

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

City of Olympia

AGREED ORDER

No. DE 9465

**TO: City of Olympia
Mr. Steve Hall, City Manager
601 4th Avenue East
Olympia, WA 98501**

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I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and **City of Olympia** under this Agreed Order (Order) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires **City of Olympia** to **implement the Cleanup Action Plan (Exhibit A)**. Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

This Agreed Order is issued pursuant to the Model Toxics Control Act (MTCA), RCW 70.105D.050(1).

III. PARTIES BOUND

This Agreed Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such party to comply with this Order. **City of Olympia** agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter **City of Olympia's** responsibility under this Order. **City of Olympia** shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Order.

IV. DEFINITIONS

Unless otherwise specified herein, the definitions set forth in Chapter 70.105D RCW and Chapter 173-340 WAC shall control the meanings of the terms in this Order.

A. Site: The Site is referred to as **Downtown Safeway** and is generally located at **601 4th Avenue East**. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site. The Site is more particularly described in the Site Diagram (Exhibit B). The Site constitutes a Facility under RCW 70.105D.020(5).

B. Parties: Refers to the State of Washington, Department of Ecology and **City of Olympia**.

- C. Potentially Liable Person (PLP): Refers to **City of Olympia**.
- D. Agreed Order or Order: Refers to this Order and each of the exhibits to this Order. All exhibits are integral and enforceable parts of this Order. The terms “Agreed Order” or “Order” shall include all exhibits to this Order.

V. FINDINGS OF FACT

Ecology makes the following findings of fact, without any express or implied admissions of such facts by **City of Olympia**:

A. The City of Olympia owns the Downtown Safeway property as shown on the attached Thurston County Assessor’s Office record (Exhibit C). The Downtown Safeway property is located at 601 4th Avenue East in Olympia, Washington. The property is comprised of three separate parcels of land totaling approximately 1.27 acres in size and described as parcel numbers 78200500100, 78200500500, 78200500700. The property is situated in Section 14, Township 18N, and Range 2E, Willamette Meridian. The property is now the site of the Olympia City Hall which was completed in 2011.

B. Ecology and the City of Olympia entered into Agreed Order No. DE 5446 on May 15, 2008. Agreed Order No. DE 5446 required the City of Olympia to perform a remedial investigation/feasibility study and other remedial actions at the Site.

C. A Downtown Safeway Interim Action Report was prepared by Brown and Caldwell, December 17, 2010 summarizing removal of contaminated soil.

D. A Technical Memorandum was prepared by Brown and Caldwell, March 8, 2011 describing groundwater monitoring activities at the Site.

E. A Draft Remedial Investigation/Feasibility Study was performed by Floyd/Snyder for the City of Olympia on July 11, 2011.

F. A Supplemental Remedial Investigation was performed by Floyd/Snyder for the City of Olympia on December 19, 2011.

G. After the interim action the only hazardous substance found to exceed MTCA Method A groundwater cleanup levels was benzene in monitoring well MW-4.

H. Ecology has approved the Downtown Safeway Interim Action Report, the Technical Memorandum (March 8, 2011), and the draft Remedial Investigation/Feasibility Study Report. On August 9, 2012, Ecology sent written notification that the City of Olympia had completed the remedial activity required by Agreed Order No. DE 5446 and had complied with all other provisions of the Order.

VI. ECOLOGY DETERMINATIONS

A. **City of Olympia is an "owner or operator"** as defined in RCW 70.105D.020(17) of a "facility" as defined in RCW 70.105D.020(5).

B. Based upon all factors known to Ecology, a "release" or "threatened release" of "hazardous substance(s)" as defined in RCW 70.105D.020(25) and RCW 70.105D.020(10), respectively, has occurred at the Site.

C. Based upon credible evidence, Ecology issued a PLP status letter to **City of Olympia** dated **January 23, 2008**, pursuant to RCW 70.105D.040, -.020(21) and WAC 173-340-500. By letter dated **January 29, 2008**, **City of Olympia** voluntarily waived its rights to notice and comment and accepted Ecology's determination that **City of Olympia** is a PLP under RCW 70.105D.040.

D. Pursuant to RCW 70.105D.030(1) and -.050(1), Ecology may require PLPs to investigate or conduct other remedial actions with respect to any release or threatened release of hazardous substances, whenever it believes such action to be in the public interest. Based on the foregoing facts, Ecology believes the remedial actions required by this Order are in the public interest.

