

## REAL ESTATE PURCHASE AND SALE AGREEMENT

This Real Estate Purchase and Sale Agreement ("Agreement") is made and entered into as of the last date of an authorized signature set forth below by and between the PORT OF OLYMPIA, a Washington port district ("Seller"), and the CITY OF OLYMPIA, a Washington municipal corporation ("Buyer"). Seller and Buyer are collectively referred to as the "Parties".

WHEREAS, Seller is the owner of certain real property located in Olympia, Thurston County, Washington; and

WHEREAS, Buyer wishes to purchase from Seller, and Seller wishes to sell to Buyer, upon the terms and conditions set forth herein, the property;

NOW, THEREFORE, in consideration of the terms and conditions of this Agreement, and the mutual promises and covenants herein, the Parties hereby agree as follows:

1. **PROPERTY.** The property consists of lots located in the East Bay Redevelopment Short Plat, City of Olympia Master File #07-0154 and is comprised of two parcels of land: Parcel 6 consisting of approximately 0.92 acres and Parcel 7 consisting of approximately 0.65 acres, as generally depicted in Exhibit A hereto (together, the "Property"). Seller shall sell and convey the Property to Buyer, and Buyer shall purchase and acquire the Property from Seller, upon and subject to the terms and conditions set forth in this Agreement.
2. **PURCHASE PRICE.** The Purchase Price to be paid by Buyer to Seller for the Property shall be Two Million One Hundred Thousand and No/100 Dollars (\$2,100,000.00).
3. **PAYMENT OF PURCHASE PRICE.** At Closing, the entire amount of the Purchase Price shall be paid by Buyer to Escrow Agent in a form of payment recognized by Escrow Agent as immediately available funds, subject, however, to the closing adjustments, prorations, and other provisions set forth in this Agreement.
4. **CONDITIONS TO PURCHASE AND SALE.**

### 4.1 Title Matters.

- 4.1.1 **Title Binder.** Within ten (10) business days from the execution of this Agreement by Buyer and Seller, Seller shall obtain and provide to Buyer a title insurance policy commitment issued by Thurston County Title Insurance Company (the "Title Company"), or such other Title Company that the Parties may agree to in writing, describing the Property, showing all matters pertaining to the Property, listing Buyer as the prospective named insured, and showing as the policy amount the total Purchase Price without any deduction for credits. At the same time, the Title Company shall deliver to Buyer true, correct, and legible copies of all instruments referred to in such title commitment as affecting title to the Property. Such title insurance policy commitment and instruments affecting title are herein collectively referred to as the "Title Binder".

**4.1.2 Title Objections.** Buyer shall have twenty (20) business days after Buyer's receipt of the Title Binder as to exceptions contained in such Title Binder, and twenty (20) business days after Buyer's receipt of any supplemental report as to exceptions contained in such supplemental report, to disapprove any such exceptions other than Permitted Exceptions (defined below), in Buyer's sole and absolute discretion. If Buyer fails to give Seller notice of its disapproval of any exception (including any exception noted in the Title Binder as an exception to be deleted at or prior to Closing upon the occurrence of certain specified events) within such period, then Buyer shall be deemed to have approved such exception (except for monetary liens attributable to Seller, which Seller shall pay or cause to be satisfied at or prior to Closing).

