

Landfill Inspection and Maintenance Plan

Former Whetstone Landfill White City, Oregon

Prepared for
City of Medford and Amy's Kitchen



June 2025

Landfill Inspection and Maintenance Plan Former Whetstone Landfill White City, Oregon

Prepared for

City of Medford and Amy's Kitchen

City of Medford
411 W 8th Street
Medford, OR 97501

Amy's Kitchen
3000 Dutton Avenue, Suite A
Santa Rosa, CA 95407

Prepared by

Parametrix

5 SE Martin Luther King Jr. Boulevard, Suite 400
Portland, OR 97214
T. 503.233.2400 F. 1.206.649.6353
www.parametrix.com

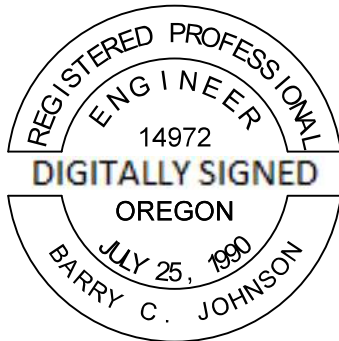
June 2025 | 273-5110-006

Citation

Parametrix. 2025. Landfill Inspection and Maintenance Plan
Former Whetstone Landfill White City, Oregon. Prepared for
City of Medford and Amy's Kitchen by Parametrix, Portland,
Oregon. June 2025.

Certification

The technical material and data contained in this document were prepared under the supervision and direction of the undersigned, whose seal, as a professional engineer licensed to practice as such, is affixed below.



EXPIRES: 6/30/2025

Prepared by Barry Johnson, PE

A handwritten signature in blue ink, appearing to read "Barry Johnson", written over a horizontal line.

Approved by Richard Roché, RG



Expires 11/30/2026

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Figure 1. Site Location

Figure 2. Site Map

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- A Site Inspection and Maintenance Form
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1. Introduction

This Landfill Inspection and Maintenance Plan has been prepared for consolidated landfill materials and an overlying cap at the former Whetstone Landfill site, located adjacent to the Amy's Kitchen facility at 441 West Antelope Road in White City, Oregon (Figure 1). The former Whetstone Landfill site is owned by the City of Medford and leased to Amy's Kitchen for employee parking.

A Removal Action Decision (RAD) prepared by Oregon Department of Environmental Quality (DEQ 2005) as part of the development of the Amy's Kitchen facility in 2005 specified institutional controls to ensure the maintenance of the former Whetstone Landfill and adjacent Amy's Kitchen properties. The Construction Soil Management Plan (Parametrix 2005a) included in the 2005 RAD described management of soil and debris during construction on the Amy's property, which was completed in two phases in 2005 and 2014. The Landfill Consolidation Plan (Parametrix 2005b) described methods for management and consolidation of soil and debris placed on the former Whetstone Landfill. The RAD requires preparation and DEQ approval of Inspection and Maintenance Plans for the:

- Former Whetstone Landfill - owned by the City of Medford and includes consolidated landfill materials and an overlying asphalt paved cap.
- Amy's Kitchen Facility Site – currently owned by WP Carey. In September 2023 Knife River Corporation, under contract with Amy's Kitchen, placed a soil cap on the portion of the property that included less than 12 inches of clean soil over waste materials.

This Landfill Inspection and Maintenance Plan has been prepared for the former Whetstone Landfill. A separate plan has been prepared for the Amy's Kitchen Facility Site (Parametrix 2024).

The primary purpose of this Landfill Inspection and Maintenance Plan is to define procedures and protocols for inspections and maintenance to ensure the integrity of the engineered cap on the former Whetstone Landfill property.

If the former Whetstone landfill property is sold or transferred to new ownership, any subsequent owner of the property is required to comply with the Whetstone Landfill Easement and Equitable Servitudes (EES) and this Inspection and Maintenance Plan.

2. Background

The following sections provide a summary of the site location and description, regulatory history, and landfill debris consolidation project.

2.1 Site Location and Description

The former Whetstone Landfill site and the adjacent Amy's Kitchen Facility site are located west of unincorporated White City, Oregon. The former Whetstone Landfill is an 8.1-acre property owned by the City of Medford and leased by Amy's Kitchen. It is located adjacent to the Amy's Kitchen Facility to the west-southwest. The former landfill and cap that is the focus of this Inspection and Maintenance Plan is shown by a dashed red line on Figure 2. The property that includes the Amy's Kitchen facility encompasses approximately 50 acres and is bounded on the east by Antelope Road, on the west by Whetstone Creek, on the south by vacant land, and on the north by the Central

Oregon & Pacific Railroad. Figure 1 shows the locations of the former Whetstone Landfill and Amy's Kitchen facility.

