

DEPARTMENT OF ENVIRONMENTAL QUALITY

VOLUNTARY CLEANUP AGREEMENT

I. INTRODUCTION

A. This Agreement is entered into voluntarily by Ogden City Redevelopment Agency. (Applicant) and the Executive Director of the Utah Department of Environmental Quality (DEQ). This Agreement is not and shall not be construed as an admission of any liability under the Utah Solid and Hazardous Waste Act or any other law or as a waiver of any defense to such liability. No approval hereunder or receipt of funds hereby shall be taken as a warranty as to sufficiency or efficacy of the response action. The purpose of this Agreement is to detail the obligations and functions of each party, related to the voluntary cleanup process at the Site as defined in Section IV. The Site name is 4-C Laundromat. The Site address is 856 East 25th Street, Ogden, Weber County, Utah 84101. The Site Voluntary Cleanup Program (VCP) number is #C115. The Site legal description submitted by the Applicant is attached and incorporated herein as Exhibit "A".

B. The activities conducted by the Applicant under this Agreement are subject to approval by the DEQ. The activities by the Applicant shall be consistent with this Agreement, all applicable laws and regulations and any appropriate guidance documents. The Applicant shall employ sound scientific, engineering and construction practices.

II. STATEMENT OF ELIGIBILITY

A. The Executive Director has determined that the application submitted by the Applicant is complete and that the Applicant is eligible to participate in the VCP established under Title 19, Chapter 8 of the Utah Code. If the Executive Director determines that the Applicant withheld or misrepresented information that would be relevant to the Applicant's eligibility, the Executive Director may exercise the right to withdraw from this Agreement.

III. PARTIES BOUND

A. This Agreement shall apply to and be binding upon the Applicant, its officers, directors, principals, employees, receivers, trustees, agents, successors, subsidiaries, and assigns and upon the DEQ, its employees, agents and successors. The signatories to this Agreement certify that they are fully authorized to execute and legally bind the parties they represent. No change in ownership, corporate, or partnership status of the Applicant shall in any way alter its status or responsibilities under this Agreement unless the Applicant or the DEQ withdraws from this Agreement.

B. The Applicant shall provide a copy of this Agreement to any subsequent owners or successors and shall provide written notice to the DEQ before ownership rights are transferred during the term of this Agreement. The notice of transfer shall include the name, address and telephone number of the purchaser and the anticipated date of the transfer. The notice of transfer does not constitute a notice of termination unless the intent to terminate is expressly stated. The Applicant shall provide a copy of this Agreement to all contractors, subcontractors, laboratories,

and consultants which are retained to conduct any work performed under this Agreement, within fourteen (14) days after the effective date of this Agreement or within 14 days of the date of retaining their services.

C. This Agreement may be assigned to subsequent owners with the discretionary consent of the Executive Director.

IV. DEFINITIONS/GLOSSARY

“Applicant” means Ogden City Redevelopment Agency

“RAP” means Remedial Action Plan.

“Site” means the area described in the VCP application, or as may be amended through amendment to this Agreement.

“SMP” means Site Management Plan.

“VCP” means Voluntary Cleanup Program.

“DEQ” means Utah Department of Environmental Quality.

V. ADDRESSES FOR ALL CORRESPONDENCE

A. Documents, including workplans, reports, approvals, notifications, disapprovals, and other correspondence to be submitted under this Agreement, may be sent by facsimile, certified mail, return receipt requested, hand delivery, overnight mail or by courier service to the following addresses or to such addresses as the Applicant or the DEQ may designate in writing.

B. Documents to be submitted to the DEQ should be sent to:

Department Representative:

Lincoln Grevengoed, Project Manager
Division of Environmental Response and Remediation
195 North 1950 West
Salt Lake City, Utah 84116
Phone Number: (385)-391-8132
Facsimile Number: (801) 359-8853
E-mail Address: lgrevengoed@utah.gov

C. Documents to be submitted to the Applicant should be sent to:

Applicant Representative:

Brandon Cooper
Ogden City Redevelopment Agency
2549 Washington Boulevard
Suite 420
Ogden, Utah 84401
Phone Number: (801) 629-8993
E-mail Address: brandoncooper@ogdencity.com