**4.1.3 Action on Objections.** If Buyer disapproves any exception (other than a Permitted Exception) appearing in the Title Binder or any supplemental report, then Seller shall have twenty (20) days after receipt of Buyer's notice to notify Buyer, in writing, of its agreement to cure or remove any of the disapproved exceptions. Seller's failure to notify Buyer that it will cure or remove a particular exception shall be deemed to constitute notice by Seller that it will not cure or remove that exception. Seller shall remove or cure by Closing those exceptions that Seller has agreed to remove or cure. If Seller notifies or is deemed to have notified Buyer that it will not cure or remove any exception disapproved by Buyer, Buyer shall have twenty (20) days from the date of such notification to notify Seller, in writing, whether Buyer in its sole discretion will waive such objections and close the transaction, or terminate this Agreement. Buyer's failure to give such notice shall constitute Buyer's election to waive its objections and close the transaction. In that event, the disapproved exceptions shall become Permitted Exceptions. If Buyer elects to terminate this Agreement, then Seller shall pay any cancellation fee or other cost of the Title Company and Escrow Agent, and this Agreement and all rights and obligations of the parties under this Agreement shall terminate, except for such obligations as expressly survive any termination of this Agreement. Notwithstanding anything to the contrary contained herein, a lien, encumbrance, or other exception to title representing a security interest relating to an obligation to pay money and attributable to Seller shall be deemed disapproved and shall be removed by Seller at or before Closing.

**4.1.4 Title Policy.** At Closing, Seller at its cost will cause the Title Company to issue to Buyer an ALTA standard coverage owner's policy of title insurance, in the amount of the Purchase Price, without any deduction for credits, insuring Buyer against loss or damage arising from defects in title to the Property other than Permitted Exceptions (the "Title Policy"). The policy shall contain such endorsements as may be reasonably requested by Buyer. If Buyer elects to obtain an ALTA extended coverage owner's policy, then Buyer shall pay the difference

in the premium between the standard coverage policy and the extended coverage policy, together with the cost of a survey or an update of any existing survey, if such is required in order to obtain the extended owner's coverage. Buyer will also pay for the cost of any endorsements requested by Buyer. If at Closing the Title Company will not insure the title as provided above, Buyer may either proceed to close despite the lack of required insurance or terminate this Agreement. Seller shall pay any cancellation fee or other cost of the Title Company, and this Agreement and all rights and obligations of the parties there under shall terminate, except for such obligations as expressly survive any termination of this Agreement.

**4.1.5 Permitted Exceptions.** As used herein, the term "Permitted Exceptions" means: (i) all existing building and use restrictions, easements, rights of way, reservations, conditions, covenants, and restrictions presently of record or general to the area; (ii) all building and zoning ordinances, laws, regulations, and restrictions of any municipal or other governmental authority applicable to the Property; (iii) all easements, encroachments, and other encumbrances that do not materially affect the value of the Property or unduly interfere with Buyer's reasonable use of the Property; (iv) all taxes and special assessments which are a lien but which are not yet due and payable or for which statements have not yet been tendered; (v) all matters created by Buyer; (vi) all other matters contained in the preprinted exceptions for a standard owner's policy of title insurance contained in the Title Binder; and (vii) all exceptions which have been approved by Buyer or which Buyer is deemed to have approved as provided in this Agreement.

**4.2 Buyer's Feasibility Contingency.** Buyer's obligation to purchase the Property is subject to and contingent on the satisfaction or waiver, within the applicable contingency period, of the following condition:

**4.2.1 Documents from Seller.** Seller agrees to promptly provide Buyer with access to documents regarding the Property reasonably requested by Buyer and in the possession or control of Seller, including environmental reports, inspection reports, surveys, engineering reports and analyses, and other documents in the possession or control of Seller relating to the Property, except to the extent such documents are protected from disclosure under any applicable law. Seller will make copies of such documents as Buyer may request and Buyer shall pay for the cost of such copies. Buyer shall use the documents and information obtained from Seller only for purposes of analyzing whether it will complete the purchase of the Property and shall not disclose the contents thereof to any person other than its employees, attorneys, accountants, consultants, agents and representatives who are assisting Buyer in evaluating the Property, unless required by law. Seller makes no representations or warranties to Buyer regarding the accuracy or

completeness of the information in such documents, and all documents and information provided to Buyer pursuant to this Agreement are provided without any warranty whatsoever. Upon termination of this Agreement, Buyer shall return all hard copies of Seller's documents to Seller upon Seller's request, except such copies as Buyer is required to retain pursuant to any applicable law.

