

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON,
AUTHORIZING THE CITY MANAGER TO ENTER INTO A SETTLEMENT AGREEMENT IN
THE LAWSUIT OF BERNIE'S GARAGE, LLC, et al. vs. CITY OF OLYMPIA, et al.**

WHEREAS, Bernie's Garage, LLC and Adams Street Garage sued the City of Olympia, Washington State Department of Transportation (WSDOT) and LIHI relating to pollution alleged to have travelled to Bernie's Garage's and Adams Street Warehouse's property, Thurston County Superior Court Cause No. 16-2-01955-34; and

WHEREAS, the property to the south was owned by WSDOT for more than 80 years, who sold it to the City of Olympia in 2008; and

WHEREAS, the City of Olympia cross claimed in the above referenced lawsuit against WSDOT alleging that WSDOT was the appropriate defendant and in addition that WSDOT was liable for cleanup of the property the City acquired; and

WHEREAS, the City of Olympia has cleaned up most of the property but there remains some clean up required under the Washington State Model Toxics Control Act; and

WHEREAS, the Washington State Department of Transportation has offered to settle the case with a payment to Olympia of \$751,749 for the remaining environmental cleanup of the property on condition that the City assume responsibility for environmental cleanup of the property the City purchased from WSDOT; and

WHEREAS, WSDOT shall remain responsible for groundwater pollution that has flowed off-site; and

WHEREAS, WSDOT also offers to settle the claims made by the plaintiffs, Bernie's Garage, LLC and Adams Street Warehouse;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE as follows:

The City Council authorizes the City Manager to settle and execute all necessary documents in the above referenced case, in exchange for monetary compensation in the sum of \$751,749 to be paid by WSDOT to the City of Olympia; and to modify the terms of the 2008 Purchase and Sale Agreement to release WSDOT from environmental liability for pollution on the property acquired by the City from WSDOT. As part of the settlement, WSDOT shall also settle claims against the City and LIHI made by Bernie's Garage, LLC and Adams Street Warehouse, plaintiffs.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of November 2016.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Darren Nienaber

DEPUTY CITY ATTORNEY