

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In The Matter Of:

601 Spruce St Investment Partners, LLC	:	
601 West Spruce Street	:	Environmental Cleanup
Perkasie Borough, Bucks County	:	Consent Order and Agreement

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement (“CO&A”) is entered into this 1st day of June 2020, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”) and 601 Spruce St Investment Partners, LLC (“601 Spruce”).

The Department has found and determined the following:

A. The Department is the agency with the duty and the authority to administer and enforce the Hazardous Sites Cleanup Act, Act of October 18, 1988, as amended, 35 P.S. §§ 6020.101-6020.1305 (“HSCA”); the Land Recycling and Environmental Remediation Standards Act (“Act 2”), Act of May 19, 1995, 35 P.S. §§ 6026.101-6026.908; the Clean Streams Law, Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. §§ 691.1-691.1001 (the “Clean Streams Law”); the Solid Waste Management Act, Act of July 7, 1980, P.L. 380, as amended, 35 P.S. §§ 6018.101-6018.1003. (“SWMA”); Section 1917-A of the Administrative Code of 1929, P.L. 177, as amended, 71 P.S. § 510-17 (“Administrative Code”); and the rules and regulations

promulgated under these statutes. The Department is also the agency of the Commonwealth vested with the duty and responsibility to participate with the United States Environmental Protection Agency (“USEPA”) to implement and enforce the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. §§ 9601 et seq.

B. 601 Spruce St Investment Partners, LLC (“601 Spruce”) is a Pennsylvania limited liability corporation with a business address of 48 Bobbie Drive, Warminster, PA 18974.

C. In November 2017, 601 Spruce purchased the property located at 601 West Spruce Street, Perkasie, PA 18944 (“the Delbar Site”), identified as Bucks County Tax Parcel ID Nos. 33-005-094, 33-005-107-001, 33-005-036-001, 33-005-125, 33-005-135.

D. The Delbar Site was formerly owned by the Delbar Liquidating Trust (“Delbar Trust”) and operated by Delbar Products, Inc. (“Delbar”), which used the property for the manufacture of automotive and truck parts from 1946 until approximately 2008. Delbar’s manufacturing processes included stamping, pressing, degreasing, and painting metal tubes and metal sheets. Delbar used trichloroethylene (“TCE”) and perchloroethylene (“PCE”) in its manufacturing processes. TCE and PCE are commonly used as metal degreasers.

E. Pursuant to its authority under Section 104 of CERCLA, 42 U.S.C. § 9604(a) and Section 7003 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6973, in 2003, the United States Environmental Protection Agency initiated a response action at multiple potential sources of groundwater contamination in Perkasie Borough, Sellersville Borough, and East Rockhill Township in Bucks County (the “Perkasie Site”). EPA’s response actions included

an investigation of hazardous substances which impacted the groundwater downgradient from certain residential and commercial properties in the Perkasio Site. From 2003 through 2007, EPA performed many rounds of surface and groundwater water sampling as well as soil vapor sampling at and near the Perkasio Site.

F. During its investigation of the larger Perkasio Site, EPA documented a TCE groundwater contamination plume associated with the Delbar Site, including impacts to an unnamed tributary of the East Branch of the Perkiomen Creek adjacent to the Delbar Site.

G. On June 21, 2004, the Delbar Trust submitted a Notice of Intent to Remediate the Delbar Site (Primary Facility ID No. 620302) pursuant to the provisions of Act 2. In its NIR, Delbar Trust selected the background standard for remediation of groundwater at the Delbar Site.

H. To demonstrate attainment of a background standard, the remediator must show that the onsite regulated substances were not caused by a release of the regulated substances on the site. See Section 103 of Act 2, 35 P.S. § 6026.103.

I. Delbar Trust's October 2007 Final Report attempted to show that the TCE and PCE contamination at the Delbar Site was attributable to other upgradient sources of contamination in the Perkasio Site.

J. On April 21, 2008, the Department approved the Delbar Liquidating Trust's Final Report which, at the time, appeared to demonstrate attainment of the background standard for TCE and PCE impacts in bedrock groundwater at the Delbar Site.

K. As a part of its Act 2 submission, Delbar Trust executed an Environmental Covenant for the Delbar Site, pursuant to Section 8 of the Uniform Environmental Covenants

Act, 27 P.S.C.A. § 6508. Delbar Trust's Environmental Covenant was recorded by the Bucks County Recorder of Deeds on February 11, 2011, and included a non-residential use restriction, a prohibition on the use of groundwater, a requirement for maintenance of the concrete building floor and continued maintenance of the water treatment system treating the groundwater that enters the elevator shaft in compliance with the Department's National Pollutant Discharge Elimination System Permit No. PA0055751 pursuant to the federal Water Pollution Control Act, ("Clean Water Act") 33 U.S.C. 1251 - 1376; Chapter 758; P.L. 845, June 30, 1948; 62 Stat. 1155), as amended.

L. In 2013 and 2014, as part of its continuing investigation of the Perkasio Site, the Department conducted a soil and shallow groundwater study at the Delbar Site. TCE and its breakdown products, including cis-1,2-dichloroethylene and vinyl chloride, were detected at levels exceeding the Act 2 Medium Specific Concentration standard ("MSC") in soil and shallow groundwater samples collected from the Delbar Site, near the South Seventh Street gate.

M. In 2015, the Department installed monitoring well (TT-105S) near the Delbar Site's South Seventh Street entrance. Four rounds of groundwater sampling at this well demonstrated TCE concentrations ranging from 24,000 to 143,000 µg/L. The Act 2 Statewide health standard MSC for TCE in groundwater is 5 µg/L.

N. The Department's investigation described above revealed exceedances of Act 2 MSCs for TCE and TCE breakdown products in the soil, shallow groundwater, and bedrock groundwater at the Delbar Site. In August of 2017, TCE and vinyl chloride were detected in a seep located on the Delbar Site, near Seventh Street. The Department detected 15 µg/l of TCE

and 1.6 µg/l of vinyl chloride in the seep. Additionally, the Department determined that the concentration of TCE increased from 1.6 to 38.6 µg/l in a culverted stretch of an unnamed tributary to the East Branch of the Perkiomen Creek adjacent to the Delbar Site.

O. 25 Pa. Code Chapter 93 sets forth the water quality standards for surface waters of the Commonwealth, including criteria for toxic substances in surface water, specifically noted in 25 Pa Code § 93.8c.

P. The Department's investigation found concentrations of TCE and its breakdown products above the Department's Chapter 93 water quality criteria, in the onsite groundwater seep, between Seventh Street and Fifth Street, adjacent to the Delbar Site. The onsite seep discharges into an unnamed tributary to the East Branch of the Perkiomen Creek.

Q. The magnitude of the TCE concentrations in bedrock groundwater near the Delbar Site's manufacturing building suggests the presence of dense non-aqueous phase liquid ("DNAPL"). These TCE concentrations are evidence of a contamination source at the Delbar Site.

R. A release and/or threatened release of hazardous substances, including PCE, TCE and its breakdown products, within the meaning of Section 501(a) of HSCA, 35 P.S. § 6020.501(a), has occurred at the Delbar Site. The release of hazardous substances and pollution into the environment presents a substantial threat to the public health and the environment.

S. The Department has determined that the releases of hazardous substances at the Delbar Site, as identified in Paragraphs F-R above, constitute pollution or a danger of pollution from a condition which exists on land in the Commonwealth within the meaning of Section 316

of the Clean Streams Law, 35 P.S. §691.316.

T. The Delbar Site is a “site” within the meaning of Section 103 of HSCA, 35 P.S. § 6020.103, and Section 103 of Act 2, 35 P.S. 6026.103.

U. 601 Spruce is a “person” within the meaning of Section 103 of HSCA, 35 P.S. § 6020.103.

V. 601 Spruce is an “owner” within the meaning of Section 103 of HSCA, 35 P.S. § 6020.103.

W. As an “owner” of the Delbar Site, 601 Spruce, is a “responsible party” within the meaning of Section 701 of HSCA, 35 P.S. § 6020.701, regarding the release and threatened release of hazardous substances at the Delbar Site.

X. Section 316 of the Clean Streams Law, 35 P.S. § 691.316, authorizes the Department to issue orders to “owners or occupiers” of land to correct a condition in a manner satisfactory to the Department.

Y. Pursuant to Section 501(a) of HSCA, 35 P.S. § 6020.501 (a), the Department has determined that additional response actions are necessary to abate the release and threatened release of hazardous substances at the Delbar Site.

Z. On May 8, 2017, the Department met with representatives of 601 Spruce and informed the company’s representatives that new information indicated that Delbar Trust’s Act 2 Final Report approval could not be applied to contamination discovered during the HSCA investigation and that additional characterization and remediation would be required to attain an Act 2 cleanup standard on the Delbar Site.