VI. COMPLIANCE WITH APPLICABLE LAWS

A. All work undertaken by the Applicant pursuant to this Agreement shall be performed in compliance with all applicable federal, state and local laws, ordinances and regulations, including, but not limited to, all applicable Occupational Safety and Health Administration, Department of Transportation, and Utah groundwater laws and regulations, and the Resource Conservation and Recovery Act and implementing regulations. In the event of a conflict in the application of federal, state, or local laws, ordinances and regulations, the Applicant shall comply with the more/most stringent of such laws, ordinances, or regulations, unless provided otherwise in writing by the DEQ. Federal requirements shall be followed if they are the more/most stringent. However, as provided in Utah Code Ann. Section 19-8-114, a state or local environmental permit shall not be required, although the Applicant must coordinate with ongoing federal and state hazardous waste programs and must comply with the substantive requirements of an otherwise required state permit. Where it is determined that a permit is required under federal law, the Applicant shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. The Applicant shall be responsible for obtaining all federal permits required under federal law, including but not limited to permits required under programs delegated to the State, which are necessary for the performance of any work hereunder.

VII. APPLICABLE STATUTES AND RULES

A. With the exception of the permit requirements identified in paragraph VI.A above, the VCP rules and the rules promulgated pursuant to the statutes identified in Exhibit “B” are specifically designated as being directly applicable for the Site and must be followed. Other statutes and rules may subsequently be designated as applicable by the DEQ to the extent that conditions discovered at the Site would be governed by such other rules.

VIII. SUBMITTALS AND SCHEDULES

A. The Applicant shall submit a quarterly status report, which details activities completed for the previous quarter and those planned for the upcoming quarter. The Applicant’s representative and the DEQ’s representative shall communicate and provide each other with frequent status updates via telephone, written correspondence, e-mail and/or other accepted means such that the parties are aware of the current project status and dates for pertinent activities/milestones, including specific deliverables, field activities and review/project schedules.

B. The schedule for submittals and reviews shall be as follows (NOTE: The time frames and process specified below may be modified or adjusted to meet the objectives of the project with the DEQ's approval).

Within 45 days of receipt of the DEQ's Environmental Assessment review comments, the Applicant shall address the comments and submit to the DEQ a final Environmental Assessment along with a proposed Site Characterization Workplan and schedule for the characterization of the Site and the subsequent delineation of the nature and extent of contamination.

Within 45 days after receipt of the proposed Site Characterization Workplan, the DEQ will approve the proposed Site Characterization Workplan in writing or provide the Applicant with comments requesting any further information that may be required to complete the Site Characterization Workplan. The parties will work to finalize the Site Characterization Workplan. The approved Site Characterization Workplan should be implemented as soon as possible after the DEQ acceptance of the Site Characterization Workplan.

In accordance with the project schedule, the Applicant shall submit a Site Characterization Report detailing the results of investigation activities conducted in conjunction with the approved workplan. The Site Characterization Report shall document the investigation activities and include, at a minimum, recommendations for further characterization, remedial action(s) with monitoring or no further action based upon the results of the characterization.

The DEQ shall review the Site Characterization Report, agree or disagree with the Applicant's recommendation(s) and provide the Applicant with comments regarding the Site Characterization Report. The parties shall work to finalize the Site Characterization Report should changes be necessary. The Applicant may need to submit multiple Site Characterization Workplans and Site Characterization Reports to document the site characterization activities and delineation of the nature/extent of contamination.

If the site characterization demonstrates that contaminants have been released on and potentially migrated off-site above Screening Levels or other published standards, the Applicant shall adequately delineate the extent of contamination for the purposes of evaluating the risk, managing the on-site and off-site contaminant impact and potentially remediating the impact. The delineation shall be completed in conjunction with the site characterization activities and documented in the Site Characterization Report.

