to stop Respondents from proceeding further, either temporarily or permanently, on any task, activity, or deliverable at any point during the Work.
- (H) **Material Defects.** If an initially submitted or resubmitted plan, report, or other deliverable contains a material defect, and the plan, report, or other deliverable is disapproved or modified by EPA under ¶ 7.5(A) (Initial Submissions) or (B) (Resubmissions) due to such material defect, Respondents shall be deemed in violation of this Settlement for failure to submit such plan, report, or other deliverable timely and adequately. Respondents may be subject to penalties for such violation as provided in Section XIV (Stipulated Penalties) of the Settlement.

7.6 State Review and Comment. The ADEQ will have a reasonable opportunity for review and comment prior to any EPA approval or disapproval under ¶ 7.5 of any deliverables that are required to be submitted for EPA approval.

7.7 Notice of Completion of RI/FS Work. When EPA determines that all RI/FS Work has been fully performed in accordance with this Settlement, with the exception of any continuing obligations required by this Settlement, including e.g., payment of Future Response Costs and Record Retention, EPA will provide written notice to Respondents. If EPA determines that any Work has not been completed in accordance with this SOW, EPA will notify Respondents, provide a list of the deficiencies, and require that Respondents develop an addendum to the RI/FS Work Plan, if appropriate, in order to correct such deficiencies. Respondents shall implement the approved RI/FS Work Plan addendum and shall submit a modified draft RI Report and/or FS Report in accordance with the EPA notice. Failure by Respondents to implement the approved RI/FS Work Plan addendum shall be a violation of this Settlement.

8. SCHEDULE

8.1 All deliverables and tasks required under this SOW shall be submitted or completed by the deadlines or within the time durations listed in the RI/FS schedule set forth below. Respondents may submit proposed revised RI/FS schedules for EPA approval. Upon EPA’s approval, the revised RI/FS schedule supersedes any prior RI/FS schedule.

Description	Reference	Deadline
Designate CI Coordinator	¶ 2.1(B)	Within 21 days after Effective Date
Previous Investigation Summary	¶ 4.1	Included in RI/FS Work Plan submitted to EPA prior to the Effective Date

Conceptual Site Model	¶ 4.2	Included in RI/FS Work Plan submitted to EPA prior to the Effective Date
Preliminary RAOs and ARARs	¶ 4.4(e)	Included in RI/FS Work Plan submitted to EPA prior to the Effective Date
Remedial Investigation/ Feasibility Study Work Plan	¶ 4.3	Submitted to EPA prior to the Effective Date
Quality Assurance Project Plan	¶ 4.4(a)	Submitted to EPA prior to the Effective Date
Field Sampling Plan	¶ 4.4(b)	Submitted to EPA prior to the Effective Date
Emergency Response and Notification Plan, Health and Safety Plan	¶ 4.4(c) and (d)	Submitted to EPA prior to the Effective Date
Field Summary Report	¶ 4.5	Within 45 days after completion of field work and receipt of all validated data
Baseline HHRA	¶ 4.6	Within 60 days after completion of the Field Summary Report
Draft RI Report	¶ 4.7	Within 60 days after EPA approval of the Baseline HHRA
Refine RAOs and ARARs	¶ 5.2(A)	Included in FS Report
Identify and Evaluate Remedial Technologies	¶ 5.2(B)	Included in FS Report
Comparative Analysis of Alternatives	¶ 5.2(C)	Included in FS Report
IC Evaluation	¶ 5.2(D)	Included in FS Report
Draft FS Report	¶ 5.2(E)	Within 90 days after EPA approval of the Final RI Report
Kickoff Meeting	¶ 6.1	Within 14 days after Effective Date

9. REFERENCES

9.1 The following regulations and guidance documents, among others, apply to the Work. Any item for which a specific URL is not provided below is available on one of the two EPA web pages listed in ¶ 9.2:

- (A) A Compendium of Superfund Field Operations Methods, OSWER 9355.014, EPA/540/P-87/001a (Aug. 1987).
- (B) CERCLA Compliance with Other Laws Manual, Part I: Interim Final, OSWER 9234.1-01, EPA/540/G-89/006 (Aug. 1988).
- (C) Guidance for Conducting Remedial Investigations and Feasibility Studies, OSWER 9355.3-01, EPA/540/G-89/004 (Oct. 1988).