AA. On June 20, 2017, before purchasing the Delbar Site, 601 Spruce's contractor submitted to the Department, a draft Scope of Work for remediation and attainment of an Act 2 cleanup standard at the Delbar Site. On October 18, 2017, 601 Spruce's contractor submitted to the Department a revised Scope of Work. The Department commented on both Scope of Work documents. However, 601 Spruce failed to implement its submitted Scope of Work and to date, has not taken any further response actions at the Delbar Site.

BB. The releases of hazardous substances at the Delbar Site constitute a public nuisance within the meaning of Section 1101 of HSCA, 35 P.S. § 6020.1101, and unlawful conduct within the meaning of Section 1108 of HSCA, 35 P.S. § 6020.1108.

CC. Pursuant to Section 401 of the Clean Streams Law, 35 P.S. § 691.401, it is unlawful conduct to allow or permit the discharge of any substances which cause pollution to the waters of the Commonwealth, and such a discharge is a public nuisance.

DD. Act 2 provides a process for persons to fully characterize and remediate or abate the release of regulated substances, including the release of hazardous substances identified in Paragraph R above and the pollution or danger of pollution identified in Paragraph S above

EE. Section 503(c) of HSCA, 35 P.S. § 6020.503(c) provides the Department a right of access to a site, place or property where a hazardous substance has been or is being or threatens to be released. To enforce the provisions of Section 503(c) of HSCA, 35 P.S. § 6020.503(c), Section 503(f) of HSCA § 6020.503(f) provides that the Department may issue an order to require access to property.

FF. The Department, its employees, agents, contractors and subcontractors may need

to access the Delbar Site in order to oversee future response actions to be taken at this Site in accordance with Section 503(c)(3) of HSCA, 35 P.S. § 6020.503(c)(3).

GG. On May 29, 2018, the Department issued an Administrative Order to 601 Spruce, requiring it to perform remedial actions through Act 2 to address the release and threatened release of hazardous substances at the Delbar Site. 601 Spruce did not appeal the Administrative Order.

HH. To date, 601 Spruce has not complied with the Order's requirements and has not performed remedial action to address the release and threatened release of hazardous substances at the Delbar Site.

II. The Department has incurred response costs at the Perkasio TCE Site in excess of the amount of Seven Hundred and Sixty-Seven Thousand, Four Hundred and Ninety-Six Dollars and Thirty-Four Cents (\$767,496.34). The Department may incur additional response costs at the Site after its execution of this CO&A.

JJ. In accordance with Section 702 of the Hazardous Sites Cleanup Act, 35 P.S. § 6020.702, on June 11, 2018, the Department issued a demand for payment of the Department's interim response costs for the investigative response actions which the Department performed at the Delbar Site.

KK. 601 Spruce has not reimbursed the Department for any of its costs incurred at the Delbar Site.

LL. This settlement is to resolve the Department's claim against 601 Spruce for the company's failure to comply with the Department's May 29, 2018 Order and 601 Spruce's

liability pursuant to HSCA as well as the Department's claim against 601 Spruce for response costs incurred at the Delbar Site.

MM. Based on the above, the Department has determined that it is in the public interest to resolve the foregoing matters without litigation and to enter into a settlement with 601 Spruce.

After full and complete negotiation of all matters set forth in this CO&A and upon mutual exchange of covenants contained herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ORDERED by the Department and AGREED to by 601 Spruce as follows:

1. Authority. This CO&A is an Order of the Department authorized and issued pursuant to Sections 505(c) and 1102 of HSCA, 35 P.S. §§ 6020.505(c) and 6020.1102.

2. Findings.

a. 601 Spruce agrees that the findings in Paragraph A through MM are true and correct and, in any matter or proceeding involving 601 Spruce and the Department, 601 Spruce shall not challenge the accuracy or validity of these findings.

b. The parties do not authorize any other persons to use the findings in this CO&A in any matter or proceeding.

3. Payment by 601 Spruce.

a. No later than January 1, 2021 and after the Effective Date of this Consent Order and Agreement (Paragraph 29) 601 Spruce shall reimburse the Department's Response Costs and pay One Hundred Thousand Dollars (\$100,000). The payment shall be made by corporate check or the like made payable to "Commonwealth of Pennsylvania, Hazardous Sites

Cleanup Fund” and shall be sent to:

Ms. Bonnie McClennen
Environmental Group Manager
Pennsylvania Department of Environmental Protection
Southeast Region
2 East Main Street
Norristown, PA 19401

b. To secure its payment, 601 Spruce shall grant the Department a first mortgage lien on the Site and execute the mortgage agreement attached hereto as Exhibit A.

c. If 601 Spruce fails to comply with Paragraph 3(a.) above, 4 or 5 below, the Department reserves the right to require 601 Spruce to list the property with a licensed realtor and to use best efforts to sell the property “as is” for fair market value.

4. Work Plan. On March 31, 2020, 601 Spruce submitted to the Department for its review and concurrence, a work plan which describes how 601 Spruce shall complete the characterization of the Site and remediate the Site to attain a cleanup standard pursuant to Act 2 and 25 Pa. Code Chapter 250. The work plan responded to comments provided by the Department on August 6, 2019, to a prior iteration of the work plan dated February 21, 2019. The March 31, 2020 work plan and response to the Department’s comments are attached to this CO&A as “Exhibit B”. 601 Spruce shall submit to the Department a revised work plan responding to the Department’s comments for review and concurrence. Immediately after its receipt of the Department’s written concurrence, 601 Spruce shall implement the work plan at the Site.

5. Corrective Action.

a. Within thirty (30) days of the Effective Date of this CO&A, 601 Spruce shall submit to the Department a Notice of Intent to Remediate (“NIR”) which addresses the contamination in soil, groundwater and surface water, described in Paragraphs D through R, above and send municipal and public notices, as may be required by, and in accordance with, Act 2 and the regulations promulgated thereunder.

b. Within one hundred and eighty (180) days of the Department’s concurrence with the work plan, 601 Spruce shall submit to the Department a Remedial Investigation Report (“RIR”), which shall include any additional soil, groundwater, surface water, and vapor intrusion site characterization work as may be necessary to comply with remedial investigation requirements in accordance with Act 2 for the contamination identified in the NIR and described in Paragraphs D through R, above.

c. If necessary, within ninety (90) days of receipt of approval by the Department of the RIR, 601 Spruce shall submit to the Department a Risk Assessment Report and/or a Cleanup Plan, pursuant to the requirements of Act 2. The Risk Assessment Report and/or Cleanup Plan shall address the contamination described in 601 Spruce’s NIR and RIR.

d. If no Cleanup Plan is required, as set forth in Paragraph 5(c), above, within one hundred and eighty (180) days of Department approval of the RIR, 601 Spruce shall submit to the Department the Final Report demonstrating attainment of the remediation standard identified in the NIR. If, however, a Cleanup Plan is submitted in accordance with Paragraph 5(c), above, and pursuant to Act 2, then upon Department approval of the Cleanup Plan, 601 Spruce shall

implement the Cleanup Plan according to the schedule contained therein, and shall submit to the Department a Final Report, demonstrating attainment of the Act 2 remediation standard identified in the NIR.

e. 601 Spruce shall submit to the proper entities any necessary municipal and public notices as required by Act 2 and the regulations promulgated thereunder along with its submission of the RIR, Risk Assessment Report, Cleanup Plan and Final Report to the Department.

f. If the Department disapproves the RIR, Risk Assessment Report, Cleanup Plan or Final Report, within forty-five (45) days of that disapproval 601 Spruce shall provide a plan to address each deficiency and a schedule to resubmit the report to the Department. The plan and schedule shall be subject to the Department's review and concurrence.

g. Within thirty (30) days of Department approval of the Final Report, 601 Spruce shall prepare and submit to the Department a second environmental covenant for the property if such an additional environmental covenant is required as part of the demonstration of attainment of an Act 2 standard. Within ninety (90) days of the Department's approval of the second environmental covenant, 601 Spruce shall record the approved second environmental covenant with the Recorder of Deeds for Bucks County and submit to the Department proof of recordation.

h. Any request for modification of the implementation schedule outlined in subparagraphs 5a. through 5g. above must be made by 601 Spruce in writing to the Department pursuant to paragraph 19 (Correspondence with the Department) no later than 14 days prior to

the deadlines established by those paragraphs.

i. Decisions by the Department pursuant to Paragraphs 5(a.) through 5(e.) and 5(g.) above shall constitute “otherwise appealable” actions for the purpose of Paragraph 27, below.