Upon successful completion of the characterization, the parties shall determine if further action(s), including remediation and/or on-going monitoring is necessary for the land use specified in this Agreement and any off-site contaminant impact/migration. If further action(s) is warranted, the Applicant shall submit a Remedial Action Plan (RAP) proposing activities to address the contamination and all known areas contributing to the contamination. The decision to remediate and monitor the Site will be evaluated in part based on the risk, the extent of contamination, the contaminants of concern and the Applicant's future land use. At a minimum, the RAP shall propose a remedy to address the areas of concern, achieve site-specific cleanup goals, document the remediation objectives and make provisions for public comment on the remedy. The Applicant

can choose to conduct a site-specific risk assessment or cleanup to generic screening criteria. Risk-based cleanups are acceptable under the VCP and cleanups are tied to land use and address all exposure pathways. The RAP should be implemented as soon as possible after a public comment period and public comments, if any, have been addressed and the DEQ accepts the document.

Upon completion of the remedial action(s), the Applicant shall submit a Final Report/Remedial Action Report documenting, among other items, that the RAP was implemented as proposed and that the site-specific cleanup goals have been achieved, the areas of concern have been addressed and the terms of this Agreement have been successfully completed. The DEQ shall work with the Applicant to finalize the Final Report/Remedial Action Report. The Applicant may need to submit multiple RAPs and Final Report/Remedial Action Reports to document the completion of the cleanup.

It is acceptable to conduct the site-specific risk assessment and cleanup in a phased approach under the VCP. The objectives of the phased approach should meet the criteria specified in this Agreement. If additional phases are necessary in order to characterize, remediate and document the remediation of the Site and any contaminants that may have been released on and potentially migrated off-site, the Applicant shall submit an additional workplan(s) and schedule(s) to adequately address the contamination for the purposes of completing the voluntary cleanup of the Site. A report(s) shall be submitted after the implementation of each workplan(s) documenting the results of the field activities. The review of the workplan(s) and report(s) shall be conducted as described above and the DEQ will review and approve all proposed workplans and reports in writing or provide the Applicant with comments requesting further information that may be necessary to complete the documents.

If residual soil and/or groundwater contamination remains at the Site and/or the neighboring property(s) after completion of the Applicant's site characterization and remedial action, the Applicant shall submit a Site Management Plan (SMP) detailing how the remaining contamination will be managed. Among other items, the SMP should include provisions for risk management, for groundwater monitoring, if necessary, for the continued evaluation of the effectiveness of the remedy and any institutional controls and for the development of a Contingency Plan in the event that the proposed remedy is not effective and further corrective actions are necessary to address the contamination. The SMP should also include provisions for continued Site access to monitor compliance with the terms of the document and to reimburse the DEQ for oversight costs incurred during the review of pertinent information related to the implementation of the SMP.

The accepted workplan(s), schedule(s) and report(s) as outlined above shall be incorporated as part of this Agreement as set forth herein and shall document the work that the Applicant is proposing in order to characterize, remediate and manage residual contamination at the Site in accordance with the land use established in this Agreement. The DEQ will collect split and oversight samples during the terms of this Agreement to evaluate the Applicant's sampling protocol and to confirm the data reported during the site characterization, remediation and site management phases of the project. The Applicant will be required to pay the oversight costs, among other costs detailed in Section XIII, associated with the sampling, processing, and laboratory analysis.

If one or more of the site characterization activities, requirements and/or deliverables described above have been completed prior to the Applicant's application to the VCP and entry into this

Agreement or are not relevant to the project, the parties may proceed to the next general phase of the project with concurrence from the DEQ.

Upon successful completion of the voluntary cleanup of the Site, the Applicant will be issued a Certificate of Completion (COC).

C. The Applicant's proposed future land use is described fully below:

The future land use of the Site is expected to be as a mixed-use residential and commercial, including multi-story apartments, structured parking, and commercial/retail space. Residential use will be restricted to the second floor and above. The Site will be characterized and cleaned up to be protective of the future land use and the Certificate of Completion will reflect the final land use and exposure scenario for the Site. An amendment to this Agreement is not required to reflect the final land use and exposure scenario.

Commercial/Industrial Land Use:

Commercial/industrial uses will be consistent with the commercial/industrial worker exposure scenario as described in the Risk Assessment Guidance for Superfund, Volume I, Human Health Evaluation, Parts A and B. The commercial/industrial worker exposure scenario is described as: exposure to adults to incidental ingestion, inhalation, and dermal contact to hazardous constituents for duration of 25 years at a frequency of 250 days/year for 8 hours/day.