- (D) CERCLA Compliance with Other Laws Manual, Part II, OSWER 9234.1-02, EPA/540/G-89/009 (Aug. 1989).
- (E) Guide to Management of Investigation-Derived Wastes, OSWER.9345.303FS (Jan. 1992).
- (F) Permits and Permit Equivalency Processes for CERCLA On-Site Response Actions, OSWER 9355.703 (Feb. 1992).
- (G) Guidance for Conducting Treatability Studies under CERCLA, OSWER 9380.3-10, EPA/540/R-92/071A (Nov. 1992).
- (H) National Oil and Hazardous Substances Pollution Contingency Plan; Final Rule, 40 C.F.R. part 300 (Oct. 1994).
- (I) EPA Guidance for Data Quality Assessment, Practical Methods for Data Analysis, QA/G-9, EPA/600/R-96/084 (July 2000).
- (J) Guidance for Quality Assurance Project Plans, QA/G-5, EPA/240/R-02/009 (Dec. 2002).
- (K) Institutional Controls: Third Party Beneficiary Rights in Proprietary Controls (Apr. 2004).
- (L) Quality management systems for environmental information and technology programs -- Requirements with guidance for use, ASQ/ANSI E4:2014 (American Society for Quality, Feb. 2014).
- (M) Uniform Federal Policy for Quality Assurance Project Plans, Parts 1-3, EPA/505/B-04/900A through 900C (Mar. 2005).
- (N) Superfund Community Involvement Handbook, OLEM 9230.0-51 (Mar. 2020). More information on Superfund community involvement is available on the Agency's Superfund Community Involvement Tools and Resources web page at <https://www.epa.gov/superfund/community-involvement-tools-and-resources>.
- (O) EPA Guidance on Systematic Planning Using the Data Quality Objectives Process, QA/G-4, EPA/240/B-06/001 (Feb. 2006).
- (P) EPA Requirements for Quality Assurance Project Plans, QA/R-5, EPA/240/B-01/003 (Mar. 2001, reissued May 2006).
- (Q) EPA Requirements for Quality Management Plans, QA/R-2, EPA/240/B-01/002 (Mar. 2001, reissued May 2006).
- (R) USEPA Contract Laboratory Program Statement of Work for Organic Superfund Methods (Multi-Media, Multi-Concentration), SOM02.4 (Oct. 2016), <https://www.epa.gov/clp/epa-contract-laboratory-program-statement-work-organic-superfund-methods-multi-media-multi-1>.

- (S) EPA National Geospatial Data Policy, CIO Policy Transmittal 05-002 (Aug. 2008), <https://www.epa.gov/geospatial/geospatial-policies-and-standards> and <https://www.epa.gov/geospatial/epa-national-geospatial-data-policy>.
- (T) Summary of Key Existing EPA CERCLA Policies for Groundwater Restoration, OSWER 9283.1-33 (June 2009).
- (U) Principles for Greener Cleanups (Aug. 28, 2009), <https://www.epa.gov/greenercleanups/epa-principles-greener-cleanups>.
- (V) Consideration of Greener Cleanup Activities in the Superfund Cleanup Process (Aug. 2, 2016), <https://semspub.epa.gov/work/HQ/100000160.pdf>.
- (W) Close Out Procedures for National Priorities List Superfund Sites, OSWER 9320.2-22 (May 2011), <https://www.epa.gov/superfund/close-out-procedures-national-priorities-list-superfund-sites>.
- (X) Groundwater Road Map: Recommended Process for Restoring Contaminated Groundwater at Superfund Sites, OSWER 9283.1-34 (July 2011).
- (Y) Recommended Evaluation of Institutional Controls: Supplement to the "Comprehensive Five-Year Review Guidance," OSWER 9355.7-18 (Sept. 2011).
- (Z) Institutional Controls: A Guide to Planning, Implementing, Maintaining, and Enforcing Institutional Controls at Contaminated Sites, OSWER 9355.0-89, EPA/540/R-09/001 (Dec. 2012).
- (AA) Institutional Controls: A Guide to Preparing Institutional Controls Implementation and Assurance Plans at Contaminated Sites, OSWER 9200.0-77, EPA/540/R-09/02 (Dec. 2012).
- (BB) EPA's Emergency Responder Health and Safety Manual, OSWER 9285.3-12 (July 2005 and updates), <https://www.epaossc.org/HealthSafetyManual/manual-index.htm>.
- (CC) Guidance on Systematic Planning Using the Data Quality Objectives Process, EPA QA/G-4, EPA/240/B-06/001, Office of Environmental Information (Feb. 2006), <https://www.epa.gov/sites/production/files/2015-06/documents/g4-final.pdf>.
- (DD) Consideration of Tribal Treaty Rights and Traditional Ecological Knowledge in the Superfund Remedial Program, OLEM 9200.2-177 (Jan. 2017), <https://semspub.epa.gov/src/document/11/500024668>.
- (EE) Smart Scoping for Environmental Investigation Technical Guide, EPA/542/G-18/004 (Nov. 2018), <https://semspub.epa.gov/work/HQ/100001799.pdf>.