6. Access and Right of Entry. 601 Spruce hereby grants to the Department, its employees, agents, contractors and subcontractors, access and right of entry to the Delbar Site for the performance of any response actions the Department may reasonably deem necessary or appropriate. The Department will use best efforts, and shall cooperate with 601 Spruce, to avoid any unreasonable interference with 601 Spruce’s business activities at the Delbar Site during any access or entry by the Department or its contractors. The Department agrees to provide reasonable advance notice to 601 Spruce or its attorney prior to entry upon the Delabar Site by the Department, its employees, authorized representatives, contractors or others under the direction of the Department. Nothing in this paragraph is intended, nor shall it be construed, to limit any right of access or entry that the Department may otherwise have by operation of law.

7. Stipulated Civil Penalties.

a. In the event 601 Spruce fails to comply in a timely manner with any term or provisions of this CO&A, 601 Spruce shall be in violation of this CO&A and, in addition to other applicable remedies, shall pay a civil penalty in the amount of One Hundred Dollars (\$100) per day for each violation.

b. Stipulated civil penalty payments shall be payable monthly on or before the fifteenth day of each succeeding month. Payments shall be made by corporate check or the like made payable to the “Hazardous Sites Cleanup Fund”. 601 Spruce shall mail its payment to the

Department in accordance with the instructions of Paragraph 19 (Correspondence with the Department).

c. Any payment under this paragraph shall neither waive 601 Spruce's duty to meet its obligations under this CO&A nor preclude the Department from commencing an action to compel 601 Spruce's compliance with the terms and conditions of this CO&A. The payment resolves only 601 Spruce's liability for civil penalties arising from the violations of this CO&A for which the payment is made.

d. Stipulated civil penalties shall be due automatically and without notice.

8. Additional Remedies.

a. In the event 601 Spruce fails to comply with any provision of this CO&A, the Department may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of an order of the Department, including an action to enforce this CO&A.

b. The remedies provided by this paragraph and Paragraph 7 (Stipulated Civil Penalties) are cumulative and the exercise of one does not preclude the exercise of any other. The failure of the Department to pursue any remedy shall not be deemed to be a waiver of that remedy. The payment of a stipulated civil penalty, however, shall preclude any further assessment of civil penalties for the violation for which the stipulated penalty is paid.

9. Department's Covenant Not To Sue. Subject to the reservations of rights provided in Paragraphs 10 (Reopeners) and 11 (Non-applicability), and 601 Spruce's full compliance with this CO&A, the Department covenants not to sue or to take administrative action against 601 Spruce pursuant to HSCA, 35 P.S. §§ 6020.101 et seq., CERCLA, 42

U.S.C.A. §§ 9601-9675, or any other environmental state or federal statutory or common law, for response costs, or response actions, and for injunctive relief arising from or relating to the release or threatened release of hazardous substances and contaminants at the Site, including the remediation thereof, as identified in the Department's Regional File and as described in this CO&A, including the attached work plan. Except with respect to any future liability, these covenants not to sue shall become effective upon execution of this COA by all parties, notification from the Department in accordance with Paragraph 29 (Effective Date) below, and receipt of the payment required in Paragraph 3. With respect to future liability, these covenants not to sue shall become effective upon the Department's determination that the site presents no currently foreseeable future significant risk and its certification that the Corrective Actions (Paragraphs 4 and 5) have been completed in accordance with Section 706 of HSCA, 35 P.S. § 6020.706 and have achieved the performance standards set forth in Act 2.

10. Reopeners/Reservation of Rights. Notwithstanding any other provision of this Consent Order and Agreement, the covenants not to sue in Paragraph 9 above, shall be voidable by the Department, and the Department reserves the right to sue 601 Spruce for additional response costs relating to the Site, or to issue an administrative order requiring 601 Spruce to perform additional work relating to the Site, if:

- a. 601 Spruce, its officers, directors, employees, contractors, or agents, falsify information, reports, or data, or make false representations or statements in a record, report or document submitted under this COA and such actions resulted in avoiding the need for further clean-up at the Site; or

- b. New information confirms the existence of an area of previously unknown contamination at the Site which contains regulated hazardous substances that have been shown to exceed the standards in Chapter 3 of Act 2 applied to previous remediation at the site; or
- c. The remediation method for the Site fails to meet one or a combination of the three clean-up standards in Chapter 3 of Act 2, after 601 Spruce's completion of Corrective Actions in Paragraphs 4 and 5 or
- d. The level of risk is increased beyond the acceptable risk range at the Site, due to substantial changes in exposure conditions, such as a change in land use as provided in Act 2, or new information is obtained about a regulated hazardous substance associated with the Site which revises exposure assumptions beyond the acceptable risk range established under Chapter 3 of the Land Recycling Act.

The information received by and presently known to the Department includes only that information set forth in the Department's Regional Office files related to the Site.

11. Non-Applicability/Reservation of Rights. The Department's covenants not to sue set forth in Paragraph 9, above also shall not apply to the following claims by the Department against 601 Spruce for:

- a. failure to comply with this CO&A;
- b. past, present or future releases or threatened releases of hazardous substances outside the boundaries of the Site;

- c. past, present or future violations of state or federal criminal law; and
- d. damages for injury to, destruction of, or loss of "natural resources" as that term is defined in Section 103 of HSCA, 35 P.S. § 6020.103.

12. Contribution Protection. Subject to the Department's Reservation of Rights in Paragraphs 10-11, 601 Spruce is a "person" that has resolved its liability to the Department for the Site and is eligible for protection from claims for contribution regarding matters addressed in this settlement, as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and Section 705(c)(2) of HSCA, 35 P.S. § 6020.705(c)(2). This contribution protection is intended to be as broad as permissible under CERCLA and HSCA, and the "matters addressed" in this settlement encompass all of the response actions and response costs at the Site. This contribution protection shall take effect upon 601 Spruce's payment of response costs pursuant to Paragraph 3, above, extends only to 601 Spruce, and shall terminate upon 601 Spruce's failure to meet any of the requirements of this CO&A. The Department may reinstate this Contribution Protection if the Department determines that 601 Spruce has satisfactorily cured any such failures.

13. 601 Spruce's Covenant Not to Sue. 601 Spruce's covenants not to sue and shall not assert any claims, demands or causes of action, in law or in equity, against the Commonwealth government/Department arising from the release and threatened release of hazardous substances at the Site, arising out of the response actions at the Site, or arising out of this CO&A. This covenant not to sue extends only to the Commonwealth government/Department and does not extend to any other person.

14. Waiver of Other Claims by 601 Spruce. 601 Spruce shall not assert any claims or defenses that it may have against the Commonwealth government regarding the application of Sections 708, 709 and 1301 of HSCA, 35 P.S. §§ 6020.708, 6020.709 and 6020.1301, for matters arising from the release and threatened release of hazardous substances at the Site, arising out of the Department's response actions at the Site, or arising out of this CO&A.

15. 601 Spruce shall not assert any claims for reimbursement, contribution, and/or indemnity from the Pennsylvania Hazardous Sites Cleanup Fund for matters arising from the release and threatened release of hazardous substances at the Site, arising out of the Department's response actions at the Site, or arising out of this CO&A.

16. Acknowledgment of No Obligation. 601 Spruce acknowledges that the Department has no obligation to defend it in any suit, demand, or claim for contribution for any matters arising from the release and threatened release of hazardous substances at the Site, arising out of the response actions at the Site, or arising out of this CO&A.

17. Liability Under This CO&A. 601 Spruce shall be liable for any violations of the CO&A, including those caused by, contributed to, or allowed by its officers, agents, employees, or contractors. 601 Spruce also shall be liable for any violation of this CO&A caused by, contributed to, or allowed by its successors and assigns.

18. Transfer of Site.

a. The duties and obligations under this CO&A shall not be modified, diminished, terminated or otherwise altered by the transfer of any legal or equitable interest in the Site or any part thereof.

b. If 601 Spruce intends to transfer any legal or equitable interest in the Site which is affected by this CO&A, 601 Spruce shall serve a copy of this CO&A upon the prospective transferee of the legal and equitable interest at least thirty (30) days prior to the contemplated transfer and shall simultaneously inform the Southeast Regional Office of the Department of such intent.

c. The Department in its sole discretion may agree to modify or terminate 601 Spruce's duties and obligations under this CO&A upon transfer of the Site. 601 Spruce waives any right that it may have to challenge the Department's decision in this regard.

19. Correspondence with Department. All correspondence with the Department concerning this CO&A shall be addressed to:

Mr. Ragesh R. Patel
Environmental Cleanup Program Manager
Pennsylvania Department of Environmental Protection
Southeast Region
2 East Main Street
Norristown, PA 19401

20. Correspondence with 601 Spruce. All correspondence with 601 Spruce concerning this CO&A shall be addressed to:

Mr. James Cassidy

270 West Walnut Lane
Philadelphia, PA 19144
jcassidy@c2-architecture.com

601 Spruce shall notify the Department whenever there is a change in the contact person's name, title, or address. Service of any notice or any legal process for any purpose under this CO&A, including its enforcement, may be made by mailing a copy by first class mail to the above address.