Uses that include managed care facilities, hospitals or any type of business that would require a caretaker to reside on the facility are not approved as future uses in areas screened or cleaned up to commercial standards. Commercial industries that would expose children to hazardous constituents at the site for extended periods of time (such as day care and school facilities) are also not approved in areas screened or cleaned up to commercial standards. Uses that are not approved as stated above would be inappropriate and unacceptable for the Site. Additional investigation and possible remediation would be required and the Agreement/COC amended before the Site could be used for uses that are not approved.

Residential Land Use:

The residential exposure scenario as described in the Risk Assessment Guidance for Superfund, Volume I, Human Health Evaluation, Parts A and B shall be applicable. The residential exposure scenario is defined as exposure of adults to incidental ingestion, inhalation, and dermal contact to hazardous constituents for a duration of 30 years at a frequency of 350 days a year.

If residual soil or groundwater contamination remains at the Site or on neighboring properties as a result of a release from the subject property, the Certificate of Completion shall require the Applicant to implement and maintain the appropriate monitoring, institutional control and risk management requirements outlined in the SMP. At a minimum, this includes an Environmental Covenant and a figure showing the location of any remaining contamination on the Site. A contingency plan will be incorporated into the SMP to ensure that the integrity of the remedy will

be maintained upon the completion of remedial activities. The contingency plan will also address any future anticipated impact(s) to the Site and potential failures of the remedy.

IX. DESIGNATED PROJECT MANAGER

A. On or before the effective date of this Agreement, the DEQ and the Applicant shall each designate a project manager. Each project manager shall be responsible for overseeing the implementation of this Agreement. The DEQ project manager will be the DEQ designated representative for the Site. To the maximum extent possible, communications between the Applicant and the DEQ and all documents (including reports, approvals, and other correspondence) concerning the activities performed pursuant to the terms and conditions of this Agreement shall be directed through the project managers. During implementation of this Agreement, the project managers shall, whenever possible, operate by consensus and shall attempt in good faith to resolve disputes informally through discussion of the issues. Each party has the right to change its respective project manager by notifying the other party in writing within five (5) days of the change.

X. ACCESS

A. To the extent that the Site or other areas where work is to be performed hereunder is presently owned or controlled by parties other than those bound by this Agreement, the Applicant shall obtain, or shall use its best efforts to obtain, access agreements from the present owners. Best efforts shall include at a minimum, a certified letter from Applicant to the present owner of such property requesting access agreements to permit the Applicant, the DEQ and their authorized representative's access to such property. Any such access agreements shall be incorporated by reference into this Agreement. Such agreements shall provide access for the DEQ and authorized representatives of the DEQ, as specified below. In the event that such access agreements are not obtained, the Applicant shall so notify the DEQ, which may then, at its discretion, assist the Applicant in gaining access.

B. The Applicant grants authorized representatives of the DEQ irrevocable access to the Site and other areas where work is to be performed during the period this Agreement is in effect. The DEQ shall provide the Applicant a list of its authorized representatives. The Applicant shall also permit the DEQ's authorized representatives to inspect and copy all records, files, photographs, documents, and other writings, including all sampling and monitoring data, which pertain to the subject matter of this Agreement and over which the Applicant exercises control. All persons with access to the Site pursuant to this Agreement shall comply with submitted health and safety plans. The DEQ does not approve health and safety plans.

XI. DISPUTE RESOLUTION

A. This section (Dispute Resolution) shall apply to any dispute arising under any section of this Agreement, unless specifically excepted. It should be noted, that the Executive Director or the Applicant may terminate this Agreement as provided for in Section 19-8-109 Utah Code Ann.

B. The parties shall use their best effort to, in good faith, resolve all disputes or differences of opinion informally. If, however, disputes arise concerning this Agreement which the parties are unable to resolve informally, the complaining party may present written notice of such dispute to the other party and set forth specific points of dispute and the position of the complaining party. This written notice shall be submitted no later than five (5) calendar days after the complaining party discovers the project managers are unable to resolve the dispute. The complaining party's project manager shall notify the other party's project manager immediately by phone or other appropriate methods of communication prior to written notice, when he/she believes the parties are unable to resolve a dispute.