VII. WORK TO BE PERFORMED

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that **City of Olympia** take the following remedial actions at the Site and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein:

A. Within 20 days of the effective date of the final Cleanup Action Plan, the City of Olympia will submit a Draft Focused Compliance Monitoring Work Plan for Ecology approval. **Once approved by Ecology, this work plan becomes an integral and enforceable part of this Order.**

B. Monitoring well MW-4 will be decommissioned and replaced with a monitoring well located as close as feasible to MW-4. Groundwater monitoring for benzene will occur for four quarters following installation of the replacement well. If there is an exceedance of the cleanup level for benzene, the City of Olympia will submit to Ecology for review and approval a Contingency Plan (with schedule) within 30 days of receipt of final validated data. Ecology will consider there to be an exceedance of the cleanup level for benzene if: (1) the true mean concentration of the four quarters of groundwater sampling is greater than the groundwater cleanup level; or (2) any single sample concentration is greater than two times the groundwater cleanup level.

C. Institutional controls in the form of an environmental covenant will be put in place to restrict withdrawal or use of groundwater until the cleanup level for benzene is achieved. The environmental covenant will also be put in place to prohibit activities in the southern and eastern boundaries of the Site where residual concentrations of gasoline, benzene and diesel which exceed the MTCA Method A cleanup levels for soil remain, along with PAH soil contamination from a separate off-Site release. The environmental covenant will also provide notice of the geomembrane liner along Fifth Avenue Southeast, Cherry Street Southeast and Chestnut Street Southeast right-of-ways and prohibit any activity on the property that may result in the release or exposure to the environment of the contaminated soil that was contained as part of the remedial action or impact to the geomembrane liner. The environmental covenant will be recorded within 30 days of the effective date of this Order.

D. Quarterly groundwater monitoring data reports will be submitted to Ecology within 30 days of receipt of final validated data.

E. If, at any time after the first exchange of comments on drafts, Ecology determines that insufficient progress is being made in the preparation of any of the deliverables required by this Section, Ecology may complete and issue the final deliverable.

VI. TERMS AND CONDITIONS OF ORDER

A. Public Notice

RCW 70.105D.030(2)(a) requires that, at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate to Ecology that this Order is inadequate or improper in any respect.

B. Remedial Action Costs

City of Olympia shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under Chapter 70.105D RCW, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Ecology has accumulated **\$1607.72** in remedial action costs related to this facility as of **May 31, 2012**. Payment for this amount shall be submitted within thirty (30) days of the effective date of this Order. For all costs incurred subsequent to **June 8, 2012**, **City of Olympia** shall pay the required amount within thirty (30) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

In addition to other available relief, pursuant to RCW 19.16.500, Ecology may utilize a collection agency and/or, pursuant to RCW 70.105D.055, file a lien against real property subject to the remedial actions to recover unreimbursed remedial action costs.

C. Implementation of Remedial Action

If Ecology determines that **City of Olympia** has failed without good cause to implement the remedial action, in whole or in part, Ecology may, after notice to **City of Olympia**, perform any or all portions of the remedial action that remain incomplete. If Ecology performs all or portions of the remedial action because of **City of Olympia's** failure to comply with its obligations under this Order, **City of Olympia** shall reimburse Ecology for the costs of doing such work in accordance with Section VIII. (Remedial Action Costs), provided that **City of Olympia** is not obligated under this Section to reimburse Ecology for costs incurred for work inconsistent with or beyond the scope of this Order.

Except where necessary to abate an emergency situation, **City of Olympia** shall not perform any remedial actions at the Site outside those remedial actions required by this Order, unless Ecology concurs, in writing, with such additional remedial actions.

D. Designated Project Coordinators

The project coordinator for Ecology is:

Guy Barrett, LHG
PO Box 47775, Olympia, WA
360-407-7115

The project coordinator for **City of Olympia** is:

Rick Dougherty
601 4th Avenue East, Olympia, WA
360-753-8485

Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and **City of Olympia**, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project

coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Order.

Any party may change its respective project coordinator. Written notification shall be given to the other party at least ten (10) calendar days prior to the change.

E. Performance

All geologic and hydrogeologic work performed pursuant to this Order shall be under the supervision and direction of a geologist licensed in the State of Washington or under the direct supervision of an engineer registered in the State of Washington, except as otherwise provided for by Chapters 18.220 and 18.43 RCW.