- (FF) Strategic Sampling Approaches Technical Guide, EPA/542/-F-18/005 (Nov. 2018), <https://semspub.epa.gov/work/HQ/100001800.pdf>.
- (GG) Best Practices for Data Management, EPA/542/F-18/003, (Nov. 2018), <https://semspub.epa.gov/work/HQ/100001798.pdf>.
- (HH) Smart Scoping of an EPA-Lead Remedial Investigation/Feasibility Study, EPA/542/F-19/0006 (Oct. 2020), <https://semspub.epa.gov/work/HQ/100002571.pdf>.
- (II) Interim Final Risk Assessment Guidance for Superfund, Volume I - Human Health Evaluation Manual (Part A), RAGS, EPA/540/1-89/002, OSWER 9285.7-01A (Dec. 1989), <https://www.epa.gov/risk/risk-assessment-guidance-superfund-rags-part>.
- (JJ) Interim Final Risk Assessment Guidance for Superfund, Volume I - Human Health Evaluation Manual (Part D, Standardized Planning, Reporting, and Review of Superfund Risk Assessments), OSWER 9285.7-47 (Dec. 2001), <https://www.epa.gov/risk/risk-assessment-guidance-superfund-rags-part-d>.
- (KK) Reuse Assessments: A Tool to Implement the Superfund Land Use Directive. OSWER 9355.7-06P (June 4, 2001), <http://www.epa.gov/superfund/community/relocationireusefinal.pdf>.
- (LL) EPA QA Field Activities Procedure CIO 2105-P-02.1 (Sept. 23, 2014)
- (MM) Summary of Key Existing EPA CERCLA Policies for Groundwater Restoration, OSWER 9283.1-33 (June 2009).
- (NN) Considering Reasonably Anticipated Future Land Use and Reducing Barriers to Reuse at EPA-lead Superfund Remedial Sites. OSWER 9355.7-19 (Mar. 2010).
- (OO) Consideration of Climate Resilience in the Superfund Cleanup Process for Non-Federal National Priorities List Sites (June 30, 2021).

9.2 A more complete list may be found on the following EPA web pages:

- (A) Superfund Laws, Policy, and Guidance: <https://www.epa.gov/superfund/superfund-policy-guidance-and-laws>.
- (B) Collection of Methods: <https://www.epa.gov/measurements/collection-methods>.
- (C) Quality Assurance:
 - (1) EPA QA Field Activities Procedures: <https://www.epa.gov/irmpoli8/epa-qa-field-activities-procedures>.
 - (2) Policy to Assure Competency of Laboratories, Field Sampling, and Other Organizations Generating Environmental Measurement Data under

Agency-Funded Acquisitions:

https://www.epa.gov/sites/default/files/2016-11/documents/fem-lab-competency-policy_policy_updated_nov2016.pdf.

- (3) Superfund Contract Laboratory Program: <https://www.epa.gov/clp>.
 - (4) Test Methods for Evaluating Solid Waste: Physical/Chemical Methods (SW-846), Second edition (July 1982): <https://www.epa.gov/hw-sw846>.
 - (5) Standard Methods for the Examination of Water and Wastewater: <http://www.standardmethods.org/>.
 - (6) Air Toxics - Monitoring Methods: <https://www.epa.gov/amtic/compendium-methods-determination-toxic-organic-compounds-ambient-air.gov>.
- (D) Superfund Redevelopment Basics: Policy, Guidance, and Resources: <https://www.epa.gov/superfund-redevelopment-initiative/superfund-redevelopment-basics#policy>.
- (E) Superfund Green Remediation: <https://www.epa.gov/superfund/superfund-green-remediation>.
- (F) Superfund Climate Resilience: <https://www.epa.gov/superfund/superfund-climate-resilience>.

9.3 For any regulation or guidance referenced in the Settlement or SOW, the reference will be read to include any subsequent modification, amendment, or replacement of such regulation or guidance. Such modifications, amendments, or replacements apply to the Work only after Respondents receive notification from EPA of the modification, amendment, or replacement.

