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STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
ORDER WQ 20XX-XXXX-UST

**In the Matter of Underground Storage Tank (UST) Case Closure
Pursuant to Health and Safety Code Section 25296.40 and the
Low-Threat Underground Storage Tank Case Closure Policy**

BY THE CHIEF DEPUTY DIRECTOR:ⁱ

By this order, the Chief Deputy Director directs closure of the UST case at the site listed below, pursuant to section 25296.10 of the Health and Safety Code.ⁱⁱ The name of the petitioner, the site name, the site address, the Underground Storage Tank Cleanup Fund (Fund) claim number if applicable, current and former lead agencies, and case numbers are as follows:

Aramark Services, Inc (Petitioner)

Aramark Magazine & Book

2340 Fairfax Avenue South, Los Angeles, Los Angeles County (Site)

Fund Claim No. 3726

Los Angeles Regional Water Quality Control Board, Case No. 900160098

State Water Resources Control Board Petition No. DWQP-0257

This order resolves Petition No. DWQP-0257.

I. STATUTORY AND PROCEDURAL BACKGROUND

Health and Safety Code section 25296.40 allows for an owner or operator, or responsible party, who has a UST case, who believes that the corrective action plan has been satisfactorily implemented, and where closure has not been granted, to petition the State Water Resources Control Board (State Water Board) for review of their case. Upon review of the case, the State Water Board may close or require the closure of any

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UST case if it is determined that corrective action has been completed in compliance with all of the requirements of subdivisions (a) and (b) of section 25296.10. The State Water Board, or in certain cases the State Water Board Executive Director or Chief Deputy Director, may close a case or require the closure of a UST case. Closure of a UST case is appropriate where the corrective action ensures the protection of human health, safety, and the environment and where the corrective action is consistent with: 1) chapter 6.7 of division 20 of the Health and Safety Code and implementing regulations; 2) any applicable waste discharge requirements or other orders issued pursuant to division 7 of the Water Code; 3) all applicable state policies for water quality control; and 4) all applicable water quality control plans.

State Water Board staff has completed a review of the UST case identified above and recommends that this case be closed. The recommendation is based upon the facts and circumstances of this particular UST case. The attached UST Case Closure Summary has been prepared for the case identified above and is incorporated by reference. The bases for determining compliance with the Water Quality Control Policy for Low-Threat Underground Storage Tank Case Closures (Low-Threat Closure Policy or Policy) are explained in the UST Case Closure Summary.

Low-Threat Closure Policy

The Policy became effective on August 17, 2012. The Policy establishes consistent statewide case closure criteria for certain low threat petroleum UST sites. In the absence of unique attributes or site-specific conditions that demonstrably increase the risk associated with residual petroleum constituents, cases that meet the general and media-specific criteria in the Low-Threat Closure Policy pose a low threat to human health, safety, the environment, and are appropriate for closure under Health and Safety Code section 25296.10. The Policy provides that if a regulatory agency determines that a case meets the general and media-specific criteria of the Policy, then the regulatory agency shall notify responsible parties and other specified interested persons that the case is eligible for case closure. Unless the regulatory agency revises its determination based on comments received on the proposed case closure, the Policy provides that the agency shall issue a uniform closure letter as specified in Health and Safety Code

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section 25296.10. The uniform closure letter may only be issued after the expiration of the 60-day comment period, proper destruction or maintenance of monitoring wells or borings, and removal of waste associated with investigation and remediation of the site.

Health and Safety Code section 25299.57, subdivision (l)(1) provides that claims for reimbursement of corrective action costs that are received by the Fund more than 365 days after the date of a uniform closure letter or a letter of commitment, whichever occurs later, shall not be reimbursed unless specified conditions are satisfied.

Brief Case Overview

The Site is currently an auto repair warehouse building. An unauthorized release in the southern portion of the property was reported in April 1987 followed by the removal of two USTs; one in 1987 and the other in 1998. Remediation was conducted at the time of the UST removals and between July 2010 and July 2014. According to groundwater data, water quality objectives have been achieved or nearly achieved for all constituents in the southern portion of the property in the vicinity of the former USTs.

There appears to be another significant petroleum hydrocarbon plume located on the western portion of the property, which the Petitioner asserts is unrelated to the former USTs located in the southern portion of the property. Further, it appears that the methyl-tert butyl ether (MTBE) plume from the USTs formerly located in the southern portion of the property has extended to the west and commingled with the hydrocarbon plume on the western portion of the property. Closure criteria have not been met for the petroleum hydrocarbon plume on the western portion of the property.

