

After Recording Return to:
Scott Rose
Department of Ecology
P.O. Box 47775
Lacey, WA 98504

Environmental Covenant

Grantor: City of Olympia

Grantee: State of Washington, Department of Ecology

Legal: All of Block 71 of Sylvester's Plat of the Town of Olympia, recorded February 28, 1870, in Volume 1 of Plats at Page 14, records of Thurston County, Washington. Together with the north half of Olympia Avenue contiguous with said Block 71

Tax Parcel Nos.: 78507100100, 78507100200

Cross Reference:

Grantor, City of Olympia, hereby binds Grantor, its successors and assigns to the land use restrictions identified herein and grants such other rights under this environmental covenant (hereafter "Covenant") made this _____ day of _____, 2014, in favor of the State of Washington, Department of Ecology. The Department of Ecology shall have full right of enforcement of the rights conveyed under this Covenant pursuant to the Model Toxics Control Act ("MTCA"), RCW 70.105D.030(1)(g), and the Uniform Environmental Covenants Act, RCW 64.70.110.

This Declaration of Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g), and WAC 173-340-440 by City of Olympia, its successors and assigns, and the State of Washington, Department of Ecology, its successors and assigns (hereafter "Ecology").

A remedial action (hereafter "Remedial Action") occurred at the property that is

the subject of this Covenant. The Remedial Action conducted at the property is described in the following documents:

Remedial Investigation and Feasibility Study Report, Former Unocal Bulk Plant 0828 and Hulco Property, dated August 2012 by Anchor QEA, LLC
Upland Investigation Data Report, Percival Landing, dated August 2011 by Anchor QEA, LLC.

These documents are on file at Ecology's Southwest Regional Office.

This Covenant is required because the Remedial Action resulted in:

- Residual concentrations of total petroleum hydrocarbons, specifically diesel, which exceed the MTCA site-specific cleanup levels for soils, as established under WAC 173-340-7493.
- Groundwater has been designated as non-potable due to proximity to marine waters of Budd Inlet.
- Benzene soil gas value exceeds the soil vapor value in Ecology's draft guidance on vapor intrusion.

The undersigned, City of Olympia, is the fee owner of real property in the County of Thurston, State of Washington, that is subject to this Covenant. The adjacent right-of-way to the east of the City of Olympia's fee property was created by plat dedication to the City of Olympia. The property covered by this Covenant, (hereafter "Property") includes the City's fee property and the adjacent right-of-way to the south of the fee property, all of which is legally described above and shown in Exhibit A.

The City of Olympia makes the following declarations as to limitations, restrictions, and uses to which the Property may be put and specifies that such

declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

Section 1.

A. No groundwater may be taken for any use, except for monitoring if required under the Cleanup Action, from the Property.

B. Soil in a portion of the Property contains total petroleum hydrocarbons at concentrations that exceed MTCA site-specific cleanup levels. The location of this contaminated soil is at a depth of more than 6 feet in the area illustrated in the diagram on Exhibit B. The Owner shall not alter, modify, or remove the existing concrete and wooden walkway above this soil in any manner that may result in the release or exposure to the environment of that contaminated soil or create a new exposure pathway without prior written approval from Ecology.

C. Building of any structure on the Property shall provide vapor intrusion protection.

D. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology. Some examples of activities that are prohibited in the capped areas include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork.

Section 2. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

Section 3. The Owner of the property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.

Section 4. The Owner must restrict leases to uses and activities consistent with the Covenant and notify all lessees of the restrictions on the use of the Property.

Section 5. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 6. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action, to take samples, to inspect remedial actions conducted at the property, to determine compliance with this Covenant, and to inspect records that are related to the Remedial Action.

Section 7. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

CITY OF OLYMPIA

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Steven R. Hall
City Manager
601 4th Avenue East
Olympia, WA

Dated: _____

Rebecca S. Lawson, P.E, LHG
Regional Section Manager
Toxics Cleanup Program
Southwest Regional Office
Dated: _____

STATE OF _____
COUNTY OF _____

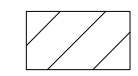
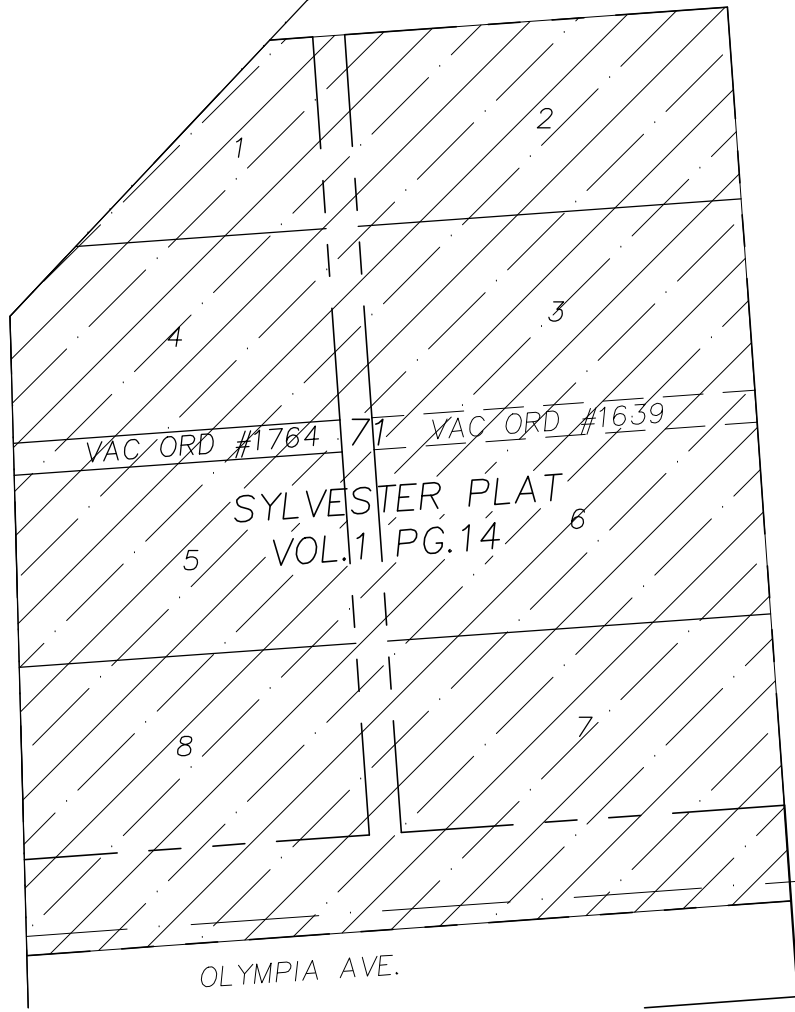
On this _____ day of _____, 2014, I certify that Steven R. Hall personally appeared before me, acknowledged that he signed this instrument, on oath stated that he was authorized to execute this instrument, and acknowledged it as the City Manager of the City of Olympia to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.

Notary Public in and for the State of
Washington, residing at _____.
My commission expires _____.

THURSTON AVE.

COLUMBIA ST

OLYMPIA AVE.



ENVIRONMENTAL
COVENANT AREA

CITY OF OLYMPIA
DNR AQUATIC LEASE
22-A02391

PROJECT NO.		CITY OF OLYMPIA EXHIBIT "A" ENVIRONMENTAL COVENANT AREA BLOCK 71, SYLVESTER'S PLAT, VOL 1, PG. 14	DRAWING NAME
DRAWN	BAM		PERS LAND COV
QC REVIEW	LFC		SHEET 1 OF 1
SCALE	N.T.S.		
DATE			
MAY 2013			