Appendix C

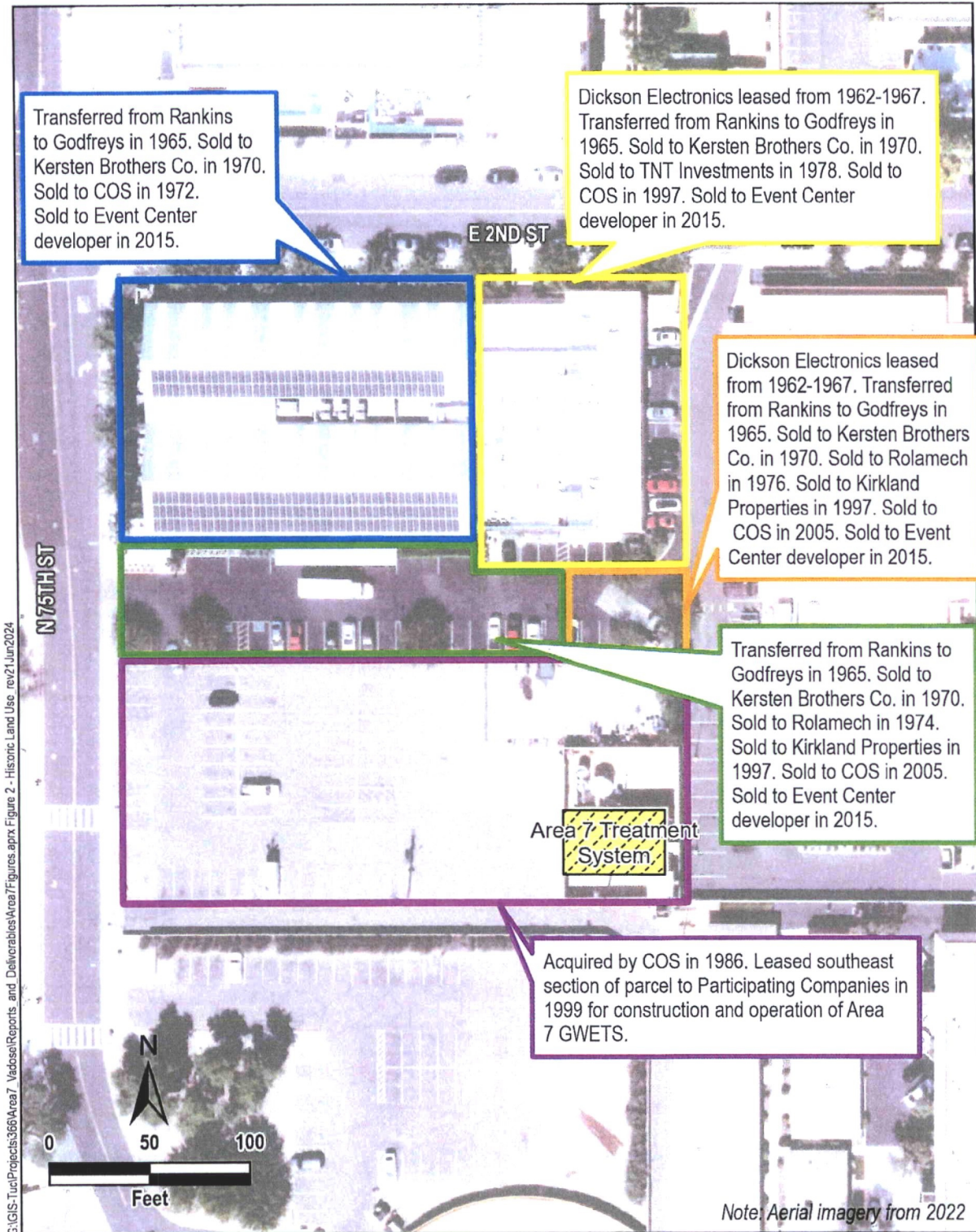