The former Whetstone Landfill operated from 1942 through the late 1960s and was used for construction-related debris (scrap metal, glass, tires, ceramics, concrete, and asphalt). It historically extended beyond the current 8.1-acre property, including the northern portion of the property currently occupied by the Amy's Kitchen facility. In 1989, most of the debris material that extended onto the northern portion of the property currently occupied by the Amy's Kitchen facility was consolidated onto the 8.1-acre former Whetstone Landfill property. However, subsequent investigations confirmed that debris was still present in outlying areas, including on the current location of the Amy's Kitchen facility.

2.2 Regulatory History and Site Development

Based on the findings of a 2005 Phase I/II Environmental Site Assessment (Parametrix 2005c) and prior investigations, the action identified in the DEQ RAD consisted of consolidating all debris excavated during development of the Amy's Kitchen facility onto the Whetstone Landfill. As detailed in the Section 7.0 of the RAD, the DEQ determined this action was allowed pursuant to ORS 465-260(2) and OAR 340-122-0070, which indicate the Director (or delegated authority) may approve removal actions necessary to protect human health and the environment. Pursuant to ORS 465.315(3), the Director may exempt removal actions from RCRA and solid waste requirements provided they occur "on-site," are protective of human health and the environment, and substantive requirements are met.

The Amy's Kitchen facility was constructed in two phases completed in 2005 and 2014. Requirements set forth in a Prospective Purchasers Agreement (PPA), signed by DEQ and Table Rock Group, LLC (a real estate holding arm of Amy's Kitchen), specified that all soil and debris excavated during construction of the Amy's Kitchen facility was to be consolidated onto the former Whetstone Landfill site. An engineered cap in the form of an asphalt parking lot was required to be constructed in 2005 over the consolidated material. The size of the asphalt parking lot was increased as part of the 2014 expansion of the Amy's Kitchen facility. The two phases of development are summarized in the following sections.

2.2.1 2005 Amy's Kitchen Facility Construction

The 2005 development included the construction of a 137,500-square-foot processing building, 9,200 square feet of warehouse space, 10,000 square feet of office space, an 18,000-square-foot loading dock, the southeast half of the automobile parking area (approximately 329 spaces), and associated site improvements. During this phase of the project, up to 27,000 cubic yards of soil and debris from the Amy's Kitchen portion of the property was removed and consolidated onto the former Whetstone Landfill property. The following includes the general procedures and protocols utilized for the construction and landfill consolidation project, including placement of the engineered cap on the former Whetstone Landfill property:

- Consolidation of the existing fill on the surface of the former Whetstone Landfill using a large bulldozer and/or other equipment. The equipment was used to run over the existing concrete slabs to break them up, and to push the slabs and the finer materials into a consolidated mass.
- Stripping of the topsoil from the construction areas on the Amy's Kitchen site. Removal of the soil overburden from over the debris material in the construction areas and stockpiling for

later use. Excavation of the debris material to the depth required for construction and moving it onto the former Whetstone Landfill. Utilize overburden material from the Amy's Kitchen site as required to assist in consolidating the fill on the former Whetstone Landfill.

- Compaction of the debris/soil to meet construction requirements in all areas.
- After compaction of the former Whetstone Landfill was complete, construction of the cap according to the following steps:
 1. Installation of a geotextile fabric over the debris placement area.
 2. Adding an 8-inch layer of compacted crushed stone.
 3. Adding 3 inches of asphalt onto the parking area for permanent paving.
- Placement of a minimum of 12-inches of clean soil in areas to be landscaped (in lieu of the cap described above). Place topsoil to surface grade or above grade to limit the landscaped area as acting as a low-lying area or sump for collection of storm water.
- Placement of two inches of clean topsoil on the portion of the landfill not included in the 2005 debris placement area (most of the area was used during the 2014 expansion project described below).

Figure 2 shows the completed buildings and parking area.

2.2.2 2014 Expansion Project

The 2014 construction included expansion of the Amy's Kitchen facility and the asphalt parking area on the former Whetstone Landfill (Figure 2). Approximately 81,000 square feet of paved parking designed for approximately 174 additional automotive parking spaces were added on the former Whetstone Landfill site. Soil and fill materials excavated from the Amy's Kitchen site were used as fill to obtain grade needed for the additional parking area.

Grubbing of the Whetstone Landfill area was conducted in preparation to receive additional waste, soil, and final grading. Soil and debris excavated during the 2014 Expansion project was managed in accordance with the PPA provisions, including the CSMP and LCP. Specifically, all soil and debris excavated from the south end structure addition footprint was visually inspected and placed in the former Whetstone Landfill. Most of the material excavated from the south end structure footprint area was debris material or soil containing debris materials. Excavated soil not clearly debris-impacted was also placed on the former Whetstone Landfill to aid in consolidating and compacting the waste to support the final capping system consisting of a paved parking lot.