21. Severability. The paragraphs of this CO&A shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the parties.

22. Entire Agreement. This CO&A shall constitute the entire integrated agreement of the parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for purposes of determining the meaning or extent of any provisions herein in any litigation or any other proceeding.

23. Attorney Fees. The parties shall bear their respective attorney fees, expenses and other costs in the prosecution or defense of this matter or any related matters, arising prior to execution of this CO&A.

24. Modifications. No changes, additions, modifications, or amendments of this CO&A shall be effective unless they are set out in writing and signed by the parties hereto.

25. Titles. A title used at the beginning of any paragraph of this CO&A may be used to aid in the construction of that paragraph, but shall not be treated as controlling.

26. Hazardous Sites Cleanup Act. 601 Spruce agrees that failure to comply with the provisions of Paragraphs 2 through 6 of this CO&A constitutes a failure to comply with an "enforcement action" as provided in Section 1301 of the Hazardous Sites Cleanup Act, the Act of October 18, 1988, P.L. 756, 35 P.S. § 6020.1301.

27. Decisions Under Consent Order. Except for any otherwise appealable action the Department may take with regard to submissions made by 601 Spruce pursuant to Paragraphs 4 and 5 above, any decision which the Department makes under the provisions of this CO&A , including a notice that stipulated civil penalties are due, is intended to be neither a final action under 25 Pa. Code § 1021.2, nor an adjudication under 2 Pa. C.S. § 101. Any objection which 601 Spruce may have to the decision will be preserved until the Department enforces this CO&A.

28. Opportunity for Public Comment. Pursuant to Section 1113 of HSCA, 35 P.S. § 6020.1113, the Department shall publish a notice in the Pennsylvania Bulletin and in a local paper of general circulation containing a summary of the terms of this CO&A. The Department shall receive and consider comments from the public relating to this Consent Order and Agreement for a period of sixty (60) days from the date of publication of this notice. The Department reserves the right to withdraw its consent to this CO&A, if the comments disclose facts or considerations that indicate that this CO&A is inappropriate, improper, or not in the public interest.

29. Effective Date. This CO&A shall be effective upon the date that the Department notifies 601 Spruce, in writing, that this CO&A is final and effective in its present form and that

the Department has filed a response to any significant written comments received pursuant to Paragraph 28, or that no such comments were received. However, if the Department notifies 601 Spruce that it is withdrawing its consent to this CO&A in response to public comments, the terms of this CO&A shall be null and void, shall have no force or effect, and shall not be used as evidence in any litigation or any other proceeding.

30. Termination. This CO&A shall terminate upon the Department's determination of 601 Spruce's compliance with the requirements of Paragraph 3 (Payment by 601 Spruce) through Paragraph 5 (Corrective Action) of this CO&A.

31. Execution of Agreement. This CO&A may be signed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this CO&A to be executed by their duly authorized representatives. The undersigned representatives of 601 Spruce certify under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this CO&A on behalf of 601 Spruce; that 601 Spruce consents to the entry of this CO&A as a final ORDER of the Department;

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Penn E&R
Environmental & Remediation, Inc.

March 31, 2020
HA007802

VIA EMAIL & US MAIL

Mr. Dustin A. Armstrong
Environmental Protection Specialist
Pennsylvania Department of Environmental Protection
Southeast Regional Office
2 East Main Street
Norristown, PA 19401

Subject: Revised Site Remedial Action Work Plan for the Former Delbar Products, Inc. Property Located at 601 West Spruce Street in Perkasio Borough, Bucks County, Pennsylvania

Dear Mr. Armstrong:

Penn Environmental & Remediation, Inc. (Penn E&R) has prepared this Remedial Action Work Plan (Work Plan) on behalf of 601 Spruce Street Investment Partners, LLC (SSIP) for submittal to the Pennsylvania Department of Environmental Protection (PADEP or Department).

PURPOSE

This Work Plan presents the scope of work to perform remedial investigation activities at the former Delbar Products, Inc. (Delbar) property located at 601 West Spruce Street in Perkasio Borough, Bucks County, Pennsylvania (the Delbar Site or Site) so that SSIP can pursue a release from cleanup liability pursuant to Pennsylvania's Land Recycling and Environmental Remediation Standards Act (Act 2) for the Delbar Site. The completion of the activities described in this work plan is intended to characterize the identified impacts at the Delbar Site associated with the long-term historical use of the property, and to address requirements identified in the May 29, 2018 Administrative Order issued by PADEP to SSIP (Order), to incorporate the feedback received from PADEP during an October 25, 2018 meeting at PADEP's Southeast Regional Offices, as well as to respond to an August 6, 2019 email from Dustin Armstrong conveying comments concerning a prior version of the Work Plan dated February 21, 2019.

BACKGROUND INFORMATION

The Delbar Site is located in an historically commercial/industrial area of Perkasio Borough (Figure 1 and 2). Delbar previously used the property for the manufacturing of automotive/truck parts and ceased operations in 2008. Delbar's historic manufacturing processes included stamping, pressing, degreasing, and painting metal tubes and metal sheets, which included the use of trichloroethylene (TCE) and other substances. In 2003, the United States Environmental Protection Agency (USEPA) initiated a response action at multiple potential sources of ground water contamination in Perkasio Borough, Sellersville Borough, and East Rockhill Township in Bucks County, Pennsylvania (the Perkasio Site). The USEPA

investigation documented a TCE ground water contamination plume in the area, including impacts to an unnamed tributary to the East Branch of the Perkiomen Creek. In June 2004, Delbar Liquidating Trust ("Delbar Trust"), the then owner of the Site, submitted a Notice of Intent to Remediate (NIR) for a background standard under the Pennsylvania Act 2 program. In October 2007, Delbar Trust submitted an Act 2 Final Report for TCE and PCE contamination at the Delbar Site, indicating that the impacts in ground water were attributable to off-Site sources of contamination. In April 2008, the Department approved the October 2007 Final Report. An environmental covenant associated with the Final Report submission was established in February 2011, which included activity and use limitations. In August 2010, the USEPA indicated in a letter to the PADEP that the USEPA would defer management of the Perkasio Site to the Department based on the understanding that the Department would address multiple confirmed and suspected contamination sources within the Perkasio Site through its authority under the Hazardous Sites Cleanup Act (HSCA) and Act 2. The PADEP's investigations between 2013 and 2017 revealed exceedances of Act 2 medium specific concentrations (MSCs) for TCE and its breakdown products in the soil, shallow ground water, and bedrock ground water at the Delbar Site and in an on-Site ground water seep that discharges to the unnamed tributary to the East Branch of the Perkiomen Creek. In May 2017, the Department communicated to representatives of the Delbar Trust that the previous Act 2 Final Report approval based on a background standard for ground water was invalid because of confirmed and/or suspected sources of contamination at the Site. In November 2017, SSIP purchased the property from Delbar Trust. The Order requires SSIP to undertake the following:

- Submittal of a Notice of Intent to Remediate (NIR), which addresses contamination in soil, ground water and surface water (described in paragraphs D through R of the Cleanup Order) and send municipal and public notices in accordance with Act 2.
- Submittal to the Department of a Remedial Investigation Report (RI Report), which includes any additional soil, ground water, surface water, and vapor intrusion site characterization work as may be necessary to comply with the remedial investigation requirements in accordance with Act 2 for the contamination identified in the NIR and described in Paragraphs D through R of the Cleanup Order.

WORK PLAN

This Work Plan has been divided into the following eight tasks:

- Task 1 – Submittal of a Notice of Intent to Remediate (NIR)
- Task 2 – Continuation of Discharge Monitoring Report Submittals
- Task 3 – Premobilization Activities and Geophysical Survey
- Task 4 – Soil Boring Delineation Program
- Task 5 – Installation of Two Shallow Monitoring Wells and Two Stream Piezometers
- Task 6 – On-Site Ground Water Sampling
- Task 7 – On-Site, Upgradient, Central and Downgradient Stream Sampling
- Task 8 – Submittal of Remedial Investigation/Risk Assessment/Cleanup Plan/Final Report

The activities that will be performed to complete these tasks are summarized below.

Task 1 – Submittal of a Notice of Intent to Remediate (NIR)

Upon receipt of the Department's approval of this Work Plan, Penn E&R will initiate the Act 2 process with the Department and SSIP by submitting the necessary NIR documents to re-enter the Site into the

Act 2 Program, as well as the “One Cleanup Program” jointly with USEPA. The NIR documents will be prepared to address the contamination in soil, ground water, and surface water affected by the Site and the potential for vapor intrusion associated with the Delbar Site and will include the appropriate municipal and public notices. It is anticipated that the remediation of the Delbar Site will include demonstration of attainment of a combination of statewide health standards, site-specific standards and background standards; therefore, the NIR submittal will include a 30-day public and municipal comment period.