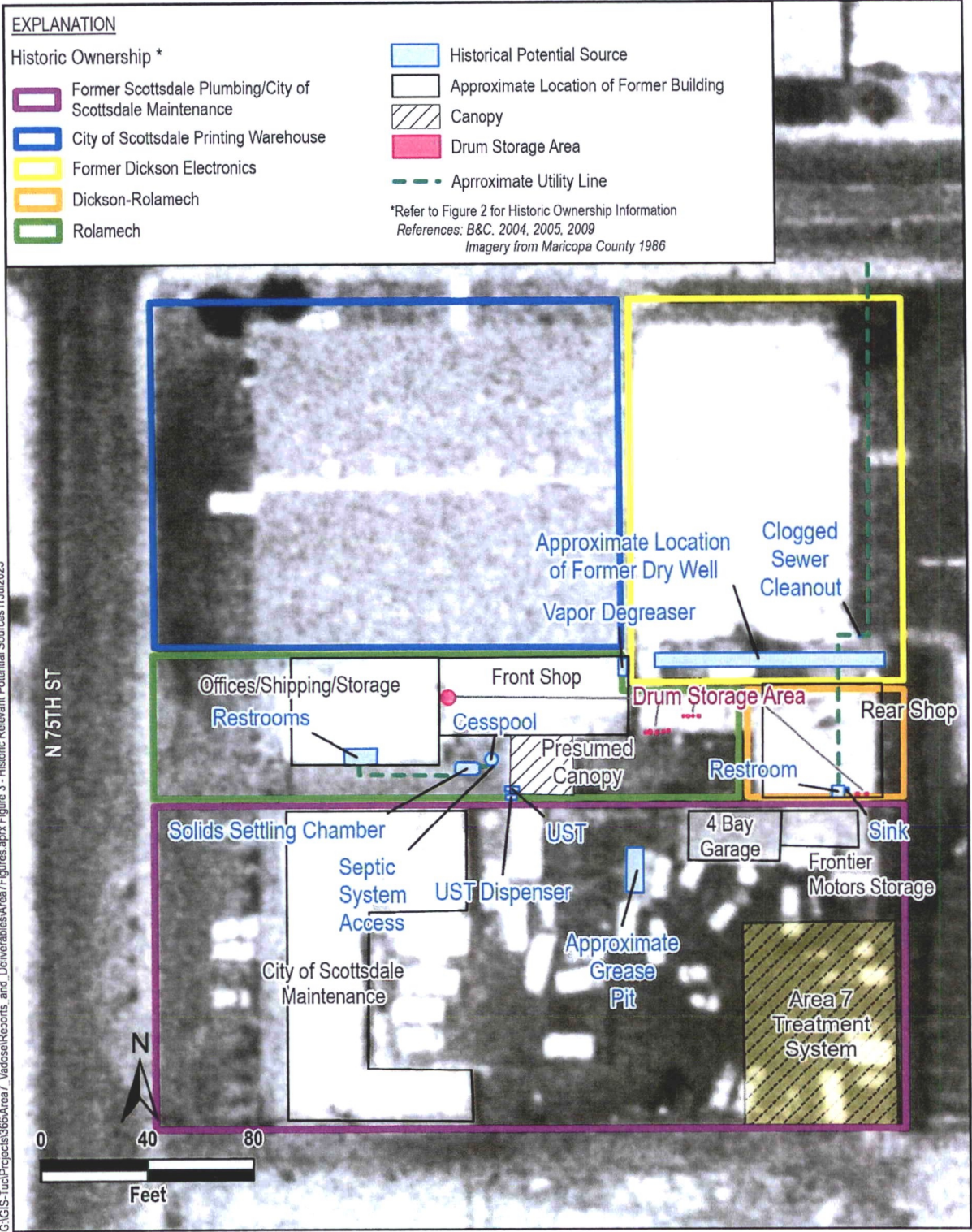