**4.2.2 Review of Property and Related Matters by Buyer.** Buyer shall have until August 15 2025, in which to investigate and review the Property and all matters relating thereto and to determine, in Buyer's sole and absolute discretion, whether to proceed with this transaction (the "Feasibility Contingency Period"). Subject to the notification requirements and the Washington State Department of Ecology's consent set forth in Section 5 (Buyer's License to Enter Property), Buyer's investigation and review may include the review of all existing surveys, reports, studies, and other written materials regarding the Property; the conducting of surveys, toxic and hazardous waste studies, engineering, electrical, mechanical, historical use, structural, geologic, hydrologic, and other studies, and physical inspections, soils sampling and/or tests (including borings) with respect to the Property; the investigation and review of endangered species, habitat, wetlands, zoning, and other laws, ordinances, codes, covenants, and/or restrictions affecting the Property; and the review of the requirements and conditions of governmental bodies with jurisdiction over the Property, the restrictions, if any, to demolishing any existing improvements on the Property, the certificates, licenses, and permits existing with respect to the Property and the likelihood and anticipated cost of obtaining additional certificates, licenses, and permits that Buyer desires to obtain with respect thereto, the availability and access to public roads, the availability of utilities and sewer capacity, the potential opportunity to acquire additional property adjacent to or contiguous with the Property, the leases and other agreements affecting the Property, the past performance of the Property and the potential future performance of the Property, the potential to finance the Property and/or the development thereof in a manner satisfactory to Buyer, in all respects, and the feasibility of Buyer's planned use of the Property. All reviews, investigations, inspections, and studies made by Buyer shall be at Buyer's sole cost and expense. All investigations of the physical condition of the Property shall be pursuant to the license provision, Section 5, or other agreement between Seller and Buyer. If Buyer terminates this Agreement as provided elsewhere herein, then the results of all tests, surveys, reviews, investigations, inspections, and studies of the Property made by or for Buyer, and all reports and other documents relating thereto, except internal reports and strategic analyses prepared by or for Buyer, shall be made available to Seller upon Seller's written request.

**4.2.3 Extension of Feasibility Period.** If Buyer has made a good faith and diligent effort to complete its feasibility investigation within the initial

Feasibility Contingency Period but is unable to do so, then Buyer may request an extension of the Feasibility Contingency Period by up to an additional three (3) months if necessary to complete its feasibility investigation, and Seller shall not unreasonably withhold its consent to such an extension.

**4.2.4 Buyer's Right to Terminate.** If Buyer does not approve the results of its investigation and review of the Property and all matters relating thereto, and/or Buyer decides not to proceed with this transaction, then Buyer may terminate this Agreement by giving a written notice to Seller and Escrow Agent stating Buyer's disapproval and/or intent to terminate this Agreement ("Feasibility Termination Notice"). Buyer's failure to give written notice of its dissatisfaction with the results of its investigation and review prior to the expiration of the Feasibility Contingency Period (including any extensions thereof) shall be deemed to constitute a waiver of the Feasibility Contingency. If Buyer gives its Feasibility Termination Notice to Seller prior to the expiration of the Feasibility Contingency Period (including any extensions thereof), then neither Buyer nor Seller shall have any further liability to the other under this Agreement, except for such obligations as expressly survive any termination of this Agreement.

**4.3 Buyer's Closing Conditions.** Buyer's obligation to purchase the Property is subject to and contingent upon the satisfaction or waiver, as of Closing, of the following conditions:

**4.3.1** At the time of Closing, Seller shall have terminated all tenancies and all other agreements and contracts affecting the Property other than such agreements as Buyer has by written agreement agreed to assume at Closing, and all tenants, including Seller, shall have vacated the Property.

**4.3.2** Seller shall have performed all other obligations to be performed by Seller hereunder and under escrow on or before the Closing Date (or, if earlier, on or before the date set forth in this Agreement for such performance).