Task 2 – Continuation of Discharge Monitoring Report Submittals

An environmental covenant associated with the October 2007 Act 2 Final Report submission made by Delbar Trust included a requirement for the continued treatment of its elevator sump discharge, which was permitted by a National Pollution Discharge Elimination System Permit (NPDES) #PA0055751. Prior to August 1, 2018, the sump pump and the carbon filtration treatment system used to treat water accumulating in the elevator sump was deactivated. On March 5, 2020, the PADEP performed an inspection of the elevator sump and the currently inactive carbon filtration treatment system. On March 9, 2020 an Application for NPDES Permit Transfer was submitted to the Department requesting the conveyance of the permit from Delbar Products, Inc. to 601 Spruce Street Investment Partners, LLC. Penn E&R will continue to monitor the liquid level in the elevator sump and prepare discharge monitoring reports (DMRs) reflecting no discharge, until such time that the NPDES permit transfer and activation of the carbon filtration treatment system is approved by the Department. The NPDES permit required sampling and submittal of DMRs for any discharges from the sump; this will be performed following re-activation of the carbon filtration treatment system. It is anticipated that the elevator sump will ultimately be sealed and the NPDES permit will be appropriately terminated.

Task 3 – Premobilization Activities and Geophysical Survey

Prior to the initiation of any subsurface evaluation activities, Penn E&R will complete a Pennsylvania One-Call for the Delbar Site. After Penn E&R completes the Pennsylvania One-Call, which will identify public utilities at the Site, a geophysical survey will be completed over the proposed soil boring and monitoring well locations to identify and aid in the location of underground utilities in these areas. Penn E&R will oversee the implementation of the geophysical survey of the property. This survey will include the use of Ground Penetrating Radar (GPR) and Electromagnetic Scanning (EM), and will include evaluating prior subsurface surveys contained in other reports.

Task 4 – Soil Boring Delineation Program

A total of twenty (20) soil borings are planned at the Site, as described below. Previous investigations identified concentrations of TCE in a soil sample collected from a soil boring, designated SB-7, which was installed along the northeastern exterior of the facility building. Task 4 activities will include the installation of ten (10) soil borings around former soil boring SB-7 in an effort to delineate the identified TCE and certain RCRA metals in soils in this vicinity. Penn E&R proposes to install these soil borings in the interior and around the exterior of the facility in an effort to delineate any impacts to soil identified in this area. Penn E&R reviewed historic reports and identified circa 1990 plans that depict the location of a degreaser in the eastern/southeastern portion of the facility and a 1,1,1-Trichloroethane storage tank exterior to this portion of the building. Task 4 activities will also include installation of up to ten (10) soil borings in the areas of the former degreaser and 1,1,1-Trichloroethane tank, including borings interior and exterior of the building, to investigate potential CVOC impacts.

The locations of the 20 total soil borings (10 in the area of former soil boring SB-7 and 10 in the area of the former degreaser and 1,1,1-Trichloroethane tank) will be selected in the field so that delineation of any impacts is completed in accordance with the PADEP Technical Guidance Manual. The borings will be installed using a direct push drill rig and will be completed to an approximate depth of 12 feet below the ground surface (bgs), refusal or the top of ground water, whichever is encountered first. Soil cores will be collected continuously from each boring and visually assessed for indications of contamination and screened in the field with a photoionization detector (PID) for the presence of volatile organic compounds. One soil sample will be collected from each boring and submitted for laboratory analysis. The soil samples will be selected from the soil horizon corresponding to the highest field screening reading. If no evidence of impacts is noted in the recovered soil core, the soil samples will be collected from the bottom of the boring or from 6-inches above the water table, or a depth to ensure a representative evaluation of soil conditions. The 10 soil samples collected from the former location of SB-7 will be submitted to a state-certified laboratory and analyzed for chlorinated volatile organic compounds (CVOCs) and RCRA Metals. The 10 soil samples collected in the areas of the former degreaser and 1,1,1-Trichloroethane tank will also be submitted to a state-certified laboratory and analyzed for CVOCs. Upon completion of each of the aforementioned soil borings, the borings will be backfilled with cuttings and capped with a bentonite seal, as necessary. Downhole equipment will be either dedicated or decontaminated prior to and between each use. Sampling activities, including sample collection, handling, preservation, decontamination, and chain-of-custody procedures, will be completed in accordance with the latest version of Pennsylvania's Land Recycling Program Technical Guidance Manual.

Task 5 – Installation of Two Shallow Monitoring Wells and Two Stream Piezometers

To further evaluate shallow ground water near the on-Site segment of the stream, two shallow ground water monitoring wells will be installed at the Site. The principal direction of ground water flow at the Site is to the south/southeast, toward the unnamed tributary of the East Branch Perkiomen Creek. Based on our meeting with PADEP on October 25, 2018, the installation of shallow monitoring wells was requested to better understand the pathway between shallow ground water and surface water. The locations for the shallow monitoring wells will be finalized in the field; however, it is anticipated that the shallow monitoring wells will be installed east of the facility building to further evaluate the pathway between shallow ground water and surface water at the Site (Figure 3). The monitoring wells will be installed using a hollow-stem auger drill rig, and based on available background information, will be completed to an approximate depth of 15 feet bgs. The monitoring wells will be constructed using 2-inch diameter, flush-threaded, Schedule 40 PVC casing with a 5-foot long bottom section of 0.01-inch slotted screen. The annular space between the borehole wall and well screen will be filled with clean silica sand to a depth of approximately two feet above the top of the well screen. A 2-foot thick bentonite seal will be placed above the sand pack and hydrated with potable water. The remainder of the borehole annulus will be filled to grade with cement-bentonite grout. The monitoring wells will be completed with a locking 6-inch diameter well cap anchored in a concrete collar with a bolted cover, flush with the ground surface or a steel stickup with a locking cap, as appropriate. Two piezometers will also be installed in the segment of the stream located on the Site (Figure 3). The piezometers will be installed solely for the purpose of gauging surface water elevations concurrently with the gauging of the monitoring wells to evaluate surface water and ground water elevations, and their potential relationship.

Following installation, the monitoring wells will be properly developed using a dedicated submersible pump until the water runs clear. Drill cuttings, development water and water generated during the installation process will be containerized in 55-gallon drums pending appropriate disposal. The

horizontal and vertical locations of all of the on-site monitoring wells, including the two new monitoring wells and piezometers, will be surveyed by a Pennsylvania-licensed surveyor to facilitate the accurate calculation of the ground water and surface water elevation. Monitoring well installation activities will be completed in accordance with the most current version of Pennsylvania's Land Recycling Program Technical Guidance Manual and PADEP's Ground Water Monitoring Guidance Manual.

Task 6 – On-Site Ground Water Sampling and Piezometer Water Elevation Gauging

Approximately two weeks after installation of the two new monitoring wells, Penn E&R will sample the two new monitoring wells along with all of the existing on-site monitoring wells, which were installed during previous environmental investigations at the Delbar Site. Penn E&R assumes that access/keys to the locking caps for the wells installed by others will be provided to Penn E&R so that the ground water monitoring and sampling may be performed (if not, Penn E&R will make alternate arrangements to access the wells). Prior to sampling, depth-to-water (DTW) level measurements will be obtained from each monitoring well and each piezometer. After obtaining these measurements, the monitoring wells will be purged by removing three well volumes (or will be purged via low flow protocols) using a decontaminated submersible pump or bailer. The purge water will be discharged into 55-gallon drums pending appropriate disposal. After purging, a ground water sample will be collected from each of the monitoring wells using dedicated bailers. The ground water samples will be submitted to a state-certified laboratory and analyzed for CVOCs. Approximately 60 to 90 days after the initial ground water sampling event, a second round of ground water monitoring and characterization sampling will be performed as described above. Ground water sampling activities will be completed in accordance with the most current version of Pennsylvania's Land Recycling Program Technical Guidance Manual and PADEP's Ground Water Monitoring Guidance Manual.

Task 7 – Upgradient, Central and Downgradient Stream Sampling

Concurrent with each of the two rounds of ground water monitoring (Task 6), Penn E&R will collect upgradient, central, and downgradient surface water samples from the segment of the unnamed tributary of the East Branch of the Perkiomen Creek located adjacent to the Site. The Department requested that surface samples be collected from three locations corresponding to Department's previous sampling locations upstream central and downstream of the Site. This Work Plan includes the collection of four samples, including the three locations recommended by the Department, as well as a fourth surface water sample along the upgradient property boundary to assess a potential upgradient source of surface water impact that may be emanating from the adjoining UGI Utilities, Inc./Perkasie MGP site. Figure 3 depicts the approximate locations where the stream samples will be collected. The surface water samples will be submitted to a state-certified laboratory and analyzed for CVOCs for evaluation of the current ground water and surface water quality conditions.

