Mr. Scott M. Brown, P.E.
Project Manager
Arcadis US Inc.
410 N. 44th Street, Suite 1000
Phoenix, Arizona 85008

Re: Acknowledgment of Receipt and Notice to Proceed
Proposed Revised Work Plan, dated June 21, 2017
Abrams Kiewit Joint Venture (AKJV), Border West Expressway (I-10/State Loop 375), El Paso (El Paso County) project adjacent to the former ASARCO Smelter site (TCEQ SWR No. 31235; EPA ID No. TXD990757668; Customer No. CN603597782; Regulated Entity No. RN100219021)

Dear Mr. Brown:

The Texas Commission on Environmental Quality (TCEQ) and the U.S. Environmental Protection Agency (USEPA) acknowledges receipt of the above referenced revised Work Plan submitted by representatives of Arcadis US Inc. (Arcadis) on behalf of the design-built contractor for the Texas Department of Transportation (TxDOT), Abrams Kiewit Joint Venture ("AKJV"). The June 21, 2017 submittal proposes amendments to the October 2015 Work Plan entitled Removal of Category I and II Materials-Texas Department of Transportation Property, Highway 375 Project-El Paso, Texas, previously approved by the TCEQ on October 19, 2015. AKJV is working in coordination with the Trustee for the Texas Custodial Trust (TCI) of the adjacent former ASARCO Smelter site (the "former smelter site") to address the excavation and removal of Category I and Category II materials on the adjacent TxDOT property and their relocation to the former smelter site.

The June 21, 2017 submittal proposes the transition of the response actions on the TxDOT parcel from the Texas Risk Reduction Rules of 30 TEX. ADMIN. CODE §335, Subchapter S to the Texas Risk Reduction Program (TRRP) of 30 TEX. ADMIN. CODE §350 to be consistent with current response actions being performed on the former smelter site. To date approximately 48,000 cubic yards of slag material have reportedly been removed from the TxDOT property and managed on the former smelter site; however, the June 21, 2017 submittal notes that removal of all material, as originally proposed in the October 2015 Work Plan, has been determined to be technically infeasible. Current conditions indicate additional excavation work could potentially undermine the existing roadway and bridge structures located within the property. As such, the revised Work Plan provides a proposal for the installation of a physical control (i.e., cover system) in response to 30 TEX. ADMIN. CODE §350.33(e)(2) of TRRP in the areas where slag will remain in place on the TxDOT property.

The June 21, 2017 revision also provided supporting draft restrictive covenants intended to satisfy the institutional control requirements 30 TEX. ADMIN. CODE §350.111 for two TxDOT properties impacted by the adjacent former smelter site. The June 21, 2017 letter from AKJV indicates TxDOT will record a restrictive covenant document to note the establishment of the
physical control for the I-10/State Loop 375 property and two restrictive covenant documents to note the establishment of a plume management zone (PMZ) and commercial/industrial land use for the right-of-way associated with Highway 85/Paisano Drive and the I-10/State Loop 375 properties in coordination with representatives of the TCT. The two restrictive covenants noting the establishment of the PMZ and commercial/industrial land use for the I-10/State Loop 375 and Highway 85/Paisano Drive properties are proposed to be recorded by TxDOT upon TCEQ approval of supporting information documenting the completion of the slag excavation work associated with TxDOT I-10/State Loop 375 property. The groundwater monitoring program associated with the PMZ will be carried out by the TCT in accordance with a revised Response Action Plan for the former smelter site, approved by the TCEQ with concurrence of the USEPA in a letter issued December 27, 2016. The restrictive covenant noting the establishment of the physical control and post response action monitoring and maintenance activities associated with the I-10/State Loop 375 property are intended to be recorded by TxDOT upon documentation of construction completion of the State Loop 375 structures proposed to act as the cover system, including the road continuously reinforced concrete section, retaining walls, concrete/grouted rip-rap erosion protection slabs, areas of 3' soil cover, and drainage systems. The TCEQ is currently coordinating with AKJV, TxDOT and TCT on the finalization of the draft restrictive covenant materials associated with the I-10/State Loop 375 and Highway 85/Paisano Drive properties.

This letter provides AKJV and TCT with authorization and notice to proceed with the activities as presented in the October 2015 submittal, as amended by the June 21, 2017 submittal. The TCEQ and USEPA require submittal of an interim remedial report documenting the sampling, excavation, and disposal activities within ninety (90) days of receipt of the final laboratory report documenting completion of the confirmatory soil sampling efforts associated with the I-10/State Loop 375 property. In addition, please submit a final report documenting the installation of the cover system for the I-10/State Loop 375 property within ninety (90) days of construction completion.

Please be aware that it is the continuing obligation of persons associated with a site to ensure that municipal hazardous waste and industrial solid waste are managed in a manner which does not cause the discharge or imminent threat of discharge of waste into or adjacent to waters in the state, a nuisance, or the endangerment of the public health and welfare as required by 30 Texas Administrative Code (TAC) §335.4. If the activities described in the October 2015 Work Plan, as amended by the June 21, 2017 revision, fail to comply with these requirements, please take any necessary and authorized action to correct such conditions. A TCEQ field inspector may conduct an inspection of the site to determine compliance with the activities proposed in the plan.

Questions concerning this letter should be directed to me at (512) 239-6542. When responding by mail, please submit an original and one copy of all correspondence and reports to the TCEQ
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Remediation Division at Mail Code MC-127 with an additional copy submitted to the USEPA and local TCEQ Region 6 Office.

Sincerely,

[Signature]
Eleanor T. Wehner, P.G.
Project Manager
VCP-CA Section
Remediation Division
Texas Commission on Environmental Quality

ETW/bk

cc: Mr. Sergio R. Garcia, P.E., Project Manager, El Paso District, TxDOT, 13301 Gateway Blvd. West, El Paso, TX 79928
Ms. Misty Barham, Associate General Counsel, Office of General Counsel, TxDOT, 125 E. 11th Street, Austin, TX 78701-2483
Mr. Roberto Puga, P.G., Trustee, Texas Custodial Trust, Project Navigator, Ltd., One Pointe Drive, Suite 320, Brea, CA 92821
Mr. Chuck Barnes, Enforcement Division, U.S. EPA Region 6, 1445 Ross Avenue, Suite 1200, Mail Code: 6EN, Dallas, TX 75202-2733
Ms. Lorinda Gardner, Region Director, TCEQ Region 6 Office, El Paso