**4.3.3** At the time of Closing, Seller shall deliver title to the Property by means of a statutory warranty as set forth in Section 4.6 (Deed and Environmental Covenant), conveying fee simple title to the Property, and the Title Company shall deliver the Standard Owner's A.L.T.A. Title Policy specified in Section 4.1 of this Agreement, or an Extended Title Policy if requested by Buyer pursuant to Section 10.4, and Seller shall deliver the Affidavit specified in Section 10.2.2 of this Agreement.

**4.3.4** At the time of Closing, the condition of the Property shall be substantially the same as it was on the effective date of this Agreement, except for the effects of ordinary wear and tear and completion of actions taken by either party in accordance with this Agreement.

**4.4 Parties' Closing Condition Concerning Governing Body Approval and Actions.** The Parties' obligations under this Agreement are subject to and contingent on (i) the approval of this Agreement and all terms of this transaction by the Port of Olympia Commission in open public meeting, (ii) the Port of Olympia Commission declaring the Property to be surplus and amending the Port's comprehensive plan to permit the sale of the Property in open public meeting, and (iii) the successful completion of all appropriate environmental review processes necessary for the sale of the Property, including any appeals, all prior to Closing. The Parties' obligations under this Agreement are also subject to and contingent on the approval of this Agreement and all terms of this transaction by the City of Olympia City Council, in open public meeting prior to Closing.

**4.5 Use of Property: Use Restrictions: Seller's Right to Reversion and Repurchase.** Buyer acknowledges, covenants, represents, and warrants that the Property will be used solely for the expansion of the existing Hands On Children's Museum (the "Children's Museum") and additional surface parking. Buyer shall not build above 30 feet within 20 feet of the eastern boundary of the Property, to maintain a view corridor to/from adjoining property. Buyer shall not use the Property for any other purpose without the prior written consent of the Port in its sole and absolute discretion, and any use of the Property other than the Children's Museum shall be a public use. Buyer shall not sell, assign, or lease the Property or any part thereof, or the operation of the Children's Museum, to any person without the prior written consent of the Port in its sole and absolute discretion. Pursuant to the preceding sentence, a mere change in the name of such entity shall not give rise to the requirement for the prior written consent of the Port and other rights of the Port as provided herein. If any change other than a mere name change - e.g., a change in ownership of the entity, merger with another entity, or change in the form, type, or purpose of the entity - leads to modifications in the nature and operation of the Children's Museum that are inconsistent with the children's museum envisioned in this Agreement, such change shall give rise to such requirements and such rights of the Port. If Buyer fails or ceases to use the Property for the Children's Museum or other public use approved by the Port in advance in writing, or attempts or actually does sell, assign, or lease the Property or any part thereof, or the operation of the Children's Museum without the prior written consent of the Port, then the Port shall have the right, but not the obligation, to declare a reversion and to retake ownership and possession of the Property on the following terms:

**4.5.1** The Port shall have one hundred eighty (180) days from the Port's actual notice of any event on which a reversion may be based to exercise its right to declare a reversion.

**4.5.2** The Port shall pay the owner of the Property as of the Port's exercise of its right of reversion the fair market value of the Property (land only) at such time. Payment shall be made within one hundred twenty (120) days from the Port's exercise of its right of reversion.

**4.5.3** The Port shall pay the owner of the Property as of the Port's exercise of its right of reversion the value of such part or all of the building and other improvements constructed by Buyer then located on the Property ("improvements") that the Port, in its sole and absolute discretion, decides to keep on the Property. Payment shall be made within one hundred twenty (120) days from the Port's exercise of its right of reversion.

**4.5.4** If the Port decides not to keep some or all of the improvements on the Property, then the owner of the Property shall remove such improvements at its cost or abandon such improvements, and if such improvements are abandoned then the Port may remove such improvements, and the reasonable cost of such removal shall be credited against the amount to be paid by the Port for the Property, and any cost in excess of the value of the Property shall be paid by the owner to the Port at Closing.