Task 8 – Submittal of a Remedial Investigation/Risk Assessment /Cleanup Plan/Final Report

The objective is to submit a combined Remedial Investigation/Risk Assessment/Cleanup Plan/Final Report (RI/RA/CP/FR) based on the data generated from Tasks 2 through 7. However, if the data does not allow for the preparation and submittal of a combined report, interim reports will be prepared and submitted in accordance with Act 2 and Technical Guidance Manual requirements.

This Work Plan assumes that a combined RI/RA/CP/FR will be prepared in accordance with the requirement of Act 2 and PADEP's regulations and guidance, and will follow the format included in the

Land Recycling Program Technical Guidance Manual. The Report will include a summary of all previous Site investigations, the activities performed as part of Task 2 through Task 7 activities, the results of these and previous Site activities, and any conclusions and recommendations drawn from these results. The report will define the nature and extent of any contamination encountered, the concentrations of the contaminants, the media of concern, an analysis of the mobility of the contaminants, and will include ecological screening and vapor intrusion pathway evaluation as may be warranted. All sampling results will be compared to the appropriate Act 2 cleanup standards.

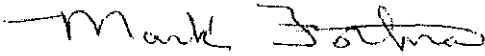
Penn E&R is proposing to pursue pathway elimination and risk assessment alternatives to meet appropriate attainment requirements. If a pathway (exposure to impacted soil, ground water, surface water, or vapor) is eliminated (e.g. through the use of engineering and/or institutional controls), no numerical remedial standards need to be developed and no demonstration of attainment sampling is necessary for the pathway. Based on our current knowledge of the Site we believe the above approach is the most cost effective and direct in pursuing an Act 2 release of liability. For the purposes of this scope of work, Penn E&R assumes that surface water is the only medium that will require a risk assessment to demonstrate attainment of applicable Act 2 standards. To address the potential for exposure to constituents in surface water of the unnamed tributary along the eastern property boundary, the first step is to compare analytical data to surface water quality criteria (WQC) for human health and aquatic life. Constituents that are detected at concentrations above the WQC may warrant further evaluation in a site-specific risk assessment. Based on a review of the October 2019 Tetra Tech Site Characterization Report (SCR), surface water samples from five stream locations and one seep location were collected by the PADEP in 2017. Table 4 of the SCR indicates detectable concentrations of cis-1,2-dichloroethylene, tetrachloroethylene, trichloroethylene, and vinyl chloride in all but the upstream surface water sample (SW-5). For each constituent, one or more of the samples had concentrations that exceed the PADEP WQC for human health, indicating that these constituents warrant quantitative risk evaluation. Based on the relatively low concentrations of these constituents in the 2017 samples, it is anticipated that a risk evaluation of incidental surface water contact (e.g. by a recreational visitor wading or playing in the stream on an occasional basis) would demonstrate an acceptable level of risk for human health, in accordance with Act 2. A comparison of the surface water data to the WQC for aquatic life (or in the absence of aquatic values from PADEP, freshwater benchmarks from EPA Region III Biological Technical Assistance Group) indicates that none of the detected concentrations in the surface water samples exceeds the WQC for aquatic life. Therefore, the potential for adverse ecological effects is considered to be negligible.

As noted in Task 7, Penn E&R proposes to collect additional surface water samples from locations upgradient, central, and downgradient of the Site as part of the above site characterization activities. These data will be similarly compared to WQS for both human health and aquatic life. Comparison of results for samples collected from the central and downgradient locations will also be compared to upgradient sample results to determine whether background contributions may exist. A risk evaluation for potential surface water exposures can then be completed. For the purpose of this scope of work it is assumed that the supplemental surface water data indicate similar concentrations as reported in the 2017 samples, and therefore it is expected that human health risks will be acceptable, and no further reevaluation beyond the screening level will be warranted to address ecological receptors. As part of this task, a Pennsylvania Natural Diversity Inventory review for threatened and endangered species in the vicinity of the Site will be completed.

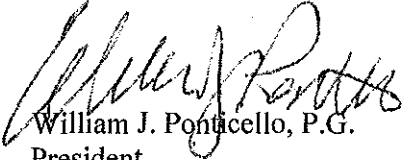
Mr. Dustin A. Armstrong
March 31, 2020
Page 7 of 7

Please contact us directly should you have any questions or comments pertaining to the above Work Plan. This Work Plan will be initiated upon receipt of the Department's approval.

Sincerely,
PENN ENVIRONMENTAL & REMEDIATION, INC.



Mark Fortna, MS
Senior Environmental Scientist

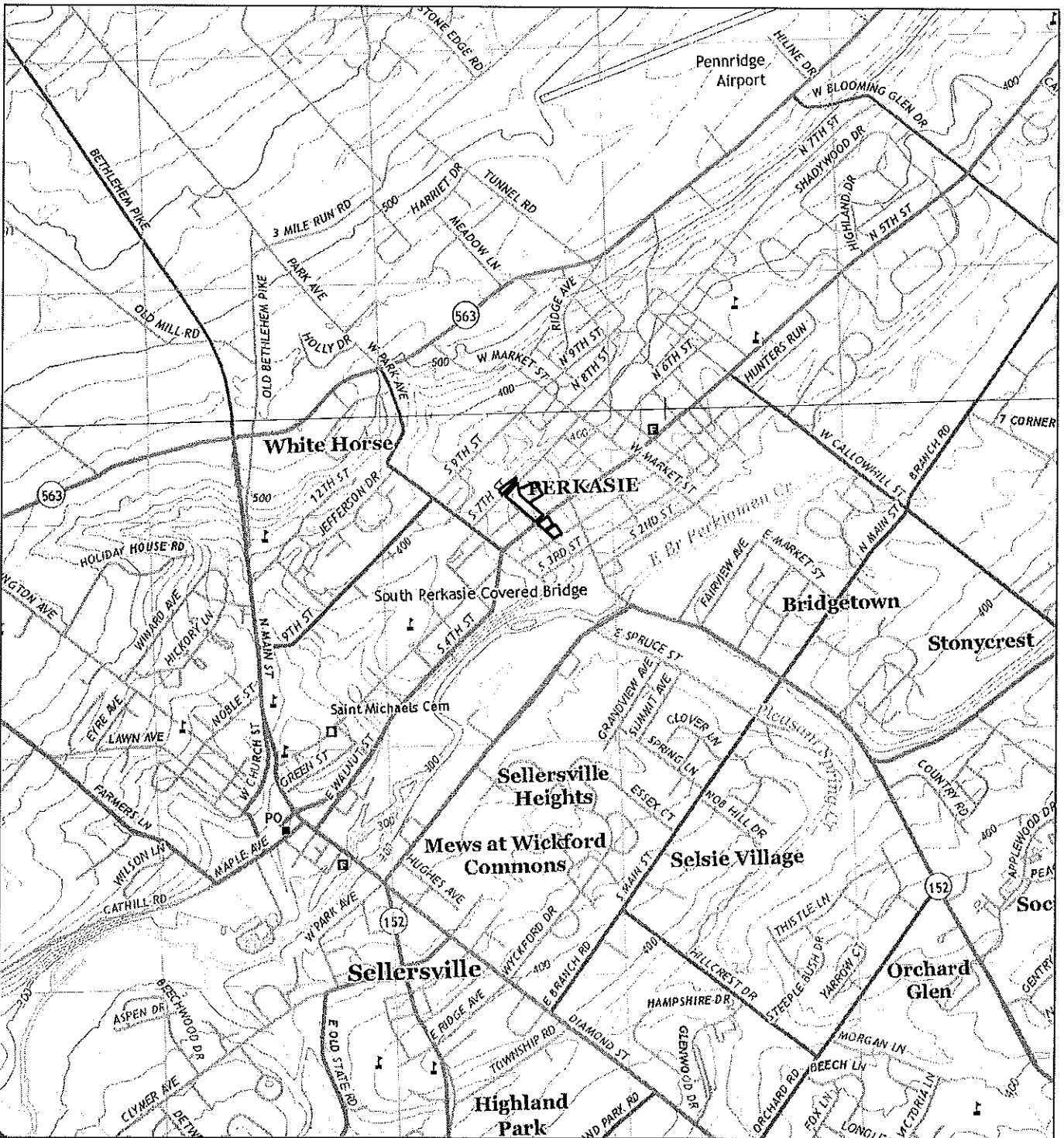


William J. Ponticello, P.G.
President

cc: Ragesh Patel – PADEP
C. David Brown – PADEP
Bonnie McClennen – PADEP
Thomas Petrecz – Penn E&R
James Cassidy – SSIP
Jonathan Spergel, Esquire – MGKF

WJP:dlh:HA007802

FIGURES



LEGEND:

— APPROXIMATE SITE BOUNDARY



REFERENCE:

AERIAL BACKGROUND IMAGE TAKEN FROM GOOGLE EARTH PRO. IMAGERY DATED: 04/17/2017.