Approximately 9,000 cubic yards of soil waste debris were placed on the former Whetstone Landfill in the area where the employee parking expansion lot was completed. The following steps were completed after establishment of final fill grades:

1. A 7-ounce per yard geotextile fabric was placed over the debris placement area.
2. Twelve inches of 4-inch crushed rock were compacted over the debris placement area as subgrade for the asphalt concrete. This crushed rock layer was compacted and proof-rolled for non-deflection with a fully loaded 10-yard gravel truck.
3. Four inches of 3/4-inch crush rock were placed and compacted to at least 95% relative compaction to provide a smooth, unyielding surface.

4. Three inches of asphalt concrete were added to serve as permanent paving for the expanded employee parking area.

Grass was established on the side slopes of the new expanded employee parking area with stormwater runoff areas armored with coarse rock to control erosion. The area north of the expanded employee parking area was graded to provide positive drainage and completed with a gravelly surface that is resistant to erosion. The completed parking area is shown on Figure 2.

2.3 Summary of Environmental Investigations

Previous investigations on the former Whetstone Landfill property and the current Amy's Kitchen property were completed for soil, groundwater, and soil gas. The investigations included the completion of 89 test pits to depths ranging from 2 to 17 feet below ground surface (bgs), the collection of soil and groundwater samples from the test pits, subsurface mapping using ground penetrating radar, and the collection of 36 soil gas samples from boreholes (Marquess & Associates 2014). A summary of the findings is included in the following sections.

2.3.1 Soil

A total of 46 soil samples collected from test pits were selected for laboratory analysis. The soil samples were analyzed for hydrocarbon identification, gasoline-range petroleum hydrocarbons, diesel and lube oil-range petroleum hydrocarbons, total metals, lead, volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), polynuclear aromatic hydrocarbons (PAHs), and/or polychlorinated biphenyls (PCBs). With the exception of lead, concentrations of contaminants detected were relatively low.

The soil sample results were compared to applicable DEQ risk-based concentrations (RBCs) and/or EPA Region 9 preliminary remedial goals (PRGs) to determine contaminants of potential concern (COPCs).

The maximum concentrations of arsenic and lead detected in soil samples exceeded the EPA Region 9 PRGs for industrial use. Based on the low concentrations detected and investigations in similar areas, the detected concentrations of arsenic appear to represent background concentrations for volcanic soils. DEQ has agreed with this assessment and that arsenic is not considered to be a COPC.

Lead is considered a COPC. The probable cause of the lead detected in soil is the landfill debris beneath the property. The maximum detected concentration of lead in soil at the site was 2,260 milligrams per kilogram (mg/kg), which exceeded the EPA Region 9 PRG of 800 mg/kg for lead for industrial sites and the DEQ RBC of 750 mg/kg for occupational, construction, and excavation worker exposure. This sample was collected at 4 feet bgs from the debris layer in test pit TP-19. All other detected concentrations of lead in soil were below the EPA PRG and DEQ RBCs. The 90 percent upper confidence limit of the data indicated a lead concentration of 287 mg/kg. This indicates that although one soil sample collected from the site exceeded both the DEQ RBCs and the EPA PRG, if the entire data set from the site is considered, it would fall below the risk-based values. Based on this assessment, the lead concentrations detected at the site do not present an elevated risk to potential receptors (specifically construction workers and site occupants).

2.3.2 Groundwater

No groundwater constituent concentrations detected at the site exceeded any of the applicable RBCs or PRGs. Therefore, none of the contaminants detected in groundwater are considered COPCs and groundwater is not considered to present a significant risk to construction workers or site occupants.

2.3.3 Soil Gas

Soil gas samples were collected at 36 locations. The gas samples were analyzed for methane and VOCs. No contaminants were detected in the soil gas samples. Therefore, there are no COPCs expected through soil gas contact.

3. Landfill Inspection and Maintenance Program

As part of the final remedy requirements, an inspection and maintenance program has been developed for the former Whetstone Landfill. The landfill was filled and capped during the 2005 and 2014 construction activities. The purpose of the inspection program is to:

- Document the integrity of the final cover (cap) components.
- Identify any improperly managed contaminated soil and debris.
- Identify other conditions that could result in exposure to contaminated soil or debris and/or migration of contaminated soil or debris.

The following sections include the specifics of the inspection program.

3.1 Inspection Personnel

The City of Medford (or future owner or designee, as applicable) is responsible for assigning an Inspection and Maintenance Coordinator (IMC) to conduct inspections, and coordinate maintenance and repairs as set forth in this plan. The IMC will be the primary point of contact and will be responsible for the completion of cap monitoring activities and/or for appointing staff to conduct additional monitoring as specified in this plan. The IMC will maintain inspection reports and provide communication with the City of Medford (property owner) and the DEQ.