**4.6 Deed and Environmental Covenant.** The deed to be delivered by Seller at Closing shall be in the form of Exhibit C and contain an environmental covenant including restrictions on use of the Property and provisions on Seller's right of reversion/repurchase in accordance with Section 4.5 (the "Deed"). In addition to the Deed, Seller shall deliver an environmental covenant at Closing in favor of Ecology in the form of Exhibit C.

**4.7 Obligations of Parties Post-Closing.** As additional consideration for this Agreement, unless this Agreement is terminated by either party prior to Closing in accordance with this Agreement, Buyer and Seller shall have the following obligations post-Closing, which obligations shall survive Closing and shall not be merged into the Deed:

**4.7.1 Environmental Covenant.** Buyer shall maintain and uphold the environmental covenants set forth in in this Agreement and Exhibit C.

## **5. BUYER'S LICENSE TO ENTER PROPERTY.**

**5.1 License to Enter Property.** Subject to (1) the submission of a scope of work by Buyer to Seller in writing of its site investigation and other due diligence activities and (2) the written consent of Ecology and Seller, from the date of this Agreement through the end of the Feasibility Contingency Period or earlier termination of this Agreement, Buyer and its contractors, agents, servants, employees, and licensees shall have the right and permission to enter upon the Property or any part thereof at all reasonable times after reasonable notice to Seller, without interfering with the use of the Property by Seller or any other person rightfully in possession of the Property, for the purpose of making any and all soil tests, surveys, and such other studies and investigations of the Property as Buyer may desire to make, all at Buyer's sole cost and expense. Specifically, Buyer shall not conduct any sampling, boring, or other investigation of the soil or groundwater on the Property without first providing a scope of work that includes a work plan for such activities to Ecology and Seller, and obtaining Ecology's and Seller's prior written consent to such work plan. The Seller agrees that it will not unreasonably withhold consent of any

work plan that has been approved by Ecology regarding work to be performed on the Property.

**5.2 Restoration of Property.** Buyer shall, at Buyer's sole cost and expense, immediately repair any and all damage to the Property caused by Buyer or its agents, employees or contractors caused by its due diligence activities, and immediately restore the Property to the same physical condition it was in prior to the time Buyer and its agents, employees, or contractors entered on the Property. Furthermore, Buyer shall comply with any and all requirements and timelines mandated by Ecology (including but not limited to restoration of institutional controls such as clean cap and fencing). If Buyer fails to restore the Property, then Seller may perform the restoration work and Buyer shall reimburse Seller for the reasonable cost thereof within thirty (30) days after Seller's delivery of an invoice for such costs to Buyer.

**5.3 Indemnification of Seller.** Buyer shall defend, indemnify and hold harmless Seller from and against any mechanic's or other liens, and any other claims or encumbrances, that may be filed or asserted against the Property or Seller arising out of or related to any actions or omissions of Buyer or Buyer's contractors, agents, servants, employees, or licensees in connection with the Property or Buyer's due diligence activities and investigation. In addition, to the fullest extent it may lawfully do so, Buyer shall defend, indemnify and hold harmless Seller, its commissioners, members, directors, officers, agents, servants and employees, from and against any and all liability, loss, costs, and expense of whatsoever nature growing out of property damage, personal injury to, or death of, persons whomsoever, where such property damage, personal injury, death, loss, destruction or damage arises from the occupation or use of the Property by, or the presence thereon of, Buyer or Buyer's contractors, agents, servants, employees, or licensees prior to Closing.

**5.4 Survival of Buyer's Obligations.** Notwithstanding anything in this Agreement to the contrary, the obligations of Buyer in this Section 5 shall survive any termination of this Agreement.