Figure: Area 7 Ownership History



G:\GIS-Tuc\Projects\366\Area 7_Vadosa\Records and Discoverables\Area 7\Figures.aprx Figure 3 - Historic Relevant Potential Sources 11 Jul 2025

Figure: Area 7 Historical Features

Cooperation and Allocation Agreement

This Agreement, effective _____, 2026, is entered into by the City of Scottsdale (City), and Motorola Solutions, Inc. (Motorola) as indemnitor of Siemens Corporation (Siemens). City and Motorola are jointly referred to here as the "Parties."

The premises for this Agreement are as follows:

- A. The Environmental Protection Agency (EPA) has requested that the City and Siemens enter into an Administrative Settlement Agreement and Order on Consent (AOC) to conduct a Remedial Investigation and Feasibility Study (RI/FS) at Area 7 Vapor Intrusion Operable Unit of the North Indian Bend Wash (NIBW) Superfund Site (Site) in connection with potential vapor intrusion resulting from volatilization of volatile organic compounds in the subsurface.
- B. The request is being made under EPA's authority granted by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).
- C. Area 7 includes property owned and operated by the City, property formerly owned and operated by the City, and facilities formerly operated by Dickson Electronics Corp, a predecessor to Siemens.
- D. CERCLA imposes strict liability on certain current or former owners or operators of property and EPA has alleged that the City and Siemens are potentially responsible parties under CERCLA's liability provisions. The City and Siemens deny the allegation.
- E. Motorola is an indemnitor of Siemens with respect to certain claims made against Siemens in connection with the NIBW Site.
- F. Motorola has conducted work at Area 7 required of the City and Siemens under a consent decree entered by them in 1992 in *United States of America v, Motorola, Inc. et al.*, Civil Action No. 91-1835-PHX (Consent Decree II). Specifically, Motorola has conducted "Vadose Zone Work" as defined in Consent Decree II for Area 7 and as identified in a September 12, 1991, Record of Decision. Motorola has incurred at least \$245,000 in conducting this work and has not to date sought reimbursement from the City for these costs.
- G. In response to EPA's 2nd Five-Year Review for the NIBW Site in 2016, the potential for vapor intrusion at Area 7 was noted as an issue preventing EPA from concluding that the remedy at the NIBW Site is protective of human health for the long term. As a result, Motorola has been conducting work at historical source areas in NIBW to investigate potential vapor intrusion. Most of this work conducted to date has been at Area 7, the only historical source area deemed to have concerns for vapor intrusion. Motorola has incurred at least \$470,000 in response costs in conducting this work at Area 7 through March 2023. Motorola has not to date sought reimbursement from the City for these costs.
- H. In response to EPA's request to the City and Siemens in early April 2023 to begin negotiation of an AOC to conduct an RI/FS for Vapor Intrusion at Area 7, Motorola has conducted work pertaining to EPA's request, including evaluation of the requirements of EPA's AOC and associated Statement of Work (SOW); technical analyses pertaining to the

potential for vapor intrusion at Area 7; preparation of multiple drafts of an Area 7 RI/FS Work Plan; preparation for and participation in numerous technical meetings with EPA regarding the scope of the RI/FS; review of and addressing EPA comments on the draft work plan; preparation of associated RI/FS documents including the Field Sampling Plan (FSP), Quality Assurance Project Plan (QAPP), Emergency Response and Notification Plan (ERNP), and Health and Safety Plan (HASP); and negotiations with the City and EPA pertaining to the AOC and SOW. Motorola has incurred at least \$870,000 in response costs in conducting this work at Area 7 since April 2023. Motorola has not to date sought reimbursement from the City for these costs.

- I. The City is planning improvements to a parking facility within Area 7 to satisfy contractual obligations it has to the San Francisco Giants, a baseball team that conducts spring training at a stadium adjacent to the parking facility. Construction of these improvements is scheduled to begin in 2026.
- J. The City and Motorola have a mutual interest in integrating field work for the RI/FS so that it complements and does not interfere with the City's planned improvements.
- K. The City and Motorola also have a mutual interest in (a) completing the RI/FS and conducting remedial action in a cost-effective, efficient manner; and (b) allocating the costs of the RI/FS and the future remedy as required in an equitable manner.
- L. A CERCLA-quality Human Health Risk Assessment established that there is no significant human health risk posed by the conditions in Area 7 under reasonable exposure scenarios. Vapor mitigation systems are in place in buildings or apartments where warranted by historic vapor sampling to mitigate potential exposure to persons visiting or living in such structures. The City and Motorola are willing to undertake the RI/FS to avoid the costs of dispute resolution with EPA and to advocate for mitigation, monitoring, and institutional/engineering controls as the most appropriate remedy under CERCLA for Area 7.

Therefore, in consideration of the mutual promises contained in this Agreement, the City and Motorola agree to the following.

1. **Cooperation.** The Parties will cooperate with each other to achieve the completion of the Area 7 Vapor Intrusion Operable Unit RI/FS, any other future response actions at Area 7, and ongoing operation and maintenance of the current and any future Area 7 remedial action in a cost-effective, efficient manner.
2. **RI/FS Work Plan.** Motorola submitted a work plan for the RI/FS, which the City has approved, to EPA in December 2024. EPA provided comments on the work plan in April 2024 and Motorola submitted a revised work plan, which the City has approved, to EPA in October 2025. Motorola initially submitted the QAPP and FSP to EPA in September 2025. A revised FSP was submitted to EPA in December 2025 and a revised FSP was submitted to EPA in February 2026. The HASP for the project which includes the ERNP was submitted to EPA in October 2025. The Parties will cooperate in advocating to EPA the adoption of the work plan by EPA.
3. **Contractor.** After the AOC is executed, Motorola will implement the work plan for the RI/FS using Montgomery & Associates (Montgomery) as its primary contractor.