The contact information for the Inspection and Maintenance Coordinator for the City of Medford is listed below:

Name:	Public Works Director
Title:	Public Works Director
Organization:	City of Medford
Phone:	541-774-2100

Amy's Kitchen is currently leasing the former Whetstone Landfill site for use as employee parking and will conduct inspections and maintenance during the lease period. The contact information for the Inspection and Maintenance Lead for Amy's Kitchen is listed below:

Name: Jason Rowe
Title: Plant Engineering Manager
Organization: Amy's Kitchen, Inc,
Phone: 541-831-3083
Email: jason.rowe@amys.com

If ownership or inspection and maintenance contact information changes, this plan should be revised and submitted to DEQ for review and for their records.

DEQ Contact Information

Cleanup Program Manager
Department of Environmental Quality
165 E. 7th Avenue, Suite 100
Eugene, OR 97401
Email: unassigned.cleanup@deq.oregon.gov

3.2 Inspection Frequency

The consolidated soil and debris are located in the former Whetstone Landfill property and generally covered by an engineered cap, which includes compacted soil/debris, a demarcation layer, crushed rock base, and asphalt concrete parking lot surface. Therefore, direct inspection of the subsurface cap components is not possible. However, the inspection program is primarily used to assess the integrity of the overlying cap (asphalt parking surface) to determine possible deterioration issues or other concerns associated with the isolated materials.

Formal cap inspections will be conducted by the IMC or designee:

- Initial inspection in Fall 2025
- Annual inspections each March, starting in 2026

It is expected that inspections will be conducted on an annual basis until further notice or otherwise approved by the DEQ. After the first five-year monitoring period, the frequency of inspection may be re-evaluated in coordination with DEQ.

Inspections outside of the normal baseline events may also be conducted for the following scenarios:

- Local seismic event of magnitude 6 or greater.
- Periods of extreme rainfall or flood events (i.e. 100-year storm events or similar) that could impact flooding along Whetstone Creek or overland stormwater flow with potential to impact landfill cap areas.

The annual Inspection and Maintenance Form and supporting documentation will be submitted to DEQ annually by December 31 at:

Email: unassigned.cleanup@deq.oregon.gov

Mail: Cleanup Duty Officer, DEQ Western Region Eugene office
165 E. 7th Avenue, Suite 100
Eugene, OR 97401

The Inspection and Maintenance form is included in Appendix A and will be used to document the inspections. Notes and photographs will also be collected, as necessary. As part of each inspection, corrective actions will be identified and recommended, as needed. Completion of all corrective actions will be documented on the inspection form. The completed inspection reports with all supporting documentation, including photographs, maintenance records, and corrective actions, will be maintained in City of Medford and Amy's Kitchen's electronic files. The full report and all supporting documentation can be provided to DEQ upon request.

3.3 Cap Maintenance

As previously described, the engineered cap (demarcation layer, base material, and overlying pavement) for the consolidated landfill material is below the subsurface and covered by the parking lot components. The finished surface is primarily asphaltic concrete.

The asphalt cap will be monitored for:

- Excessive cracks
- Fissures or potholes, or other evidence that the asphaltic concrete surface has been compromised
- Signs of deterioration, including subsidence areas or unusual elevated areas

The cap will be monitored for overall integrity to ensure the cover condition has not deteriorated in any fashion or is otherwise compromised. The cap will be inspected to ensure that it has remained intact to prevent uncontrolled contact with the underlying contaminated soil and debris. Inspection of the cap area will also include consideration of subsidence and associated cracking and separation of asphalt features. Major cracking or fissures or separation of asphalt features that could potentially compromise the containment cap will be identified and a corrective action implemented, as necessary. General cap maintenance guidelines are described below:

- Asphalt: Cracks, alligatored areas (areas with numerous intersecting cracks), and buckling shall be regarded as deterioration requiring maintenance. Cracks shall be patched using tar or asphalt material designed for that purpose or by sealing with appropriate crack repair material. Alligatored areas larger than 100 square feet shall be removed and replaced with a minimum of 3 inches of new asphalt or other pavement. Smaller alligatored areas can be repaired as cracks. Buckling shall be regarded as requiring maintenance if it is accompanied by cracks. Buckled asphalt shall be removed and replaced with a minimum of 3 inches of new asphalt or other pavement.
- Concrete: Cracks with an average width of 0.5 inches or more shall be regarded as deterioration requiring maintenance. Such cracks shall be repaired with caulk, grout or a concrete patch material designed to inhibit seepage of water. If such repairs are impractical,

deteriorated concrete shall be replaced with three inches of new asphalt, concrete, or other pavement.

- Landscaping or Undeveloped Area: Landscaped areas are generally limited in this section of the facility and only include surficial features. In addition, there are limited undeveloped areas covered by soils and grasses, primarily in the northwest corner of the site and western side of the parking lot (Figure 2). Therefore, the undeveloped and landscaped areas will also be monitored for overall integrity, and lack of erosion and/or excessive ponding. The soil cap will be inspected to ensure that it has remained intact to prevent uncontrolled contact with the underlying contaminated soil and debris. The soil cap will be replaced in areas where erosion or other deterioration is observed.

