

**STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY**

In the Matter of:

DEQ NO. LQVC-WR-21-03

MPC Builders, LLC
2711 E. Main St
Puyallup, WA OR 98372

AMENDMENT 1 TO ORDER ON CONSENT

Respondent

The Director of the Oregon Department of Environmental Quality (“DEQ”) hereby issues this Amendment 1 to this Order on Consent (Consent Order) to MPC Builders, LLC (“Respondent”). Except as modified by this Amendment 1, the terms and conditions, including defined terms, of the Consent Order remain in full force and effect.

3. Findings of Fact

Subsection 3.E is added to the Consent Order as follows:

Millpond Crossing, LLC has applied for a Brownfields Redevelopment Fund loan (“BRF Loan”) through Business Oregon to assist with paying remedial action costs related to the Facility and other costs to comply with the terms and conditions of this Consent Order, including any amendments thereto.

7. General Provisions

Paragraph 7.J(1) is amended and replaced as follows: As of June 7, 2022, DEQ has \$101,242,57 in outstanding oversight costs and interest related to the Site. Respondent will pay for these past costs as set forth in Subsection 7S.

(New) Subsection 7S: “Financial Assurances” is added to the Consent Order as follows:

- (1) Upon the sale of the next 19 homes in Phase IIB as shown on the Phase IIB plat map recorded in City of Philomath title records at Book 13, Page 27 (“Plat Map”), and upon the sale of lot 32, Respondent will direct \$75,000 from each sale to the Schwabe Williamson & Wyatt PC Trust Account (“Remediation Escrow Account”). Respondent will ensure that a trust deed or other similar instrument is recorded on title to cause such funds to be directed to the Remediation Escrow Account at closing of each home sale, and will provide notice to DEQ when such

instrument is recorded.

- (2) Respondant shall have no obligation to pay more than a total of \$1,500,000 into the Remediation Escrow Account. The balance in the Remediation Escrow Account may be reduced as set forth in Paragraph 7.S(4).
- (3) Respondent shall use funds in the Remediation Escrow Account solely to pay for remedial action costs (including DEQ oversight costs) and other costs to comply with the terms and conditions of this Consent Order, including any amendments thereto, related to the Site west of E. 16th Street, i.e., to homes and properties currently developed (the "Developed Properties"). To the extent any DEQ oversight costs are due and owing at the time when Respondent directs any individual \$75,000 payment into the Remediation Escrow Account, Respondent shall use up to ten percent (10%) of such funds to promptly pay for any outstanding DEQ oversight costs.
- (4) For any remedial action costs paid from the BRF Loan that are applied to costs or obligations related to the Developed Properties, Respondent may request distribution from the Remediation Escrow Account to Respondent in an amount equal, but not greater than, the costs paid through the BRF Loan funds related to remedial action costs or obligations for the Developed Properties; *provided that*, Respondent shall not reduce funds in the Remediation Escrow Account below \$300,000, which shall be retained for future monitoring costs, as necessary. The amount retained for future monitoring costs may be modified by later order by, or agreement with, DEQ to reflect future decisions regarding the necessity or duration of such future monitoring.
- (5) DEQ shall have the right, but not the obligation, to review account statements and transaction histories of the Remediation Escrow Account, and Respondant shall be obligated to timely provide DEQ such information.
- (6) Respondent shall maintain the Remediation Escrow Account as set forth in this Consent Order Amendment No. 1 until the earlier of (a) a final remedy is selected and implemented for the Developed Properties, or (b) upon written approval by DEQ.
- (7) Funds in the Remediation Escrow Account will be held for the benefit of

Respondent as set forth in this Subsection.

The Parties anticipate an Amendment 2 to modify the SOW under the Consent Order, and will continue performing under the Consent Order until Amendment 2 is issued. Respondent will submit Amendment 2 to this Consent Order by July 1, 2022. DEQ approval of Amendment 2 is subject to Subsection 7C of the Consent Order.

DEQ has an existing lien on certain portions of the Site. Upon execution of this Amendment 1, DEQ will diligently take any necessary actions to remove its lien on the parcels on “Phase I,” “Phase II,” and “Phase IIB” as shown on the Plat Map.

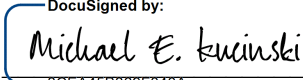
STIPULATED, AGREED, and APPROVED FOR ISSUANCE:

MPC Builders, LLC
Respondent

By:  Date: 6/15/2022
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Levi Miller

STIPULATED, AGREED, and SO ORDERED:

State of Oregon
Department of Environmental Quality

By:  Date: 6/15/2022
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Michael E. Kucinski
Cleanup Program Manager, Western Region