All engineering work performed pursuant to this Order shall be under the direct supervision of a professional engineer registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

All construction work performed pursuant to this Order shall be under the direct supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

Any documents submitted containing geologic, hydrologic or engineering work shall be under the seal of an appropriately licensed professional as required by Chapter 18.220 RCW or RCW 18.43.130.

City of Olympia shall notify Ecology in writing of the identity of any engineer(s) and geologist(s), contractor(s) and subcontractor(s), and others to be used in carrying out the terms of this Order, in advance of their involvement at the Site.

F. Access

Ecology or any Ecology authorized representative shall have the full authority to enter and freely move about all property at the Site that **City of Olympia** either owns, controls, or has access rights to at all reasonable times for the purposes of, *inter alia*: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing **City of Olympia**'s progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound

recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by **City of Olympia**. **City of Olympia** shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by **City of Olympia** where remedial activities or investigations will be performed pursuant to this Order. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by **City of Olympia** unless an emergency prevents such notice. All persons who access the Site pursuant to this Section shall comply with any applicable Health and Safety Plan(s). Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access.

G. Sampling, Data Submittal, and Availability

With respect to the implementation of this Order, **City of Olympia** shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology. Pursuant to WAC 173-340-840(5), all sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with Section (Work to be Performed), Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and/or any subsequent procedures specified by Ecology for data submittal.

If requested by Ecology, **City of Olympia** shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by **City of Olympia** pursuant to implementation of this Order. **City of Olympia** shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow **City of Olympia** and/or its authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII. (Access), Ecology shall notify **City of Olympia** prior to any sample collection activity unless an emergency prevents such notice.

In accordance with WAC 173-340-830(2)(a), all hazardous substance analyses shall be conducted by a laboratory accredited under Chapter 173-50 WAC for the specific analyses to be conducted, unless otherwise approved by Ecology.

H. Public Participation

A Public Participation Plan is required for this Site. Ecology shall review any existing Public Participation Plan to determine its continued appropriateness and whether it requires amendment, or if no plan exists, Ecology shall develop a Public Participation Plan alone or in conjunction with **City of Olympia**.

Ecology shall maintain the responsibility for public participation at the Site. However, **City of Olympia** shall cooperate with Ecology, and shall:

1. If agreed to by Ecology, develop appropriate mailing list, prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering design reports. As appropriate, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings.

2. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before major meetings with the interested public and local governments. Likewise, Ecology shall notify **City of Olympia** prior to the issuance of all press releases and fact sheets, and before major meetings with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by **City of Olympia** that do not receive prior Ecology approval, **City of Olympia** shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

3. When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions or as a presenter.

4. When requested by Ecology, arrange and/or continue information repositories to be located at the following locations:

- a. **Timberland Regional Library**
313 8th Avenue SE, Olympia
- b. Ecology's **Southwest** Regional Office
300 Desmond Drive, Lacey, WA

At a minimum, copies of all public notices, fact sheets, and documents relating to public comment periods shall be promptly placed in these repositories. A copy of all documents related to this site shall be maintained in the repository at Ecology's **Southwest** Regional Office in **Lacey**, Washington.

I. Retention of Records

During the pendency of this Order, and for ten (10) years from the date of completion of work performed pursuant to this Order, **City of Olympia** shall preserve all records, reports, documents, and underlying data in its possession relevant to the implementation of this Order and shall insert a similar record retention requirement into all contracts with project contractors and subcontractors. Upon request of Ecology, **City of Olympia** shall make all records available to Ecology and allow access for review within a reasonable time. Nothing in this Order is intended by the City of Olympia to waive any right they may have under applicable law to limit disclosure of documents protected by the attorney work-product privilege and/or the attorney-client privilege. If the City of Olympia withholds any requested records based on an assertion of privilege, the City of Olympia shall provide Ecology with a privilege log specifying the records withheld and the applicable privilege. No actual data collected on the Site pursuant to this Order shall be considered privileged.

J. Resolution of Disputes

1. In the event a dispute arises as to an approval, disapproval, proposed change, or other decision or action by Ecology's project coordinator, or an itemized billing statement under Section VIII. (Remedial Action Costs), the Parties shall utilize the dispute resolution procedure set forth below.