Stormwater features at the site will also be inspected to ensure they are functioning properly and not causing integrity issues with the paved cap area or soil cap area.

4. Cap Restoration

The existing cap includes the asphalt pavement, which is considered sufficient to isolate the consolidated soil and debris from direct contact with occupational workers. However, in the event that activities are conducted that penetrate or otherwise disturb the asphalt cap, it must be restored properly. Minimum requirements for cap restoration are provided below:

- Areas where the asphalt cap is temporarily removed shall be covered with a new cap consisting of a minimum of 3 inches of new asphalt or other pavement.
- The cap must be restored similar or of greater quality than the existing surface and be constructed such that it prevents contact with impacted soil/debris, minimizes exposure of COPCs to stormwater, and prevents erosion of impacted soil/debris.
- For minor penetrations of the cap, such as borings through the cap, the penetration shall be immediately repaired with a minimum of 3 inches of new asphalt or cold-patch.

5. Contaminated Soil/Debris Management

It is not expected that any construction, maintenance, or other activities will penetrate the engineered cap nor result in excavation of contaminated soil or debris. In addition, the former Whetstone Landfill does not have additional capacity. Therefore, any debris encountered during potential future site development activities on the Amy's Kitchen facility site needs to be disposed of offsite at a permitted facility. In the event that future construction or maintenance impacts or encroaches on the contaminated soils or debris within the former Whetstone Landfill, all contaminated soil management activities will follow applicable requirements outlined in the Construction Soil Management Plan (CSMP) (Parametrix 2005a) prepared for the site. DEQ shall be notified of impending activities a minimum of 30 days prior to work activities and not proceed until DEQ provides written approval.

All relevant and applicable soil management activities will be employed, which include appropriate worker safety requirements and certifications (i.e., OSHA), on-site soil management, soil characterization, off-site disposal, and reporting.

6. Notification and Reporting

The City of Medford (property owner) will notify the DEQ prior to any project that will disturb soil/debris in the former Whetstone Landfill area (as depicted in Figure 2) at least 30 days prior to starting the activity. Notification to DEQ will occur by email and mail:

Email: unassigned.cleanup@deq.oregon.gov

Mail: Cleanup Duty Officer, DEQ Western Region Eugene Office

165 E. 7th Avenue, Suite 100

Eugene, OR 97401

The notification will include a general description of the activity, the location of the activity, the project schedule, and the approximate volumes of contaminated soil/debris anticipated to be managed. The notification will describe the intended disposition of any excavated soil/debris (i.e., plan to properly dispose of offsite).

In cases of emergency, time-critical, or non-planned activities, such as utility repair work, the City of Medford and DEQ will be notified immediately of impending activities that impact the cap. In addition to the email and mail contact information above, the DEQ Cleanup Manager must be called at 541-686-7837.

Within 60 days following completion of each project involving soil/debris disturbance, the management of contaminated soil/debris will be documented in a report submitted to DEQ via the contact information provided in Section 3.2. The report will include:

- A description of the activities that resulted in management of soil/debris including excavation locations.
- Estimated quantities of soil/debris managed.
- Results of soil sampling and analysis, if any.
- Volumes and locations of soil/debris managed off-site and bills of lading and/or hazardous waste manifests.
- Photographic documentation to show the location of the disturbed area and adequate cap restoration.

7. Recordkeeping

The City of Medford (property owner) shall maintain records documenting (1) the annual inspections described in Section 3, including any observations of cap deterioration; (2) cap restoration and maintenance activities; and (3) off-site disposal of excavated soil/debris, including waste characterization, shipping manifests and disposal certificates. Such documentation shall be maintained in the permanent records for the property, provided to DEQ upon request, and disclosed to any subsequent property owner(s).

8. Easement and Equitable Servitudes (EES)

DEQ requires preparation and recording of Easement and Equitable Servitudes (EES) documents for sites where engineered caps are used to protect human health and the environment. An EES is required for the former Whetstone Landfill property. The EES requires maintenance, inspection and reporting of the capped areas and restricts residential use of the property. Like the PPA, the EES is included with the land documents, and any future owners of the land will be required to abide by the EES requirements.

An EES has been prepared for the former Whetstone Landfill and recorded in Jackson County. A copy of the EES is included in Appendix B.

9. Revisions to this Plan

This Landfill Inspection and Maintenance Plan should be updated when there are changes in ownership or when there are changes to the plan.