4. **AOC Insurance Requirement.** Motorola will ensure that Montgomery carry insurance that satisfies the insurance requirements of the AOC, or otherwise will be responsible for satisfying the insurance requirements of Section X of the AOC.
5. **Completion of the RI/FS.** Motorola will proceed in as expeditious a manner as is reasonably practicable to complete the RI/FS. The City will use its best efforts to facilitate the expeditious completion of the RI/FS. The City acknowledges that Motorola is not accountable for delays due to EPA's review and approval of deliverables, or other demands or requirements of EPA.
6. **Coordination of Work.** To the extent reasonably practicable, the Parties will coordinate field work for the RI and any future remedial action at Area 7 with the City's contractor for the City's planned improvements at the parking facility at Area 7.
7. **AOC Submittals.** Submittals made to EPA under the AOC prepared for Motorola by its contractors will be approved by Motorola and provided to the City for review. The Parties shall endeavor to reach a consensus on the content of each submittal. If they are unable to reach a consensus, Motorola shall have the final say on the content of each submittal.
8. **Financial Assurance and Stipulated Penalties under the AOC.** Motorola shall be solely responsible for satisfying the financial assurance requirements of the AOC. Should stipulated penalties be imposed by EPA against the Respondents (Siemens and the City other than with respect to the City's obligations as an Owner Respondent) under Section XIV of the AOC, Motorola will be solely responsible for satisfying the stipulated penalties. The City will be solely responsible for stipulated penalties imposed on the City with respect to the City's obligations as an Owner Respondent.
9. **Conferences with EPA In-Person or Remotely.** The City and Motorola will participate together in conferences with EPA and, when requested by either Party, will engage in a planning call or conference to outline talking points for the conference with EPA. The Parties will not engage in independent discussions or sharing of information with EPA concerning the RI/FS or associated remedial actions.
10. **Allocation of Response Costs.** The City and Motorola will share all costs of the RI/FS, including but not limited to EPA and Arizona Department of Environmental Quality (ADEQ) oversight and response costs, as follows:
 - a. The City will pay 20%.
 - b. Motorola will pay 80%.
11. **City's Planned Improvements.** Notwithstanding any contrary term in this Agreement, City shall be solely responsible for all costs incurred by the City to implement parking lot or other improvements in Area 7, including without limitation, any costs associated with the sampling, removal, excavation, handling, transportation, treatment, or disposal of soils, asphalt, or hazardous wastes or hazardous substances. For the avoidance of doubt, all such costs, whether or not they qualify as response costs under CERCLA or Arizona law, shall be borne solely by the City. City shall implement health and safety protocols for the protection of workers engaged by the City or a contractor to the City to implement improvements in Area 7.

- 12. Invoice Procedure.** Motorola will invoice the City for its share of response costs incurred by Motorola as follows:
- a. Motorola will prepare and provide invoices to the City on a quarterly basis. The invoices will include as attachments, copies of any contractor or subcontractor invoices documenting the RI/FS costs incurred.
 - b. The City will make payment to Motorola within thirty (30) days of the date of receipt of the invoice.
 - c. Invoices may be transmitted to the City electronically.
 - d. The date of receipt shall be the date that Motorola transmits the invoice electronically.
 - e. Otherwise, the date of receipt shall be the date that the City receives the invoices.
 - f. The City will make payment to Motorola by wire transfer following wire instructions provided by Motorola. No wire will be transmitted by the City without first confirming with Motorola that the wire instructions being used are the ones provided by Motorola.
- 13. Release by Motorola.** Motorola releases and holds the City harmless from and against all response costs incurred by Motorola as described in Paragraphs F and G above. Motorola costs in Paragraph H above are subject to the agreement of Paragraph 10 above.
- 14. Release by City.** The City releases and holds Motorola harmless from and against all response costs incurred by the City prior to the entry of this Agreement by the City.
- 15. Hazardous Wastes.** For purposes of waste manifests, City is the sole generator of any waste derived from the remedial investigation or City's planned improvements.
- 16. Attorneys' and Consultant Fees.** Should a dispute arise between the Parties with respect to their obligations under this Agreement, the Parties shall each bear their own attorney and consultant fees and costs.
- 17. Notices.** Notices or documents required to be made or provided between the Parties shall be made or provided to the following persons either by electronic transmission or overnight delivery:

As to Motorola:

Motorola Solutions, Inc.
Office of the General Counsel
500 West Monroe Street, Floors 39-44
Chicago, Illinois 60661

John Pekala
Program Manager
Motorola Solutions, Inc.
3332 E. Broadway Rd.
Phoenix, Arizona 85040

As to the City:

City of Scottsdale
3939 Drinkwater Boulevard
Scottsdale, Arizona 85251
Attn: City Attorney

City of Scottsdale
7447 E. Indian School Rd.
Scottsdale, Arizona 85251
Attn: Judy Doyle, Deputy City Manager