- a. Upon receipt of Ecology's project coordinator's written decision or the itemized billing statement, **City of Olympia** has fourteen (14) days within which to

notify Ecology's project coordinator in writing of its objection to the decision or itemized statement.

b. The Parties' project coordinators shall then confer in an effort to resolve the dispute. If the project coordinators cannot resolve the dispute within fourteen (14) days, Ecology's project coordinator shall issue a written decision.

c. **City of Olympia** may then request regional management review of the decision. This request shall be submitted in writing to the **Southwest** Region Toxics Cleanup Section Manager within seven (7) days of receipt of Ecology's project coordinator's written decision.

d. The Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within thirty (30) days of **City of Olympia's** request for review. The Section Manager's decision shall be Ecology's final decision on the disputed matter.

2. The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

3. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Order, unless Ecology agrees in writing to a schedule extension.

K. Extension of Schedule

1. An extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the deadline for which the extension is requested, and good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify:

- a. The deadline that is sought to be extended;
- b. The length of the extension sought;
- c. The reason(s) for the extension; and
- d. Any related deadline or schedule that would be affected if the extension were granted.

2. The burden shall be on **City of Olympia** to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. Good cause may include, but may not be limited to:

a. Circumstances beyond the reasonable control and despite the due diligence of **City of Olympia** including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by **City of Olympia**;

b. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty; or

c. Endangerment as described in Section VIII. (Endangerment).

However, neither increased costs of performance of the terms of this Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of **City of Olympia**.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give **City of Olympia** written notification of any extensions granted pursuant to this Order. A requested extension shall not be effective until approved by Ecology. Unless the extension is a substantial change, it shall not be necessary to amend this Order pursuant to Section VIII. (Amendment of Order) when a schedule extension is granted.

4. An extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety (90) days only as a result of:

a. Delays in the issuance of a necessary permit which was applied for in a timely manner;

b. Other circumstances deemed exceptional or extraordinary by Ecology; or

c. Endangerment as described in Section VIII. (Endangerment).

L. Amendment of Order

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement.

Except as provided in Section VIII. (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and **City of Olympia**. **City of Olympia** shall submit a written request for amendment to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request for amendment is received. If the amendment to this Order represents a substantial change, Ecology will provide public notice and opportunity to comment. Reasons for the disapproval of a proposed amendment to this Order shall be stated in writing. If Ecology does not agree to a proposed amendment, the disagreement may be addressed through the dispute resolution procedures described in Section VIII. (Resolution of Disputes).

M. Endangerment

In the event Ecology determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment on or surrounding the Site, Ecology may direct **City of Olympia** to cease such activities for such period of time as it deems necessary to abate the danger. **City of Olympia** shall immediately comply with such direction.

In the event **City of Olympia** determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment, **City of Olympia** may cease such activities. **City of Olympia** shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction **City of Olympia** shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with **City of Olympia**'s cessation of activities, it may direct **City of Olympia** to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to Section VIII.____ (Endangerment), **City of Olympia**'s obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended in accordance with Section VIII. (Extension of Schedule) for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Order shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

N. Reservation of Rights

This Order is not a settlement under Chapter 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any of Ecology's rights or authority. Ecology will not, however, bring an action against **City of Olympia** to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against **City of Olympia** regarding remedial actions required by this Order, provided **City of Olympia** complies with this Order.

Ecology nevertheless reserves its rights under Chapter 70.105D RCW, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health and the environment, and to issue orders requiring such remedial actions. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances at the Site.

O. Transfer of Interest in Property

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by **City of Olympia** without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to **City of Olympia**'s transfer of any interest in all or any portion of the Site, and during the effective period of this Order, **City of Olympia** shall provide a copy of this Order to

any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, **City of Olympia** shall notify Ecology of said transfer. Upon transfer of any interest, **City of Olympia** shall restrict uses and activities to those consistent with this Order and notify all transferees of the restrictions on the use of the property.

P. Compliance with Applicable Laws

1. All actions carried out by **City of Olympia** pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in RCW 70.105D.090. The permits or specific federal, state or local requirements that the agency has determined are applicable and that are known at the time of entry of this Order have been identified as Chapter 173-160 WAC, Minimum Standards for Construction and Maintenance of Wells.

2. Pursuant to RCW 70.105D.090(1), **City of Olympia** is exempt from the procedural requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals. However, **City of Olympia** shall comply with the substantive requirements of such permits or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this Section.