10. References

- Marquess & Associates, Inc. 2014. Soils Investigation Report, Phases I and II Manufacturing Expansions, Amy's Kitchen, White City, Oregon. Prepared for Amy's Kitchen. February 27, 2014.
- Oregon Department of Environmental Quality 2005. Removal Action Decision, Whetstone Site, White City, Oregon June 6, 2005.
- Parametrix 2005a. Construction Soil Management Plan, Proposed Amy's Kitchen Facility, White City, Oregon. Prepared for Table Rock Group. July 5, 2005.
- Parametrix 2005b. Landfill Consolidation Plan, Whetstone Site, White City, Oregon. Prepared from Table Rock Group. July 6, 2005.
- Parametrix 2005c. Phase I/II Environmental Site Assessment, Proposed Amy's Kitchen Site, White City, Oregon. May 12, 2005.

Figures



Date: 10/6/2021
 Sources: Jackson County, ESRI, OpenStreetMap
 PCS: NAD 1983 HARN StatePlane Oregon South FIPS 3602 Feet Intl
 Disclaimer: This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes.

 Former Whetstone Landfill
 Site Area Covered by Landfill
 Inspection and Maintenance
 Plan
 Tax Lot


 2014 Expansion Project
 Area
 2014 Facility Expansion
 Project Excavation Area

Figure 2. Site Map
 Former Whetstone Landfill
 Landfill Inspection and Maintenance Plan
 City of Medford

White City, Oregon



Appendix A

Site Inspection and Maintenance Form

INSPECTION AND MAINTENANCE FORM

Former Whetstone Landfill Consolidated Landfill Materials

INSPECTION: **Former Whetstone Landfill**

Annual _____ Special Inspection _____ or Follow-Up _____

Date: _____ Weather: _____

Time of Inspection: _____

Inspector(s): _____ Signature: _____

An inspection was conducted for the following capping or overlying infrastructure components. Areas of concern, maintenance issues, or recommended follow-up (if any) have been identified and are included on the attached site map. Photographic documentation of the inspection is also attached. For those areas needing maintenance or other corrective actions, a repair record is included.

Hardscapes – Asphaltic Concrete Parking Lot

Condition of hardscape surface: _____

Any suspect features, such as major damage or settlement: _____

Any signs of previous or planned utility work: _____

Previous area of repair observations: _____

Corrective actions necessary? _____

Descriptions of any corrective action performed and date: _____

Landscaped Areas, Planters, and Undeveloped Areas

Condition of soil surface: _____

Any signs of previous or planned utility work: _____

Any signs of ground disturbances, such as excavation or major erosion: _____

Corrective actions necessary? _____

Descriptions of any corrective action performed and date: _____

Appendix B

Easement and Equitable
Servitudes (EES)
Documents

Space above this line for Recorder's use.

After recording, return to:

Grantee

Oregon DEQ
165 E. 7th Avenue
Suite 100
Eugene, OR 97401
Attention: Donald Hanson

Grantor

City of Medford
200 S. Ivy Street
Medford, OR 97501

EASEMENT AND EQUITABLE SERVITUDES

This grant of Easement and acceptance of Equitable Servitudes (“EES”) is made on _____, 2025 between City of Medford, Oregon (“**Grantor**”) and the State of Oregon, acting by and through the Oregon Department of Environmental Quality (“DEQ” or “Grantee”).

RECITALS

A. Grantor is the owner of certain real property located adjacent to 441 West Antelope Road, White City in Jackson County, Oregon in Jackson County Tax Map #362W23, Tax Lot #362W23114 (the “**Property**”) the location of which is more particularly described in Exhibit A to this EES. The Property is referenced under the name Whetstone Landfill Site, ECSI #1465 in the files of DEQ’s Environmental Cleanup Program at Western Region office located at 165 East 7th Avenue, Suite 100, Eugene, Oregon, and telephone 541-686-7838. Interested parties may contact the Western Region office to review a detailed description of the risks from contamination remaining at the Property and described in Removal Action Decision, Whetstone Site, White City, Oregon, prepared by DEQ and dated June 2005.

On July 6, 2005, the Director of the Oregon Department of Environmental Quality or delegate selected the remedial action for the Property set forth in the Removal Action Decision, Whetstone Site, White City, Oregon. The remedial action for the Property required, among other things, consolidation of residual waste debris removed during development of the adjacent Amy's Kitchen site into the Whetstone Landfill and capping the landfill (Exhibit B).

B. On July 28, 2005, Table Rock Group LLC entered into a Prospective Purchaser Agreement (PPA) with DEQ, under which Table Rock Group LLC agreed to implement the selected remedial action at the Property and adjacent Amy’s Kitchen property, including the required institutional controls. Amy’s Kitchen and Table Rock Group LLC are affiliated entities.

Effective December 29, 2021, OUI CHEF (MULTI) LP purchased the adjacent Amy's Kitchen property and subsequently leased it to Table Rock Group, LLC and Northpoint Group, LLC.

C. This EES is intended to further the implementation of the selected remedial action for the Whetstone Landfill site and Table Rock LLC PPA, and protect human health and the environment.