## **6. "AS IS" PURCHASE.**

Except as otherwise expressly provided in Section 7 of this Agreement, Buyer agrees that the Property is being sold to and purchased by Buyer **"AS IS, WHERE IS, AND WITH ALL FAULTS"**, and Seller hereby disclaims any and all warranties, and makes no representations or warranties to Buyer of any kind, express or implied, regarding the Property, including, without limitation, the physical or environmental condition, habitability, or suitability for any particular purpose of the Property or any improvements or personal property located thereon. Buyer acknowledges, covenants, represents, and warrants that: (i) Buyer has inspected or will inspect the Property, the improvements thereon, if any, and all matters relating thereto which Buyer desires; (ii) except as otherwise expressly provided in this Agreement, neither Seller nor anyone on Seller's behalf has made or is making any representations or warranties with respect to the Property, and Seller expressly disclaims any representations or warranties concerning the accuracy or completeness of any of the disclosures made

to Buyer with respect to the Property; (iii) Buyer is relying solely on Buyer's own investigation of the Property and all matters pertaining thereto, including but not limited to the environmental condition of the Property; and (iv) except as otherwise expressly set forth in this Agreement, Buyer is purchasing the Property **"AS IS, WHERE IS, AND WITH ALL FAULTS"**. Buyer further agrees that, notwithstanding anything in this Agreement to the contrary, in no event shall Seller be liable to Buyer for any special, indirect, or consequential damages, including but not limited to claims for loss of use, rents, anticipated profit or business opportunity, business interruption, diminution in value, or mental or emotional distress or fear of injury or disease.

**7. ENVIRONMENTAL MATTERS.**

**7.1 Condition of Property.** Seller and Buyer acknowledge that, in the past, the Property and surrounding properties have been developed with buildings and/or other improvements and have been used for various commercial and industrial purposes for many years, and that portions of the Property and surrounding properties are or may be affected by releases or threatened releases of hazardous substances, as those terms are defined under applicable environmental laws, and that such area constitutes a "Facility" under RCW 70.105D.020(4). The boundaries of the Facility, as defined under applicable environmental laws, may include an area larger than the boundaries of the Property, and the boundaries of the Facility may change from time to time based on additional information obtained and activities undertaken with respect to the Facility. Existing site assessments and other environmental reports describe the known physical condition of the Property and surrounding properties. Further environmental investigations that may be conducted in the future may reveal additional releases or threatened releases of hazardous substances affecting the Property or surrounding properties. Subject to the provisions of Sections 7.2 and 7.3 below, Seller and Buyer shall cooperate regarding any additional remediation of the Property and surrounding properties, and the Parties' involvement with the Washington State Department of Ecology regarding such remediation.

**8. REPRESENTATIONS AND WARRANTIES OF BUYER.** Buyer hereby represents and warrants to Seller, which representations and warranties shall be deemed made by Buyer to Seller also as of the Closing Date, that:

**8.1** Buyer has the power and authority to enter into this Agreement, and each individual executing this Agreement on behalf of Buyer has the full power and authority to enter into this Agreement and to perform on Buyer's behalf all of Buyer's obligations hereunder.

**8.2** Except as provided in Section 4.4 above, no consent, approval, authorization, or order of, or registration or filing with, any court or governmental agency or body or other third party is required in connection with Buyer's execution and delivery of this Agreement or the performance by Buyer of its obligations hereunder.

**8.3** The obligations of Buyer set forth in this Agreement are valid and binding obligations of Buyer, enforceable against Buyer in accordance with the provisions of this Agreement.

**8.4** Neither execution or delivery of this Agreement, nor consummation of the transactions contemplated hereby, nor fulfillment of or compliance with the terms and conditions hereof, contravenes any provision of any law, rule, statute, or ordinance to which Buyer is subject, or conflicts with or results in a breach of, or constitutes a default under, any of the terms, conditions, or provisions of any agreement or instrument to which Buyer is a party.

**9. REPRESENTATIONS AND WARRANTIES OF SELLER.** Seller hereby makes the following representations and warranties to Buyer, which representations and warranties shall also be deemed to be made by Seller to Buyer as of Closing:

**9.1** Seller has the power and authority to enter into this Agreement, and each individual executing this Agreement on behalf of Seller has the full power and authority to enter into this Agreement and to perform on Seller's behalf all of Seller's obligations hereunder.