C. Within ten (10) days of receipt of such a written notice, the party who received the written notice shall provide a written response to the complaining party setting forth its position and the basis therefore. During the five (5) calendar days following the receipt of the response, the parties shall attempt to negotiate in good faith a resolution of their differences. If during this negotiation period, the party who received the notice of dispute concurs with the position of the complaining party, the party who received the notice of dispute shall notify the complaining party in writing and this Agreement shall be modified to include any necessary extensions of time or variances of work.

D. Following the expiration of the previously described time periods, if no resolution of the disputed issue(s) has been reached, the party who received the written notice of dispute or a designee, shall make a written determination regarding the dispute, based upon and consistent with the terms of this Agreement, and shall provide such written determination to the other party.

E. At this juncture, if dispute resolution fails, and either or both parties exercise their right to withdraw from this Agreement by giving 15 days advance written notice to the other, only those costs incurred or obligated by the DEQ before notice of termination of the Agreement are recoverable under this Agreement.

XII. COVENANT NOT TO SUE AND RESERVATION OF RIGHTS

A. During the term of this Agreement, the DEQ will not bring an action against Applicant for any violations of statutes or regulations for the specific violations or releases that are being remediated by this Agreement or for costs or injunctive relief relating to the contamination addressed by this Agreement, unless the Applicant withdraws from this Agreement prior to completion of the cleanup. The applicable statute of limitations shall be tolled pending completion of the cleanup or termination of this Agreement. A responsible party who has successfully completed this Agreement shall be given a Certificate of Completion as provided in Section 19-8-111 of the Utah Code. Non-responsible party Applicants have a release from liability upon issuance of the Certificate of Completion subject to statutory conditions in Utah Code Section 19-8-113.

B. The DEQ and the Applicant reserve all rights and defenses they may have pursuant to any available legal authority unless expressly waived herein.

C. Nothing herein is intended to release, discharge, or in any way affect any claims, causes of action or demands in law or equity which the parties may have against any person, firm, partnership or corporation, not a party to this Agreement for any liability it may have arising out of, or relating in any way to the generation, storage, treatment, handling, transportation, release or disposal of any materials, hazardous substances, hazardous waste, contaminants or pollutants at, to or from the Site. The parties to this Agreement expressly reserve all rights, claims, demands, and causes of action they have against any and all other persons and entities who are not parties to this Agreement, and as to each other for matters not covered hereby.

D. The Applicant reserves the right to seek contribution, indemnity, or any other available remedy against any person other than the DEQ found to be responsible or liable for contribution, indemnity or otherwise for any amounts which have been or will be expended by the Applicant in connection with the Site.

XIII. ADMINISTRATIVE COSTS

A. The Applicant agrees to reimburse the DEQ for all of its costs associated with implementation of this Agreement in accordance with Utah Code Ann. Section 19-8-108.

B. The DEQ will track all costs to the DEQ for review and oversight activities related to the Site and provide monthly invoices to the Applicant, per this Agreement for said costs. If the DEQ costs are less than the application fee set forth in the fee schedule the remaining balance in the Site account will not be refunded. The Applicant shall pay these invoiced costs to the DEQ within 30 days after the date the Applicant receives notice that these costs are due and owing. If payment is not made within thirty days, the DEQ may request that the attorney general bring action to recover all costs allowed by law.

C. Checks shall be made payable to the Utah Department of Environmental Quality and be mailed along with a transmittal letter stating the Site name and VCP number identified in section I.A. Introduction of this Agreement, and addressed to the Utah Department of Environmental Quality; Attention: Voluntary Cleanup Program, 195 North 1950 West, Salt Lake City, Utah, 84116.

D. In the event that this Agreement is terminated for any reason, Applicant agrees to reimburse the DEQ for all costs incurred or obligated by the DEQ before notice of termination of this Agreement.

XIV. NOTICE OF BANKRUPTCY

A. Upon filing a voluntary bankruptcy petition, the Applicant shall notify the DEQ of the filing of the petition. In the case of an involuntary bankruptcy petition, the Applicant shall give notice to the DEQ as soon as it acquires knowledge of such petition.