D. Nothing in this Easement and Equitable Servitude constitutes an admission by Grantor of any liability for the contamination described in the Easement and Equitable Servitude.

1. DEFINITIONS

- 1.1 "DEQ" means the Oregon Department of Environmental Quality, and its employees, agents, and authorized representatives. "DEQ" also means any successor or assign of DEQ under the laws of Oregon, including but not limited to any entity or instrumentality of the State of Oregon authorized to perform any of the functions or to exercise any of the powers currently performed or exercised by DEQ.
- 1.2 "Ecological receptor" has the meaning set forth in OAR 340-122-0115.
- 1.3 "Engineering control" has the meaning set forth in OAR 340-122-0115
- 1.4 "Hazardous substance" has the meaning set forth in ORS 465.200
- 1.5 "Owner" means any person or entity, including Grantor, who at any time owns, occupies, or acquires any right, title, or interest in or to any portion of the Property or a vendee's interest of record to any portion of the Property, including any successor, heir, assign or holder of title or a vendee's interest of record to any portion of the Property, but excluding any entity or person who holds such interest solely for the security for the payment of an obligation and does not possess or control use of the Property.
- 1.6 "Remedial Action" has the meaning set forth in ORS 465.200 and OAR 340-122-0115.

2. GENERAL DECLARATION

2.1 Grantor, in consideration of Grantee's issuance of a certificate of completion for cleanup activities required under the PPA, grants to DEQ an Easement for access and accepts the Equitable Servitudes described in this instrument and, in so doing, declares that the Property is now subject to and must in future be conveyed, transferred, leased, encumbered, occupied, built upon, or otherwise used or improved, in whole or in part, subject to this EES.

2.2 Each condition and restriction set forth in this EES touches and concerns the Property and the equitable servitudes granted in Section 3 and easement granted in Section 4 below, runs with the land for all purposes, is binding upon all current and future owners of the Property as set forth in this EES, and inures to the benefit of the State of Oregon. Grantor further conveys to DEQ the perpetual right to enforce the conditions and restrictions set forth in this EES.

3. EQUITABLE SERVITUDES (REQUIRED ACTIONS AND RESTRICTIONS ON USE)

3.1. **Asphalt Cap Engineering Control.** Except upon prior written approval from DEQ, Owner may not conduct or allow operations or conditions on the Property or use of the Property in any way that might penetrate any cap at the Property or jeopardize the cap's protective function as an engineering control that prevents exposure to contaminated soil, including without limitation any excavation, drilling, scraping, or uncontrolled erosion. Owner will maintain the asphalt cap in accordance with the DEQ approved Cap Inspection and Maintenance Plan (CIMP) dated June 2025. The cap areas are shown on Exhibit B to this EES. The CIMP also requires reporting to the DEQ for certain activities. The CIMP may be revised in the future with written approval by DEQ. The current CIMP is available online at <https://ordeq.org/ECSI1465>.

3.2. **Land Use Restrictions.** The following operations and uses are prohibited on the Property:

- a. Residential use of any type

3.3. **Use of the Property.** Owner may not occupy or allow other parties to occupy the Property unless the controls listed in this Section 3 are maintained.

4. EASEMENT (RIGHT OF ENTRY)

During reasonable hours and subject to reasonable security requirements, DEQ may enter upon and inspect any portion of the Property to determine whether the requirements of this EES have been or are being complied with. Except when necessary to address an imminent threat to human health or the environment, DEQ will use its best efforts to notify Owner 72 hours before DEQ entry to the Property. DEQ may enter upon the Property at any time to abate, mitigate, or cure at the expense of the Owner the violation of any condition or restriction contained in this EES, provided DEQ first gives written notice of the violation to Owner describing what is necessary to correct the violation and Owner fails to cure the violation within the time specified in such notice. Any such entry by DEQ to evaluate compliance or to abate, mitigate, or cure a violation may not be deemed a trespass.

5. RELEASE OF RESTRICTIONS

5.1. Owner may request release of any or all of the conditions or restrictions contained in this EES by submitting such request to the DEQ in writing with evidence that the conditions or restrictions are no longer necessary to protect human health and the environment. The decision to release any or all of the conditions or restrictions in this EES will be within the sole discretion of DEQ.

5.2. Upon a determination pursuant to Subsection 5.1, DEQ will, as appropriate, execute and deliver to Owner a release of specific conditions or restrictions, or a release of this EES in its entirety.

6. GENERAL PROVISIONS

6.1. **Notice of Transfer/Change of Use.** Owner must notify DEQ within 10 days after the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of Owner's interest in or occupancy of the Property. Such notice must include the full name and address of the Party to whom Owner has transferred an interest or right of occupancy. In addition, Owner must notify DEQ a minimum of 10 days before the effective date of any change in use of the Property that might expose human or ecological receptors to hazardous substances. Such notice must include complete details of any planned development activities or change in use. Notwithstanding the foregoing, Owner may not commence any development inconsistent with the conditions or restrictions in Section 3 without prior written approval from DEQ as provided in Subsection 3 of this EES or removal of the condition or restriction as provided in Subsection 5.1. This subsection does not apply to the grant or conveyance of a security interest in the Property.

