

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, AUTHORIZING THE CITY MANAGER TO EXECUTE DOCUMENTS NECESSARY TO SUBORDINATE INTEREST IN RIGHT-OF-WAY TO THE STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY FOR AN ENVIRONMENTAL COVENANT**

**WHEREAS**, the property located at 606 East Union Avenue in Olympia, commonly known as the Olympia Dry Cleaners Site (the Property), is the subject of a Consent Decree entered by the Thurston County Superior Court in the matter of *State of Washington, Department of Ecology v. The Estate of Katherine Burleson and GJG, LLC*, TSCS No. 14-2-02104-3 ; and

**WHEREAS**, the Consent Decree provided for environmental remediation of the Property due to the release of contaminants by past dry cleaning facilities operating on the Property between 1970 and 2004, which can be harmful to human health and the environment; and

**WHEREAS**, a final Cleanup Action Plan for the Property was issued by DOE on October 29, 2014, which, amongst other things, requires that an environmental covenant be recorded for the site properties which prohibits activities that may result in the release of any contamination remaining on a site after cleanup; and

**WHEREAS**, testing shows that contamination from the Property is into the City's right-of-way on Cherry Street, as legally described and shown on Exhibit A attached hereto; and

**WHEREAS**, DOE has asked the City if it wishes to subordinate its interest in right-of-way to DOE under the Environmental (Restrictive) Covenants executed by the Estate of Kathrine Burleson, the current owner of the Property, and 1000 Cherry Street, LLC, the current owner of the adjacent property, for the principal effect of having to give DOE notice before doing any excavating at the contaminated site; and

**WHEREAS**, Public Works staff has determined there are no utilities in the affected area except for a City sewer line that runs down a section of Cherry Street; and

**WHEREAS**, the documents attached hereto as Exhibit B relate to interests in real estate, said documents have gone through legal review, and have been approved in substantially final form;

**WHEREAS**, the Olympia City Council determines it to be in the best interests of the City of Olympia and its residents to subordinate its interest in the right-of-way as legally described and as shown on the attached Exhibit A in order to protect human health and the environment and the integrity of remedial actions conducted on the Property;

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

1. The Olympia City Council hereby approves the form of Subordination Agreements attached hereto as Exhibit B in substantially final form.

2. The City Manager is authorized and directed to execute on behalf of the City of Olympia the attached form of Subordination Agreements in substantially the final form as presented in this Resolution, subject to the City Manager's authority and discretion to make any amendments or minor modifications as may be required and are consistent with the intent of the attached Subordination Agreements, or to correct any scrivener's errors.

**PASSED BY THE OLYMPIA CITY COUNCIL** this \_\_\_\_\_ day of \_\_\_\_\_ 2023.

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MAYOR

ATTEST:

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CITY CLERK

APPROVED AS TO FORM:

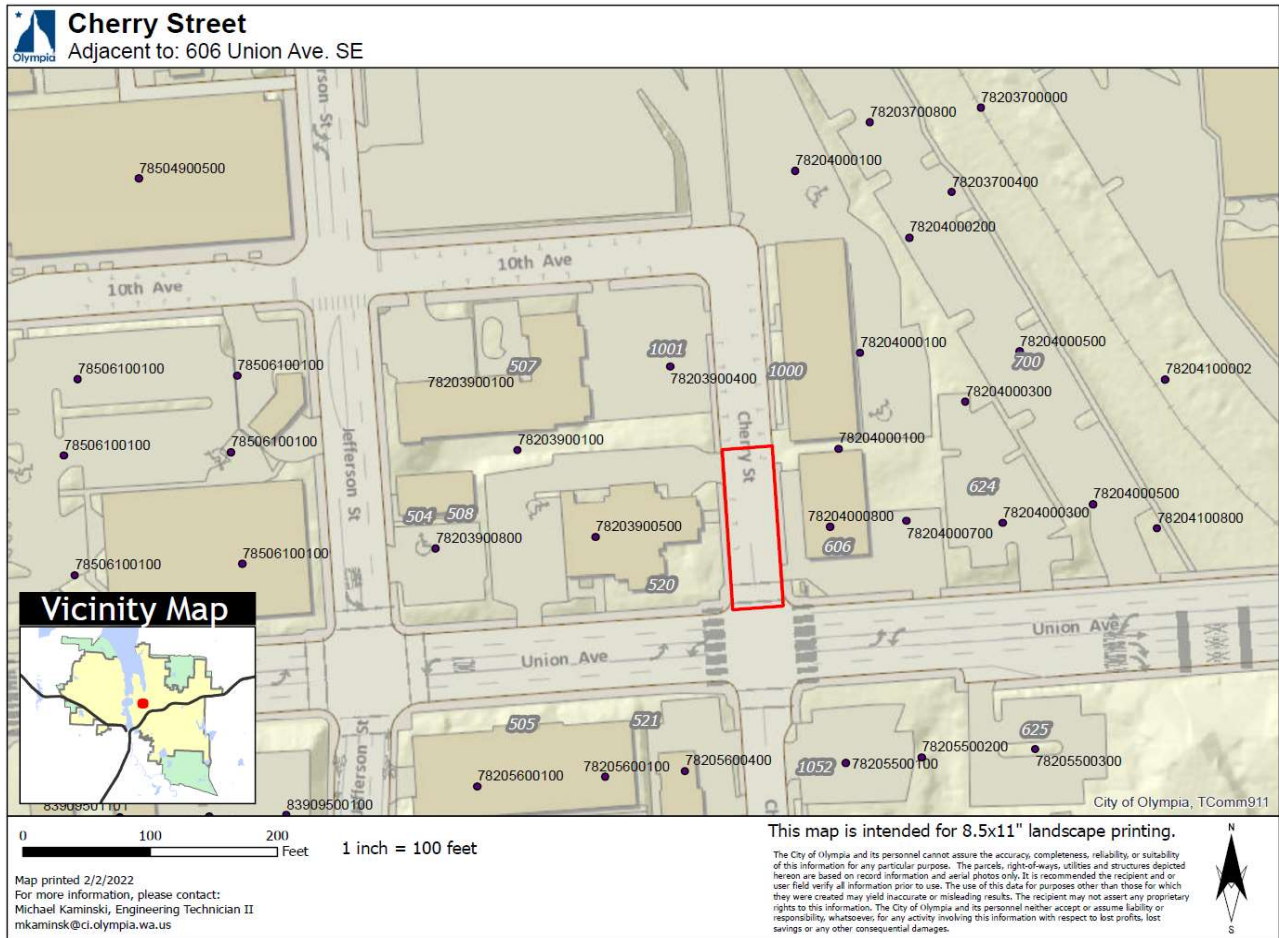
**Mark Barber**  
\_\_\_\_\_  
CITY ATTORNEY

# EXHIBIT A

## Cherry Street Right-of-Way Legal Description

That portion of the Northwest Quarter of the Northeast Quarter of Section 23, Township 18 North, Range 2 West, W.M., being in the JM Swan Donation Land Claim No. 41 and the E Sylvester Donation Land Claim No. 47, more particularly described as follows:

That portion of Cherry Street SE lying northerly of Union Avenue and adjacent to Lot 8 of Block 40 of the Plat of Swan's Addition to the Town of Olympia, as recorded January 27, 1892 in Book 1 of Plats, Page 37, records of Thurston County, Washington.