City of Olympia has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or **City of Olympia** determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify the other party of its determination. Ecology shall determine whether Ecology or **City of Olympia** shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, **City of Olympia** shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by **City of Olympia**

and on how **City of Olympia** must meet those requirements. Ecology shall inform **City of Olympia** in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. **City of Olympia** shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

3. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency that is necessary for the State to administer any federal law, the exemption shall not apply and **City of Olympia** shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

Q. Land Use Restrictions

City of Olympia shall record a Restrictive Covenant with the office of the **Thurston** County Auditor within ten (10) days of the completion of the remedial action. The Restrictive Covenant shall restrict future uses of the Site. **City of Olympia** shall provide Ecology with a copy of the recorded Restrictive Covenant within thirty (30) days of the recording date.

R. Periodic Review

As remedial action, including groundwater monitoring, continues at the Site, the Parties agree to review the progress of remedial action at the Site, and to review the data accumulated as a result of monitoring the Site as often as is necessary and appropriate under the circumstances. At least every five (5) years after the initiation of cleanup action at the Site the Parties shall meet to discuss the status of the Site and the need, if any, for further remedial action at the Site. Ecology reserves the right to require further remedial action at the Site under appropriate circumstances. This provision shall remain in effect for the duration of this Order.

S. Indemnification

City of Olympia agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action (1) for death or injuries to persons or (2) for loss or damage to property to the extent arising from or on account

of acts or omissions of **City of Olympia**, its officers, employees, agents, or contractors in entering into and implementing this Order. However, **City of Olympia** shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action to the extent arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in entering into or implementing this Order.

VII. SATISFACTION OF ORDER

The provisions of this Order shall be deemed satisfied upon **City of Olympia**'s receipt of written notification from Ecology that **City of Olympia** has completed the remedial activity required by this Order, as amended by any modifications, and that **City of Olympia** has complied with all other provisions of this Agreed Order.

VIII. ENFORCEMENT

Pursuant to RCW 70.105D.050, this Order may be enforced as follows:

- A. The Attorney General may bring an action to enforce this Order in a state or federal court.
 - B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.
 - C. In the event **City of Olympia** refuses, without sufficient cause, to comply with any term of this Order, **City of Olympia** will be liable for:
 - a. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply; and
 - b. Civil penalties of up to twenty-five thousand dollars (\$25,000) per day for each day it refuses to comply.
 - D. This Order is not appealable to the Washington Pollution Control Hearings Board.
- This Order may be reviewed only as provided under RCW 70.105D.060.

Agreed Order No. DE _____
Page 19 of 19

Effective date of this Order: _____

City of Olympia

**STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY**

Steve Hall
City Manager
601 4th Avenue East, Olympia, WA
360-753-8447

Rebecca S. Lawson, P.E.
Section Manager
Toxics Cleanup Program
Southwest Regional Office
Telephone: 360-407-6241