REVISION	DATE	DESCRIPTION

FIGURE 1

SITE LOCATION MAP
601 W SPRUCE STREET
PERKASIO BOROUGH,
BUCKS COUNTY, PENNSYLVANIA

PREPARED FOR

601 W SPRUCE STREET

APPROVED	WJP 2/22/2019
CHECKED	GME 2/22/2019
DRAWN	AGN 2/22/2019
PROJECT NO.	HA007802

DRAWING NUMBER
HA7802-01



Penn E&R
Environmental & Remediation, Inc.

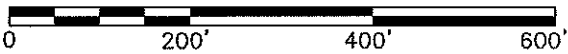
2755 BERGEY ROAD, HATFIELD, PA 19440;
215-997-8000

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GRAPHIC SCALE: 1"=200'



LEGEND:

— APPROXIMATE SITE BOUNDARY



REFERENCE:

AERIAL BACKGROUND IMAGE TAKEN FROM GOOGLE EARTH PRO. IMAGERY DATED: 04/17/2017.

REVISION	DATE	DESCRIPTION

FIGURE 2

SITE LAYOUT MAP
601 W SPRUCE STREET
PERKASIE BOROUGH,
BUCKS COUNTY, PENNSYLVANIA

PREPARED FOR
601 W SPRUCE STREET

APPROVED WJP 2/22/2019
 CHECKED GME 2/22/2019
 DRAWN AGN 2/22/2019
 PROJECT NO. HA007802

DRAWING NUMBER
HA7802-02



Penn E&R
 Environmental & Remediation, Inc.

2755 BERGEY ROAD, HATFIELD, PA 19440;
 215-997-8000



March 31, 2020
HA007802

VIA EMAIL & US MAIL

Mr. Dustin A. Armstrong
Environmental Protection Specialist
Pennsylvania Department of Environmental Protection
Southeast Regional Office
2 East Main Street
Norristown, PA 19401

Subject: Letter Response in Regard to PADEP Comments on the Remedial Action Work Plan Submitted on February 21, 2019 for the Former Delbar Products, Inc. Property Located at 601 West Spruce Street in Perkasie Borough, Bucks County, Pennsylvania

Dear Mr. Armstrong:

Penn Environmental & Remediation, Inc. (Penn E&R) has prepared this letter in response to the Pennsylvania Department of Environmental Protection (PADEP or Department) comments on the draft Remedial Action Work Plan (Work Plan) previously submitted to the PADEP on February 21, 2019 on behalf of 601 Spruce Street Investment Partners, LLC (SSIP) in connection with the above-referenced Site. Enclosed with this letter is a revised Work Plan (both a clean version, and a redlined version to highlight changes from the last draft of the Work Plan) intended to incorporate PADEP's comments and Penn E&R's response to comments, as reflected below in this letter.

RESPONSE TO PADEP COMMENTS

On August 6, 2019, Penn E&R received an email from Mr. Dustin Armstrong regarding the February 21, 2019 draft of the Work Plan that was previously submitted to the Department. Penn E&R subsequently participated in a conference call with Mr. Armstrong and Ms. Lena Harper of the PADEP on August 30, 2019 to review the comments that Mr. Armstrong had offered in reference to various tasks outlined in the Work Plan.

The enclosed revised Work Plan replaces the original Work Plan submitted for the Site on February 21, 2019. The revised Work Plan incorporates responses to comments the PADEP had regarding its review of the original Work Plan. A summary of Penn E&R's response to each of the PADEP's comments is provided below and detailed in the attached revised Work Plan.

PADEP Comment #1: Task 1 – Submittal of a Notice of Intent to Remediate (NIR)

Note that participation in the One Cleanup Program requires the remediator to provide copies of Act 2 reports to EPA for review. This program has separate public participation requirements (see Section VI of the 2004 Memorandum of Agreement).

Response to Comment #1

This comment is acknowledged, and SSIP intends to resolve any remaining USEPA RCRA Program requirements associated with the Delbar Site by satisfying the additional requirements of the Once Cleanup Program, as outlined in Section VI of the 2004 Memorandum of Agreement. As such, the Work Plan has been developed to achieve this goal.

PADEP Comment #2: Task 3 – Premobilization Activities and Geophysical Survey

A private utility survey was conducted by DEP during previous field activities. For existing information regarding onsite utilities, please refer to Attachment D of the August 13, 2014 letter report prepared by Michael Baker Jr., Inc.

Response to Comment #2

Acknowledged, and the referenced resource will be utilized to supplement the utility clearing that we have planned for the investigations.

PADEP Comment #3: Task 4 – Soil Boring Delineation Program

DEP has previously recommended a soil investigation under other areas of the building where releases may have occurred.

Response to Comment #3

During the August 30, 2019 conference call with Mr. Armstrong and Ms. Harper of the PADEP, Mr. Armstrong recommended reviewing historic reports to determine if there are additional areas that warrant investigation and specifically referenced a former degreaser in the central portion of the facility and a loading dock where previous sampling by the DEP identified chlorinated volatile organic compound (CVOC) impacts. Penn E&R reviewed historic reports and has identified the loading dock adjacent to SB-7, which was installed along the northeastern exterior of the building, as an area of concern. The Work Plan submitted on February 21, 2019 had proposed the installation of up to ten (10) soil borings around former soil boring SB-7, including borings interior and exterior of the building, in an effort to delineate TCE and certain RCRA metals previously in the soil identified in the vicinity of the loading dock. Penn E&R's review of the historic reports indicates that the Department's request for delineation in the area of the loading dock corresponds with soil borings that had been slated for this area in the February 2019 Work Plan.

Penn E&R reviewed historic reports and has identified circa 1990 plans that depict the location of a degreaser in the eastern/southeastern portion of the facility and a 1,1,1-Trichloroethane storage tank exterior to this portion of the building. Penn E&R's revised Work Plan includes additional proposed soil borings in these areas to complete delineation per the PADEP technical guidance manual for this area of concern.

PADEP Comment #4: Task 5 – Installation of Two Shallow Monitoring Wells

The proposed locations of the proposed monitoring wells should be identified on a site figure for DEP's review.

Response to Comment #4

A map depicting the proposed monitoring well locations is provided in the enclosed revised Work Plan.

PADEP Comment #5: Task 6 – On-Site Ground Water Sampling

DEP has collected samples from site wells using passive diffusion bag (PDB) samplers, deployed at predetermined depths. To maintain consistency, we recommend using the same technique for the proposed sampling. Alternatively, a comparative approach may be used to evaluate a change in technique.

If a submersible pump is used for purging the monitoring wells (either low-flow or three well volume methods) the sample should be collected from the pump discharge rather than from a bailer to assure that the sample is obtained from the water-bearing fracture subjected to purging. (If the water column in the well is completely evacuated during the purging procedure, a bailer may be used to obtain a sample, upon sufficient recovery.)

The work plan indicates a second set of ground water samples will be collected approximately 30 days after the first round. The second round should occur 60 to 90 days after the first, consistent with DEP's Technical Guidance Manual.

Response to Comment #5

During our August 30, 2019 conference call with Mr. Armstrong and Ms. Harper, Penn E&R expressed its preference to use the purging and sampling method described in the Work Plan submitted on February 21, 2019 to obtain quantifiable data for the characterization/remediation efforts as is required by the PADEP Technical Guidance Manual. Penn E&R also reported that low flow purging methods would be used to obtain representative samples and limit the volume of purge water that would require disposal. Mr. Armstrong expressed agreement with this approach but informed Penn E&R that the PADEP had to dispose of the purge water as a hazardous waste during previous Site investigations. Penn E&R will make arrangements to dispose of the purge water in accordance with law, whether that means disposing as a hazardous waste or a residual waste based on waste characterization.

Penn E&R will conduct the second ground water characterization round 60 to 90 days after the first round.

PADEP Comment #6: Task 7 – Upgradient, Central and Downgradient Stream Sampling

The proposed stream sampling locations should be identified on a map. DEP recommends collection upstream of the seep previously sampled by DEP (upstream), at the stream's entrance to the culverted portion remotely surveyed by DEP (central), and immediately below Fifth Street (Downgradient).

DEP recommends installation of piezometers in the tributary to gauge the surface water elevation concurrent with monitoring well gauging and to better understand ground water flow to the stream.

Response to Comment #6

A map depicting the proposed sampling locations is provided in the enclosed revised Work Plan. To assist us in obtaining samples from locations consistent with previous sampling events, Mr. Armstrong forwarded a map depicting the locations where the Department had collected surface water samples in 2017. The

Mr. Dustin A. Armstrong
March 31, 2020
Page 4 of 4

enclosed revised Work Plan includes the installation of piezometers in the tributary as suggested.