**9.2** Except as provided in Section 4.4 above, no consent, approval, authorization, or order of, or registration or filing with, any court or governmental agency or body or other third party is required in connection with Seller's execution and delivery of this Agreement or the performance by Seller of its obligations hereunder.

**9.3** The obligations of Seller set forth in this Agreement are valid and binding obligations of Seller, enforceable against Seller in accordance with the provisions of this Agreement.

**9.4** Neither execution or delivery of this Agreement, nor consummation of the transactions contemplated hereby, nor fulfillment of or compliance with the terms and conditions hereof, contravenes any provision of any law, rule, statute, or ordinance to which Seller is subject, or conflicts with or results in a breach of, or constitutes a default under, any of the terms, conditions, or provisions of any agreement or instrument to which Seller is a party.

**9.5** Seller is the sole legal fee owner of the Property, and is not holding fee title as a nominee for any other person or entity. No person or entity other than Buyer has any right of first refusal or option to acquire any interest in the Property or any part thereof, and Seller has not sold or contracted to sell the Property or any portion thereof or interest therein other than as set forth herein.

**9.6** Except as expressly set forth in this Agreement, Seller makes no representations or warranties regarding the Property or any improvements, including without limitation any warranties with respect to condition or suitability for a particular purpose.

## **10. ESCROW.**

**10.1 Opening of Escrow.** Upon execution of this Agreement by Buyer and Seller, Buyer shall open escrow with Thurston County Title Insurance Company in Olympia, Washington ("Escrow Agent"), by depositing with Escrow Agent a copy of this Agreement. This Agreement shall become a part of the escrow and shall constitute the basic instructions of Buyer and Seller to Escrow Agent. However, Buyer and Seller agree to execute such additional instructions and documents as are reasonably required to complete the closing of the sale of the Property in accordance with the terms and conditions of this Agreement. In case of conflict, this Agreement shall control.

**10.2 Deposits into Escrow.** Buyer and Seller shall deposit into Escrow, on or before the Closing Date, all documents and funds necessary to carry out this Agreement, including the following:

**10.2.1 Deposits by Buyer.** Buyer shall deposit into Escrow: (i) Funds in a form acceptable to Escrow Agent equal to the Purchase Price plus Buyer's share of escrow fees and related charges; (ii) the exact vesting required by Buyer for title to the Property. Buyer shall also deposit into Escrow such other documents and funds as are reasonably required to close the sale of the Property pursuant to the terms of this Agreement; an Environmental Covenant, in the form set forth in Exhibit C, which shall be duly executed and acknowledged by Buyer.

**10.2.2 Deposits by Seller.** Seller shall deposit into Escrow: (i) a Statutory Warranty Deed, in the form set forth in Exhibit B, which shall be duly executed and acknowledged by Seller so as to convey to Buyer all of the Property in accordance with the terms of this Agreement; (ii) a Real Estate Excise Tax Affidavit, in proper form for submission to the Thurston County Auditor, and duly executed by Seller; and (iii) an affidavit executed by Seller to the effect that as of the Close of Escrow Seller is a "United States person" as that term is defined in Section 7701(a)(30) of the Internal Revenue Code of 1986 as amended (the "Code"), and is not a foreign person as defined by the Code ("FIRPTA Affidavit"). Seller shall also deposit into Escrow such other documents and funds as are reasonably required to close the sale of the Property pursuant to the terms of this Agreement.

**10.3 Prorations.** The following items shall be prorated as follows:

**10.3.1** Real and personal property taxes and assessments with respect to the Property, and any refunds thereof, which shall be prorated as of Closing.

**10.3.2** Utility charges and assessments with respect to the Property, if any, which shall be prorated as of Closing, but Buyer and Seller hereby waive the services of the Closing Agent in disbursing closing funds necessary to satisfy unpaid utility charges affecting the Property, pursuant to RCW 60.80.

**10.3.3** All charges and payments made or received with respect to any contracts with respect to the Property which are assigned to and assumed by Buyer, which shall be prorated as of Closing.