- Either Party may, from time to time, change the person designated to receive notices by providing written notice to the other Party of such change.
18. **No Admission of Liability.** This Agreement shall not constitute, be interpreted, construed or used as evidence of any admission of liability, law or fact, nor as waiver of any right or defense, nor an estoppel against the City or Motorola or by any other person; provided, however, that this Agreement can be used by the Parties to enforce its terms.
 19. **Non-Reliance on AOC.** The AOC contains EPA's findings of fact and conclusions of law that one or the other of the parties disputes. To avoid costs and to promote initiation of the RI/FS without delay, the parties agree that should there be litigation or any other adjudicative proceeding in the future over CERCLA liability of the City, Siemens, or any other person for Area 7 response costs, the AOC will not (1) be used for any evidentiary purposes to support a liability claim, (2) made the part of any oral or written liability argument to a trier of fact, or (3) used in any press release with respect to CERCLA liability claims or arguments. For the avoidance of doubt, the parties' mutual goal is to maintain a level playing field that, if the need arises, allows Area 7 liability arguments to be made in the future without any reliance on the text of the AOC.
 20. **Time is of the Essence.** Time is of the essence of this Agreement and each provision of this Agreement.
 21. **Entire Agreement.** This Agreement constitutes the entire Agreement between the Parties pertaining to the subject matter hereof and the Area 7 Vapor Intrusion Operable Unit RI/FS under the AOC. All prior and contemporaneous Agreements, representations, and understandings of the Parties, oral or written, pertaining to the subject matter hereof and the Area 7 Vapor Intrusion Operable Unit RI/FS under the AOC are hereby superseded and merged herein.
 22. **Successors and Assigns.** This Agreement shall be binding upon the Parties' successors and assigns. No assignment or delegation of the obligation to make any payment or reimbursement or to perform any act hereunder will release the assigning Party without the prior written consent of the other Party.
 23. **Amendment.** This Agreement may be amended or modified only by written Agreement of the Parties.

24. **Dispute Resolution, Governing Law and Venue.** This Agreement shall be construed in accordance with and shall be governed by the laws of the State of Arizona applicable to contracts executed within and wholly performable within such state. The Parties agree that they shall try to resolve any disputes related to the Agreement through a three-step process. First, senior leaders with settlement authority shall meet and confer to resolve the dispute. If that is unsuccessful, the parties agree to mediate a resolution of the dispute within sixty (60) days of an unsuccessful meet and confer. Both sides will pay their own fees and split the costs of the mediator. If mediation is unsuccessful, then either party may seek to enforce any provision of this Agreement or to obtain any remedy with respect hereto, in Superior Court, Maricopa County, Arizona, or in the Federal District Court for the District of Arizona, and for this purpose each Party expressly and irrevocably consents to the jurisdiction and venue of either court.
25. **No Waiver.** Failure of either Party to exercise any right or option arising out of a breach of this Agreement shall not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuance of any existing breach.
26. **Authority to Enter Agreement.** Each person signing this Agreement represents that he/she has the full authority of the Party for whom he/she is signing to enter into and bind the Party to the terms and conditions of this Agreement. The Parties further acknowledge that they participated in the drafting of this Agreement, understand all terms contained herein, and are freely and voluntarily entering into this Agreement with the full participation of their respective counsel. The Parties acknowledge that this Agreement has been negotiated by the Parties, each represented by counsel, and agree that this Agreement should not be construed in favor of or against any Party.
27. **Confidentiality.** The Parties shall maintain the confidentiality of the terms of this Agreement to the maximum extent allowed by law.
28. **Recitals.** The Recitals set forth in this Agreement are incorporated herein as part of this Agreement.
29. **Execution.** This Agreement shall be executed by each Party by signing two (2) copies of the last page hereof and furnishing a single signed copy to the other Party.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS THEREOF, the Parties hereto enter into this Agreement. Each person signing this Agreement represents, warrants or certifies that he or she is duly authorized to enter into this Agreement by the entity on whose behalf it is indicated that the person is signing.

CITY OF SCOTTSDALE, an Arizona
municipal corporation ("City")

ATTEST:

By: _____
Ben Lane, City Clerk

By _____
Lisa Borowsky, Mayor

Date: _____

RECOMMENDED:

APPROVED AS TO FORM:

Judy Doyle

Judy Doyle, Deputy City Manager
City Manager's Office

Karen Tyler

Luis E. Santaella, City Attorney
By: Karen Tyler, Principal Assistant City Attorney

MOTOROLA SOLUTIONS, INC., a
Delaware corporation ("MSI") individually and on behalf of the NIBW PCs

Terry A. Bell
Vice President, Ethics and Compliance

Date: _____