PADEP Comment #7: Additional Comments

Evaluation of the ground water data in the remedial investigation report should include a fate-and-transport analysis.

The work plan did not describe a vapor intrusion assessment. The remedial investigation report must identify all potential exposure pathways. If a VI pathway exists and will not be mitigated, then a VI investigation is needed.

An ecological evaluation will be required.


Response to Comment #7

During our August 30, 2019 conference call with Mr. Armstrong and Ms. Harper, Penn E&R confirmed that the Act 2 reporting will be designed to include the appropriate receptor evaluations including fate and transport analysis, ecological screening and vapor intrusion pathway analysis, as each is required under Act 2 regulations and the Technical Guidance Manual. Penn E&R understands that the Site development plan will include vapor mitigation to the extent required to demonstrate attainment of Act 2 standards.

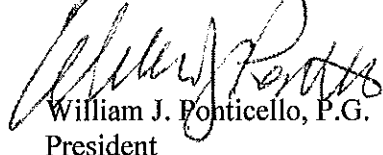
At the time of the August 30, 2019 conference call, Mr. Armstrong reported that the Department was in receipt of an Initial Investigation Report associated with the adjacent UGI Utilities, Inc., Perkasie MGP Site. Mr. Armstrong suggested that there may be off-site sources of contamination associated with the Manufactured Gas Plant (MGP) site in the area and that a background standard could be pursued for those contaminants. Mr. Armstrong provided Penn E&R with a copy of the referenced report on September 16, 2019. Penn E&R will review the provided report and continue to evaluate potential off-site sources contributing to impacts at the Site.

Please contact us directly should you have any questions or comments pertaining to the enclosed revised Work Plan.

Sincerely,
PENN ENVIRONMENTAL & REMEDIATION, INC.



Mark Fortna
Senior Environmental Scientist



William J. Ponticello, P.G.
President

cc: Ragesh Patel – PADEP
C. David Brown – PADEP
Bonnie McClennen – PADEP
Thomas Petrecz – Penn E&R
James Cassidy – SSIP
Jonathan Spergel, Esquire – MGKF

MORTGAGE

PARTIES

This Mortgage is entered into this day of June 1, 2020, between the **Mortgagor**, 601 Spruce St Investment Partners, LLC (“601 Spruce”) and the **Mortgagee**, the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”).

1. This Mortgage is to secure an indebtedness of, which 601 Spruce agreed to pay the Department to resolve its liability for the Department’s response actions incurred at the property located 601 West Spruce Street, Perkasie, PA (“Site”). The Department’s response actions were taken pursuant to the Hazardous Sites Cleanup Act, Act of October 18, 1988, P.L. 756, No. 108, *as amended*, 35 P.S. §§ 6020.101, *et seq.* (“HSCA”). 601 Spruce agreed to reimburse the Department for response costs in the Consent Order and Agreement which the parties executed on June 1, 2020.

In consideration of this debt and for better securing payment thereof, 601 Spruce promises and agrees as follows:

PROPERTY MORTGAGED

2. The Property mortgaged by 601 Spruce to the Department is:

The parcel located at 601 West Spruce Street, Perkasie, PA, identified as Bucks County Tax Parcel ID Nos. 33-005-094, 33-005-107-001, 33-005-036-001, 33-005-125, 33-005-135. A copy of the deed description of this parcel is attached hereto as Exhibit 1.

Together with all the improvements now or hereafter erected on the property, all future buildings, all easements, appurtenances, and fixtures now or hereafter a part of the property, all replacements, additions and all rights of ingress and egress to and from adjoining properties, whether such rights now exist or subsequently arise.

All of the foregoing is referred to in this Mortgage as “the Property”.

TRANSFER OF RIGHTS IN THE PROPERTY

3. 601 Spruce hereby grants and conveys to the Department, the security interest described in this Mortgage. This Mortgage creates a legally enforceable lien upon the Property.

4. To satisfy this Mortgage, 601 Spruce shall pay to the Department, the principal of One Hundred Thousand Dollars (\$100,000) in accordance with the parties' June 1, 2020 Consent Order and Agreement.

Within 7 days of the date of sale of the Property or any portion thereof, 601 Spruce shall send to the Department, a check for the total amount due. Interest shall accrue from the date of execution of this Mortgage and continue until the principal of the mortgage is paid in full.

The check should be made payable to the "*Commonwealth of Pennsylvania Hazardous Sites Cleanup Fund*" and forwarded to: Section Chief, Hazardous Sites Cleanup Section, Department of Environmental Protection's Southeast Regional Office, 2 East Main Street, Norristown, PA 19401.

INTEREST

5. 601 Spruce shall pay the principal of One Hundred Thousand Dollars (\$100,000) plus 6% interest, the rate allowable pursuant to Section 702(b) of HSCA, 35 P.S. § 6020.702(b).

EQUITY OF REDEMPTION

6. If 601 Spruce pays the Department the principal amount of One Hundred Thousand Dollars (\$100,000) plus any interest due and faithfully performs all other covenants set forth below, without any deduction, offset, fraud or delay, then this Mortgage and the estate hereby granted, shall terminate and become void.

COVENANTS AND WARRANTIES

7. 601 Spruce covenants and warrants that it lawfully owns and possesses the Property and has the right to mortgage the same. 601 Spruce further covenants and warrants that the Property is unencumbered except for encumbrances of record and agrees to defend the title to the Property against all claims and demands, subject to any encumbrance of record.

TAXES, ETC.

8. 601 Spruce shall pay all taxes, assessments, sewer rents, water rates, and all other

lienable charges and assessments now or hereafter lawfully imposed thereon by any public authority, before they become delinquent. 601 Spruce covenants and agrees not to create or to permit to accrue on all or any part of the Property any debt, lien or charge that would be prior to or in parity with the lien created by this Mortgage.

MAINTENANCE

9. 601 Spruce will refrain from waste disposal on the Property and use reasonable efforts to prevent the unlawful trespass and disposal activities of others on the Property. Nothing in this agreement excuses 601 Spruce from complying with all laws, ordinances and regulations affecting the Property or use thereof.

COLLECTION

10. The Commonwealth of Pennsylvania and/or the Department shall be entitled to collect its attorney's fees and costs in the event of mortgage foreclosure.

CONDEMNATION

11. Should all or any part of the Property hereby mortgaged be condemned or taken through eminent domain proceedings, all or such part of any award or proceeds thereof shall be paid to the Department and applied to the payment of the indebtedness.

SALE OF THE PROPERTY

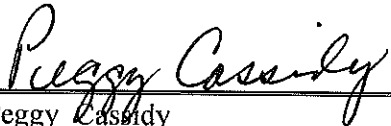
12. If all or any part of the Property or an interest therein is sold or transferred by 601 Spruce, the entire debt shall become immediately due and payable to the Department. 601 Spruce shall pay the debt plus interest, pursuant to Paragraphs 4 and 5, above. Payment shall be due without notice from the Department.

NO ORAL CHANGES

13. This Mortgage cannot be changed or amended except in writing signed by the Department.

IN WITNESS, WHEREOF, 601 Spruce has executed this Mortgage on the day and year above written.

FOR 601 SPRUCE ST INVESTMENT PARTNERS, LLC:



Peggy Cassidy
Principal
601 Spruce St Investment Partners, LLC

Dated 5/12/2020,

WITNESS:

Jonathan H. Spergel, Esquire

COMMONWEALTH OF PENNSYLVANIA)
)
COUNTY OF Montgomery) SS:

On this 22nd day of May, 2020, before me, the undersigned officer, personally appeared Peggy Cassidy, Principal of 601 Spruce St Investment Partners, LLC, who acknowledged herself to be the person whose name is subscribed to this Mortgage, and acknowledged that she executed same for the purposes therein contained.

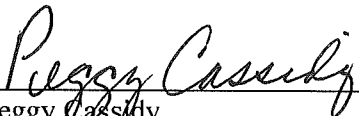
In witness whereof, I hereunto set my hand and official seal.

Karen L. Van Artsdalen
Notary Public

Commonwealth of Pennsylvania - Notary Seal
KAREN L. VAN ARTSDALEN, Notary Public
Montgomery County
My Commission Expires December 5, 2023
Commission Number 1170590


and that 601 Spruce hereby knowingly waives its right to appeal this CO&A and to challenge its content or validity, which rights may be available under Section 4 of the Environmental Hearing Board Act, Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provisions of law. Signature by 601 Spruce's attorney certifies only that the agreement has been signed after consulting with counsel.

FOR 601 SPRUCE ST
INVESTMENT PARTNERS, LLC:




Peggy Cassidy
Principal

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:



Ragesh R. Patel 6-1-2020
Date
Environmental Cleanup Program Manager

Jonathan H. Spergel, Esquire
Attorney for 601 Spruce St
Investment Partners, LLC



Gina M. Thomas
Assistant Counsel