On May 13, 2016, the Petitioner asked the Los Angeles Regional Water Quality Control Board (Regional Water Board) to close the UST case for the Site. The Regional Water Board did not close the case. On July 20, 2018, the Petitioner filed a petition seeking State Water Board review of the Regional Water Board's inaction regarding UST case closure for the Site. On June 25, 2019, the Petitioner and the City of Los Angeles, acting through its Department of Water and Power (LADWP), entered into a settlement agreement in which LADWP, in relevant part, agreed without admitting any liability to assume responsibility for any future investigation and/or remediation of

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petroleum contamination at the Site and at offsite properties, as may be directed by the Regional Water Board.

Relief from Responsibility at Commingled Release Sites

In 2013, the State Water Board adopted State Water Board Order WQ 2013-0109 (*In the Matter of the Petition of James Salvatore*, hereafter *Salvatore*), which provides a test for relieving a party from responsibility where the party's unauthorized release has commingled with a release from another party. The *Salvatore* test acknowledges the relative contributions of the responsible parties and provides relief to the party whose release is not significant enough on its own to require corrective action. (*Salvatore*, p. 13.) Under this test, a party may be relieved from responsibility for a release if the party demonstrates that its release, considered separately from other commingled releases, meets case closure criteria and the site should be closed. (*Ibid.*) The party seeking removal of the responsible party status must demonstrate that the separate release for which the party is responsible has been adequately investigated and characterized, and that there are sufficient data to determine that the case based on the individual release meets case closure criteria. (*Id.*, pp. 13-14) In addition, as a condition of closure, the party seeking relief must provide reasonable access to the responsible party performing corrective action at the relieved party's site. (*Id.*, p. 14.) Finally, the State Water Board stated that this test is not applicable in circumstances where a financially responsible party has not been identified and removal of a party may result in the creation of an orphan site. (*Id.*, p. 19.)

Application of the Test for Relieving a Party from Responsibility Where the Party's Release has Commingled with a Release from Another Party.

1. There are sufficient data to determine that the Petitioner's unauthorized release, considered separately, meets all of the specified criteria of the State Water Board's Low-Threat Closure Policy. The Petitioner's investigation of the release is adequate to provide sufficient information to evaluate whether the Petitioner's individual release meets case closure criteria. The Conceptual Site Model upon which the evaluation of

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the case has been made is described in the UST Case Closure Summary and attached hereto.

2. Based on the data in the record concerning the Petitioner's release, corrective actions performed for the Petitioner's separate release ensure the protection of human health, safety, and the environment. Based on the State Water Board's technical analysis described in the attached UST Case Closure Summary, the residual petroleum constituents that can be attributed to the release from the Petitioner's UST system meet Policy criteria, and the Petitioner's individual release would be eligible for case closure. The affected groundwater is not currently being used as a source of drinking water or for any other designated beneficial use, and it is highly unlikely that the affected groundwater will be used as a source of drinking water or for any other beneficial use in the foreseeable future. Remaining petroleum constituents that can be attributed to the Petitioner's release are limited, stable and declining. Additional assessment/monitoring will not likely change the conceptual model. Any remaining petroleum constituents that can be attributed to the Petitioner's release do not pose significant risk to human health, safety, or the environment.

3. The Petitioner's case is consistent with the Low-Threat Closure Policy. The Petitioner's site meets all the General Criteria and all the applicable Media-Specific Criteria, as described in the attached UST Case Closure Summary.

4. The Petitioner does not own or lease the Site, so it is not authorized to provide others with access to the Site. The Petitioner and the Site owner previously have executed access agreements to allow the Petitioner to enter the Site to conduct corrective action. The Petitioner and LADWP have agreed to cooperate to obtain access agreements with the current owner and tenant of the Site.

5. Closure of the Petitioner's case will not create an orphan site because the LADWP has agreed to assume responsibility for any future investigation and/or remediation of petroleum contamination at the Site and at offsite properties, as may be directed by the Regional Water Board.

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II. FINDINGS

Pursuant to the test established by State Water Board Order WQ 2013-0109, a party may be removed as a responsible party for a UST cleanup case if that party demonstrates that its release, when considered separately from other releases that have commingled with the responsible party's release, meets State Water Board closure policies. In this case, the Petitioner has demonstrated that the separate release for which the Petitioner is responsible has been adequately investigated and characterized. There are sufficient data for the State Water Board to determine that the Petitioner's UST case should be closed, as summarized in the attached UST Case Closure Summary. Closure criteria have not been met for the petroleum hydrocarbon plume on the western portion of the property.