**EXHIBIT B**

After recording return to:

Legal Department  
City of Olympia  
P.O. Box 1967  
Olympia, WA 98507-1967

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**Document Title:** Subordination Agreement  
**Grantor:** City of Olympia, a Washington municipal corporation  
**Grantee:** State of Washington, Department of Ecology  
**Abbreviated Legal Description:** Section 14 Township 18 Range 2W Quarter SW SE Plat  
SWANS ADDITION TO OLYMPIA BLK 40 LT 1 & 2  
Document 1/37 TOGW S 1/2 VAC ST ON N; TOGW LT 7 &  
8 BLK 37 AND 1/2 VAC ST ON S AND W, LESS  
**Assessor’s Tax Parcel Numbers:** 78204000100

**SUBORDINATION AGREEMENT**

KNOW ALL PERSONS, that the **City of Olympia**, a Washington municipal corporation, the owner and holder of that certain right-of-way legally described as follows:

PARCEL B:

LOTS 1 AND 2, BLOCK 40, SWAN'S ADDITION TO OLYMPIA, AS RECORDED IN VOLUME 1 OF PLATS, PAGE 37, TOGETHER WITH THE SOUTH HALF OF VACATED STREET ADJOINING SAID LOTS ON THE NORTH; EXCEPT THE NORTHERN PACIFIC RAILROAD RIGHT-OF-WAY.

IN THURSTON COUNTY, WASHINGTON.

does hereby agree that said interest in right-of-way shall be subordinate to the interest of the State of Washington, Department of Ecology, under the Environmental (Restrictive) Covenant dated \_\_\_\_\_, 20\_\_\_, executed by Helen Ann Washburn, Managing Member, 1000 Cherry Street, LLC, and recorded in Thurston County, Washington, under Auditor’s File No. \_\_\_\_\_.  
\_\_\_\_\_.

CITY OF OLYMPIA,  
Grantor

\_\_\_\_\_  
Steven J. Burney, City Manager

\_\_\_\_\_  
Date



After recording return to:

Legal Department  
City of Olympia  
P.O. Box 1967  
Olympia, WA 98507-1967

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**Document Title:** Subordination Agreement  
**Grantor:** City of Olympia, a Washington municipal corporation  
**Grantee:** State of Washington, Department of Ecology  
**Abbreviated Legal Description:** SWAN'S ADDITION TO OLYMPIA LOT 8 BLK 40 1/37,  
SWAN'S ADDITION TO OLYMPIA LOT 7 BLK 40 1/37  
**Assessor's Tax Parcel Number:** 78204000800, 78204000700

### SUBORDINATION AGREEMENT

KNOW ALL PERSONS, that the **City of Olympia**, a Washington municipal corporation, the owner and holder of that certain right-of-way legal described as follows:

That portion of the Northwest Quarter of the Northeast Quarter of Section 23, Township 18 North, Range 2 West, W.M., being in the JM Swan Donation Land Claim No. 41 and the E Sylvester Donation Land Claim No. 47, more particularly described as follows:

That portion of Cherry Street SE lying northerly of Union Avenue and adjacent to Lot 8 of Block 40 of the Plat of Swan's Addition to the Town of Olympia, as recorded January 27, 1892 in Book 1 of Plats, Page 37, records of Thurston County, Washington.

does hereby agree that said interest in right-of-way shall be subordinate to the interest of the State of Washington, Department of Ecology, under the Environmental (Restrictive) Covenant dated \_\_\_\_\_, 20\_\_\_\_, executed by Steve Marshall, Co-Executor, Estate of Katherine Burleson, and recorded in Thurston County, Washington, under Auditor's File No. \_\_\_\_\_.

CITY OF OLYMPIA,  
Grantor

\_\_\_\_\_  
Steven J. Burney, City Manager

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

\_\_\_\_\_  
Mark Barber, City Attorney

STATE OF WASHINGTON )  
                                  ) ss.  
COUNTY OF THURSTON )

On the \_\_\_\_ day of \_\_\_\_\_ 2023, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Steven J. Burney, to me known to be the City Manager of the City of Olympia, a municipal corporation, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned and on oath states that he is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year first above written.

\_\_\_\_\_  
Signature  
Print Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of

\_\_\_\_\_  
Residing at \_\_\_\_\_  
My appointment expires: \_\_\_\_\_