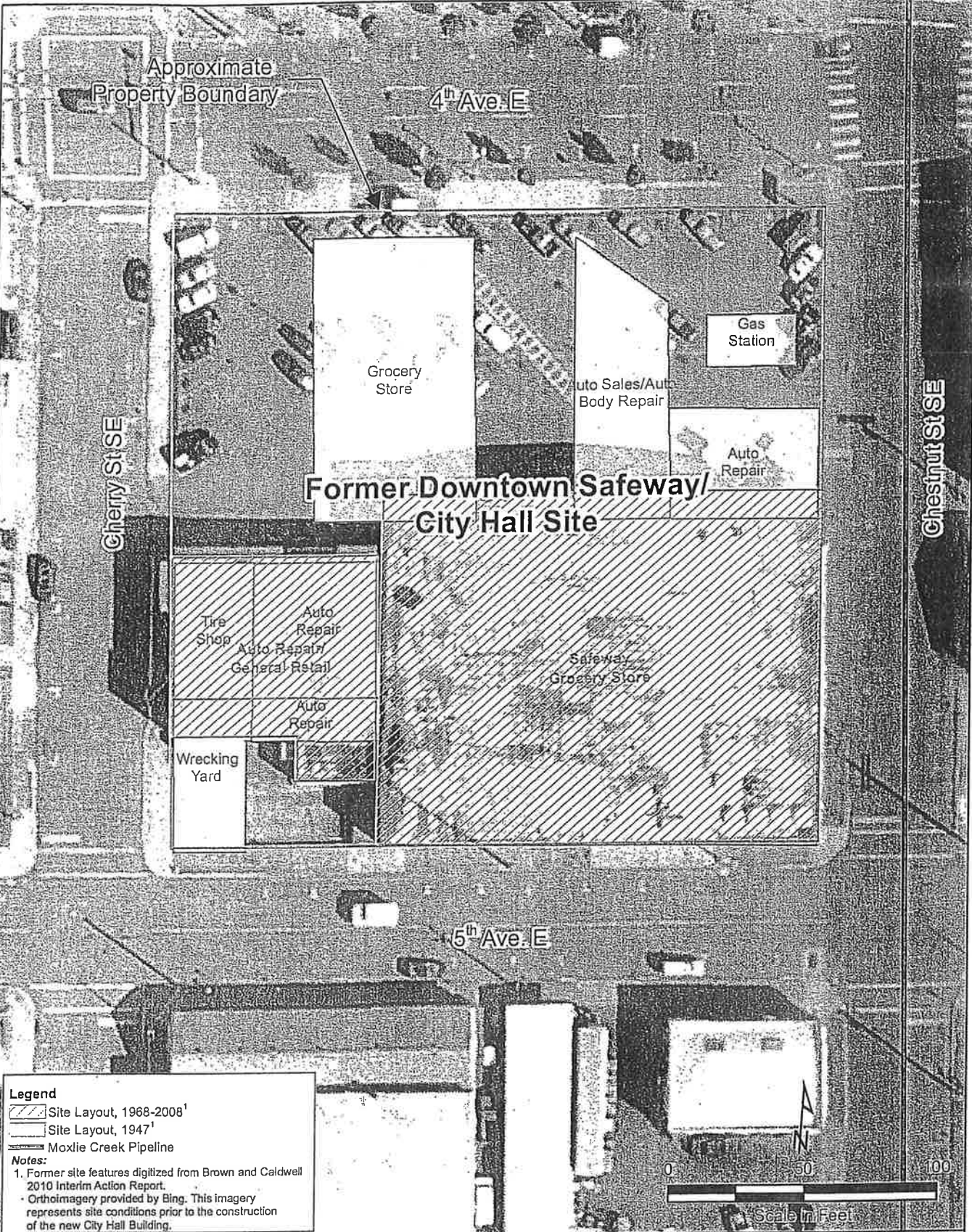
Approved as to form:



City Attorney

EXHIBIT A
CLEANUP ACTION PLAN

EXHIBIT B
SITE DIAGRAM



FLOYD | SNIDER
strategy • science • engineering

R/FS
**Former Downtown Safeway/
City Hall Site
Olympia, WA**

DRAFT
Figure 2.3
Historical Property Layouts
and Site Features

EXHIBIT C

THURSTON COUNTY ASSESSOR RECORD

Thurston County Assessor

Parcel Number: 78200500100

Date: 6/8/2012

<p>Situs Address: 609 4TH AVE E</p> <p>Owner: OLYMPIA, CITY OF Address: 900 PLUM ST SE OLYMPIA, WA 98501</p> <p>Taxpayer: CITY OF OLYMPIA Address: PO BOX 1967 OLYMPIA, WA 98501-1583</p> <p>Legal Description: Section 14 Township 18 Range 2W Quarter NW SE Plat SWANS ADDITION TO OLYMPIA BLK 5 LT 1, 2, 3, 4 Document 001/037; AND 1/2 VAC E/W ALLEY S OF LTS 3 & 4 AND S OF E 43 .84 FT OF LT 2;</p>	<p>Sect/Town/Range: 14 18 2W</p> <p>Size: 0.64 Acres</p> <p>TCA Number: 110 Neighborhood: 64T1 Property Type: EXEMPT Taxable: YES Active Exemptions: Government Property - Property is exempt from property tax and the assessed value may not represent market value.</p> <p>School District: OLYMPIA S.D. #111</p> <p>Water Source: PUBLIC Sewer Type: SEWER</p>
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Market Values

Tax Year Assessment Year	2013 2012	2012 2011	2011 2010	2010 2009	2009 2008
Market Value Buildings				\$56,800	\$54,400
Market Value Land	\$762,050	\$785,600	\$785,600	\$810,100	\$694,350
Market Value Total	\$762,050	\$785,600	\$785,600	\$866,900	\$748,750