Based on the State Water Board's review, closure of the Petitioner's case will not create an orphan site because the LADWP has agreed without admitting any liability to assume responsibility for any future investigation and/or remediation of petroleum contamination at the Site and at offsite properties, as may be directed by the Regional Water Board.

Based upon the facts in the UST record and the hydrogeologic conditions at the site, the State Water Board finds that corrective action taken to address the unauthorized release of petroleum at the UST release site identified as:

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ensures protection of human health, safety, and the environment and is consistent with chapter 6.7 of division 20 of the Health and Safety Code and implementing regulations, the Low-Threat Closure Policy and with other applicable water quality control policies and plans.

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The unauthorized release from the UST consisted only of petroleum. This order directs closure for the petroleum UST case at the site. This order does not address non-petroleum contamination at the site, if non-petroleum contamination is present.

Pursuant to the Low-Threat Closure Policy, notification has been provided to all entities that are required to receive notice of the proposed case closure, a 60-day comment period has been provided to notified parties, and any comments received have been considered by the State Water Board in determining that the case should be closed.

Pursuant to section 21080.5 of the Public Resources Code, environmental impacts associated with the adoption of this order were analyzed in the substitute environmental document (SED) the State Water Board approved on May 1, 2012. The SED concludes that all environmental effects of adopting and implementing the Low-Threat Closure Policy are less than significant, and environmental impacts as a result of adopting this order in compliance with the Policy are no different from the impacts that are reasonably foreseen as a result of the Policy itself. A Notice of Decision was filed August 17, 2012. No new environmental impacts or any additional reasonably foreseeable impacts beyond those that were addressed in the SED will result from adopting this order.

The UST case identified above may be the subject of orders issued by the Regional Water Board pursuant to division 7 of the Water Code. Any orders that have been issued by the Regional Water Board pursuant to division 7 of the Water Code, or directives issued by a Local Oversight Program (LOP) agency for this case should be rescinded to the extent they are inconsistent with this order.

III. ORDER

IT IS THEREFORE ORDERED that:

- A. The UST case identified in Section II of this order, meeting the general and media-specific criteria established in the Low-Threat Closure Policy, be closed in accordance with the following conditions and after the following actions are

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complete. Prior to the issuance of a uniform closure letter, the Petitioner is ordered to:

1. Properly destroy monitoring wells and borings, except those required by the Regional Water Board to be maintained and for which the owner of real property on which the well or boring is located certifies that the wells or borings will be maintained in accordance with local or state requirements;
2. Properly remove from the site and manage all waste piles, drums, debris, and other investigation and remediation derived materials in accordance with local or state requirements; and
3. Within six months of the date of this order, submit documentation to the regulatory agency overseeing the UST case identified in Section II of this order that the tasks in subparagraphs (1) and (2) have been completed.

B. The tasks in subparagraphs (1) and (2) of Paragraph (A) are ordered pursuant to Health and Safety Code section 25296.10, and failure to comply with these requirements may result in the imposition of civil penalties pursuant to Health and Safety Code section 25299, subdivision (d)(1). Penalties may be imposed administratively by the State Water Board or Regional Water Board.

C. Within 30 days of receipt of proper documentation from the responsible party that requirements in subparagraphs (1) and (2) of Paragraph (A) are complete, the regulatory agency that is responsible for oversight of the UST case identified in Section II of this order shall notify the State Water Board that the tasks have been satisfactorily completed.

D. Within 30 days of notification from the regulatory agency that the tasks are complete pursuant to Paragraph (C), the Deputy Director of the Division of Water Quality shall issue a uniform closure letter consistent with Health and Safety Code section 25296.10, subdivision (g) and upload the uniform closure letter to GeoTracker.

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- E. Pursuant to section 25299.57, subdivision (l)(1), and except in specified circumstances, all claims for reimbursement of corrective action costs must be received by the Fund within 365 days of issuance of the uniform closure letter in order for the costs to be considered.

- F. Any Regional Water Board or LOP agency directive or order that directs corrective action or other action inconsistent with case closure for the UST case identified in Section II is rescinded, but only to the extent the Regional Water Board order or LOP agency directive is inconsistent with this order.

Chief Deputy Director

Date

ⁱ State Water Board Resolution No. 2012-0061 delegates to the Executive Director the authority to close or require the closure of any UST case if the case meets the criteria found in the State Water Board's Low-Threat Underground Storage Tank Case Closure Policy adopted by State Water Board Resolution No. 2012-0016. Pursuant to Resolution No. 2012-0061, the Executive Director has delegated this authority to the Chief Deputy Director.

ⁱⁱ Unless otherwise noted, all references are to the California Health and Safety Code.