6.2. **Zoning Changes.** Owner must notify DEQ no less than 30 days before Owner's petitioning for or filing of any document initiating a rezoning of the Property that would change the base zone of the Property under the Jackson County zoning code or any successor code. As of the date of this EES, the base zone of the Property is general industrial.

6.3. **Cost Recovery.** Owner will pay DEQ's costs for review and oversight of implementation of and compliance with the provisions in this EES, including but not limited to periodic review and tracking of actions required by this EES. This EES constitutes the binding agreement by the Owner to reimburse DEQ for all such eligible review and oversight costs. DEQ will establish a cost recovery account for tracking and invoicing DEQ project costs. DEQ will provide the Owner with a monthly statement and direct labor summary. DEQ costs will include direct and indirect costs. Direct costs include site-specific expenses and legal costs. Indirect costs are those general management and support costs of the State of Oregon and DEQ allocable to DEQ oversight of this EES and not charged as direct site-specific costs. Indirect charges are based on actual costs and are applied as a percentage of direct personal services costs.

6.4. **Inspection and Reporting.** Owner will immediately notify DEQ of any condition or occurrence at the Property that does not conform with provisions of this EES. In addition, Owner will maintain records documenting inspection and conduct reporting as outlined in the DEQ approved CIMP. This includes notification and subsequent reporting regarding projects that will disturb the asphalt cap. Refer to the approved CIMP for more details.

6.5. **Reference in Deed.** A reference to this EES, including its location in the public records, must be recited in any deed conveying the Property or any portion of the Property. Each condition and restriction contained in this EES runs with the land so burdened until such time as the condition or restriction is removed by written certification from DEQ, recorded in the deed records of the County in which the Property is located, certifying that the condition or restriction is no longer required to protect human health or the environment.

6.6. **Effect of Recording.** Upon the recording of this EES, all future Owners are conclusively deemed to have consented and agreed to every condition and restriction contained

in this EES, whether or not any reference to this EES is contained in an instrument by which such person or entity occupies or acquires an interest in the Property.

6.7. **Enforcement and Remedies.** Upon any violation of any condition or restriction contained in this EES, the State of Oregon, in addition to the remedies described in Section 4, may enforce this EES as provided in the Prospective Purchaser Agreement, or seek available legal or equitable remedies to enforce this EES, including civil penalties as set forth in ORS 465.900.

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

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

GRANTOR:[City of Medford]

By: _____ Date: _____
_____, Public Works Director

STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument is acknowledged before me this _____ day of _____, 2025, by _____ of City of Medford, on its behalf.

NOTARY PUBLIC FOR OREGON
My commission expires: _____

GRANTEE: State of Oregon, Department of Environmental Quality

By: _____ Date: _____
Nancy Sawka, Western Region Cleanup Manager (Acting)
STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument is acknowledged before me this _____ day of _____, 2025, by _____ of the Oregon Department of Environmental Quality, on its behalf.

NOTARY PUBLIC FOR OREGON
My commission expires: _____

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY
(CITY OF MEDFORD PORTION)

COMMENCING at a point for the most Northerly corner of Parcel No. 1 of Partition Plat recorded February 18, 2024 as Partition Plat No. P-07-2004 of "Record of Partition Plats" in Jackson County, Oregon, and filed as Survey No. 18129 in the office of the Jackson County Surveyor, said point also being the point of intersection of the Southeasterly right-of way line of Central Oregon and Pacific Railroad Company right-of-way and Southwesterly right-of-way line of W. Antelope Road, thence along the boundary of said Parcel No. 1, South 79°46'00" West 324.40 feet; thence South 10°14'00" East 10.00 feet; thence South 79°46'00" West 1643.93 feet; thence South 09°13'04" East 96.72 feet; thence South 59°54'18" East 92.62 feet; thence South 79°46'22" East 586.31 feet; thence North 55°10'28" East 170.33 feet for the **POINT OF BEGINNING**; thence continuing along said boundary North 55°10'28" East 138.17 feet; thence North 66°40'54" East 89.01 feet; thence leaving said boundary, South 73°35'14" East 518.81 feet; thence South 41°21'17" East 389.04 feet to a point on the boundary of the aforementioned Parcel No. 1; thence along said boundary, South 49°15'18" West 508.00 feet; thence leaving said boundary, North 40°44'42" West 865.81 feet to the POINT OF BEGINNING. Containing 8.1 acres, more or less.

EXHIBIT B
CITY OF MEDFORD PORTION
WHETSTONE LANDFILL (FORMER)