Land Characteristics

Land Flag	6000	Land Influence(s)	GE-GD EXPOSURE
Lot Square Footage	27693		
Lot Acreage	0.64		
Effective Square Footage			
Water Source	Public		
Sewer Source	Public		

The Assessor's Office maintains property records on approximately 112,000 parcels in Thurston County for tax purposes. Though records are updated regularly, the accuracy and timeliness of published data cannot be guaranteed. Any person or entity that relies on information obtained from this website does so at his or her own risk. Neither Thurston County nor the Assessor will be held liable for damage or losses caused by use of this information. **All critical information should be independently verified.**

Office of the Assessor

Steven J. Drew, Assessor
2000 Lakeridge Drive SW - Olympia, WA 98502
Customer Service (360)867-2200 -- Fax (360)867-2201 -- TDD (360)754-2933

Thurston County Assessor

Parcel Number: 78200500500

Date: 6/8/2012

<p>Situs Address: 609 4TH AVE E</p> <p>Owner: OLYMPIA, CITY OF Address: 900 PLUM ST SE OLYMPIA, WA 98501</p> <p>Taxpayer: CITY OF OLYMPIA Address: PO BOX 1967 OLYMPIA, WA 98501-1583</p> <p>Legal Description: SWANS ADDITION TO OLYMPIA L 5 TO 8 / 1&2 VAC ALLEY LESS N 64.49F OF W 16.16F OF L / N 6</p>	<p>Sect/Town/Range: 14 18 2W</p> <p>Size: 0.50 Acres</p> <p>TCA Number: 110 Neighborhood: 64T1 Property Type: EXEMPT Taxable: YES Active Exemptions: Government Property - Property is exempt from property tax and the assessed value may not represent market value.</p> <p>School District: OLYMPIA S.D. #111</p> <p>Water Source: PUBLIC Sewer Type: SEWER</p>
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Market Values

Tax Year Assessment Year	2013 2012	2012 2011	2011 2010	2010 2009	2009 2008
Market Value Buildings					\$322,700
Market Value Land	\$651,000	\$671,150	\$671,150	\$569,550	\$605,950
Market Value Total	\$651,000	\$671,150	\$671,150	\$569,550	\$928,650

Land Characteristics

Land Flag	6000	Land Influence(s)	GE-GD EXPOSURE
Lot Square Footage	21927		
Lot Acreage	0.5		
Effective Square Footage			
Water Source	Public		
Sewer Source	Public		

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Steven J. Drew, Assessor

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Thurston County Assessor

Parcel Number: 78200500700

Date: 6/8/2012

Situs Address:	601 4TH AVE E	Sect/Town/Range:	14 18 2W
Owner:	OLYMPIA, CITY OF	Size:	0.13 Acres
Address:	900 PLUM ST SE OLYMPIA, WA 98501	TCA Number:	110
Taxpayer:	CITY OF OLYMPIA	Neighborhood:	64T1
Address:	PO BOX 1967 OLYMPIA, WA 98501-1583	Property Type:	EXEMPT
Legal Description:	Section 14 Township 18 Range 2W Quarter NW SE Plat SWANS ADDITION TO OLYMPIA BLK 5 LT 7, N 64.49 FT OF W 16.16 FT & LT 8, N 64.49 FT Document 001/037; AND 1/2 VAC E/W ALLEY PER	Active Exemptions:	Government Property - Property is exempt from property tax and the assessed value may not represent market value.
		School District:	OLYMPIA S.D. #111
		Water Source:	PUBLIC
		Sewer Type:	SEWER

Market Values

Tax Year Assessment Year	2013 2012	2012 2011	2011 2010	2010 2009	2009 2008
Market Value Buildings					\$290,900
Market Value Land	\$261,850	\$269,950	\$269,950	\$251,250	\$267,300
Market Value Total	\$261,850	\$269,950	\$269,950	\$251,250	\$558,200

Land Characteristics

Land Flag	6000	Land Influence(s)	GE-GD EXPOSURE
Lot Square Footage	5759		
Lot Acreage	0.13		
Effective Square Footage			
Water Source	Public		
Sewer Source	Public		

Sales

Sale Date:	12/01/1998
Price:	\$325,000
Excise:	264846
Sale Type:	STATUTRY WARNTY DEED
Recording Number:	3195214
Seller:	BRAZEL, STEVEN R & HOLLY
Buyer:	DJ ENTERPRISES 1, INC
Multiple Parcel Sale:	N

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