XV. INDEMNIFICATION

A. The Applicant agrees to indemnify and save and hold the State of Utah, its agencies, successors, departments, agents, and employees, harmless from any and all claims, damages, or causes of action arising from, or on account of, the negligent acts or omissions of the Applicant, its officers, directors, principals, employees, receivers, trustees, agents, successors, subsidiaries, and assigns in carrying out the activities pursuant to this Agreement.

XVI. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

A. The effective date of this Agreement shall be the date on which this Agreement is signed by the Executive Director of the DEQ or his authorized representative.

B. This Agreement may be amended by mutual agreement of the DEQ and the Applicant. Amendments shall be in writing and shall be effective when signed by the Executive Director of the DEQ or his authorized representative.

XVII. TERMINATION AND SATISFACTION

A. The provisions of this Agreement shall be satisfied when the DEQ gives the Applicant written notice in the form of a Final Certificate of Completion that the Applicant has demonstrated to the DEQ's satisfaction that all terms of this Agreement have been completed, including the selection and implementation of a remedial action, when appropriate.

B. Nothing in this Agreement shall restrict the State of Utah from seeking other appropriate relief to protect human health or the environment from pollution or contamination at or from this Site not remediated in accordance with this Agreement.

C. Either party may terminate this Agreement by giving 15 days advance written notice to the other party. The Applicant shall remain responsible for all costs reasonably incurred or obligated by DEQ prior to DEQ's receipt or issuance of the Notice of Termination.

XVIII. SIGNATURES

APPLICANT:

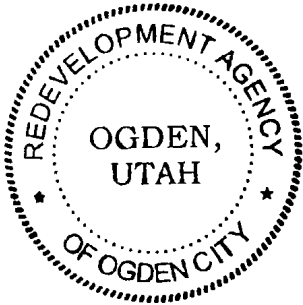
Ogden City Redevelopment Agency

By: *Michael P Caldwell*
Michael P Caldwell (Feb 8, 2022 08:43 MST)
(signature of authorized representative)

Date: Feb 8, 2022

Name: Michael P Caldwell
(print or type)

Title: Mayor



Feb 8, 2022

Lee Ann Peterson
Chief Deputy Recorder

DEPARTMENT OF ENVIRONMENTAL QUALITY

By: Brent H. Everett
(signature of authorized representative)

Name: Brent H. Everett

Date: Feb 17, 2022

Title: Director - Division of Environmental
Response and Remediation

List of Attachments:

Exhibit A: Site Legal Property Description.

Exhibit B: List of Applicable Statutes and Rules.

EXHIBIT A.

4-C LAUNDROMAT VCP SITE LEGAL PROPERTY DESCRIPTION

Legal Description

Site Address: 4-C Laundromat, 856 East 25th Street, Ogden, Utah.

Parcel # 01-059-0012 (0.38 acres)

Legal Description:

PART OF LOT 2, BLOCK 8, PLAT B, OGDEN CITY SURVEY, WEBER COUNTY, UTAH:
BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 2, RUNNING THENCE NORTH
10 RODS; THENCE EAST 6 RODS; THENCE SOUTH 10 RODS; THENCE WEST TO THE
PLACE OF BEGINNING.

EXHIBIT B.

4-C LAUNDROMAT VCP SITE LIST OF APPLICABLE STATUTES AND RULES

List of Applicable Statutes and Rules

Utah Code Ann. 19-6-401 *et seq.* (Underground Storage Tank Act and rules promulgated thereunder (Utah Admin Code, R311)) and the Corrective Action Cleanup Standards Policy Per UST and CERCLA Acts, Utah Admin. Code, R311-211.

Utah Code Ann. 19-6-101 *et seq.* (Solid and Hazardous Waste Act and rules promulgated thereunder (Utah Admin Code, R315)).

Utah Code Ann. 19-5-101 *et seq.* (Water Quality Act and rules promulgated thereunder (Utah Admin Code, R317)).

Utah Code Ann. 19-2-101 *et seq.* (Air Conservation Act and rules promulgated thereunder (Utah Admin Code, R307)).

Utah Code Ann. 57-25-101 *et seq.* (Uniform Environmental Covenants Act).

40 CFR Part 763 subpart E, Asbestos Containing Material.

40 CFR Part 61 subpart FF, Benzene Waste Operations.