**10.4 Fees and Costs.** Buyer and Seller shall pay their own respective fees and costs incurred with respect to this transaction including, without limitation, attorney fees. Notwithstanding the foregoing, Buyer shall pay at Closing the cost of recording the Deed, and one-half of the escrow fees pertaining to this transaction. If Buyer elects to obtain an ALTA extended coverage owner's policy, then Buyer shall also pay the difference in the premium between the standard policy and the extended coverage policy, together with the cost of a survey or an update of the existing survey, if such is required in order to obtain the extended owner's coverage. Buyer shall also pay for the cost of any endorsements requested by Buyer. Seller shall pay at Closing the cost of a standard ALTA owner's title insurance policy, all real estate excise taxes or similar charges incident to the conveyance of title to the Property to Buyer, and the other one-half of the escrow fees pertaining to this transaction. Provided, however, that if escrow is terminated due to the failure of both parties to perform any of their respective material obligations, then the parties shall each pay one-half (1/2) of the escrow fees charged, but if escrow is terminated due to the failure of only one party to perform any of its material obligations, then such defaulting party shall pay all escrow fees charged. Such payment shall not affect any other rights between the parties.

**10.5 Closing Date.** Provided that all conditions set forth in this Agreement have been fulfilled or waived, this transaction shall be closed at the offices of the Escrow Agent on a date to be selected by Buyer which shall be on or before November 7, 2025 (the "Closing Date"); provided, however, that the Parties may by mutual agreement select a Closing Date prior to November 7, 2025. This escrow may be extended by a written extension agreed to and signed by both Buyer and Seller. If this transaction does not close by the Closing Date as provided herein or as subsequently agreed to by the parties in writing, then escrow shall be terminated. Notwithstanding anything to the contrary, if Seller requires additional time to complete actions required to be completed by Seller prior to Closing, then Closing shall be extended for a reasonable time to permit Seller to complete such actions, provided that Seller diligently pursues completion of such actions.

**10.6 Closing.** When all of the conditions and instructions provided for herein have been satisfied and complied with, and this transaction is ready to close, then Escrow Agent shall promptly close this transaction (the "Close of Escrow" or "Closing") and shall:

**10.6.1** Record the original Statutory Warranty Deed for the Property;

**10.6.2** Record the original Environmental Covenant;

**10.6.3** Disburse funds on deposit in escrow to the appropriate persons in accordance with this Agreement and final settlement statements approved by the Parties;

**10.6.4** Deliver the original title insurance policy to Buyer; and

**10.6.5** Deliver copies of the recorded Deed, filed excise tax affidavit, final settlement statements, and all other documents included in the sale of the Property, to Buyer and to Seller.

## **11. GENERAL PROVISIONS.**

**11.1 No Agency or Partnership.** Buyer and Seller agree that nothing herein shall be construed to create the relationship of principal and agent, joint venture, partnership, or any other form of legal association which would impose liability upon one party for the act or failure to act of another party.

**11.2 Amendment or Modification.** No amendment, modification, or change of this Agreement shall be valid unless made in writing and signed by the parties hereto.

**11.3 Assignment.** Buyer shall not assign, agree to assign, offer to assign, or solicit offers for, Buyer's interest in or rights to purchase the Property, without the prior written consent of Seller, in its sole and absolute discretion; provided, that upon notice to Seller, Buyer may assign its rights hereunder to a wholly-owned subsidiary, parent, or sister entity of Buyer.

**11.4 Further Assurances.** Each of the parties shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder in good faith, to carry out the intent of the parties herein.

**11.5 Authority.** Each of the signatories hereto hereby represents and warrants that he or she has the right, power, legal capacity, and authority to enter into this Agreement and to bind the entity he or she represents to this Agreement and the obligations hereunder.

**11.6 Real Estate Commissions.** Each party represents and warrants that it is not represented by any broker or agent in connection with any of the transactions contemplated by this Agreement, and that it has not dealt with any broker or other person to which a commission or other fee is due in connection with any of the transactions contemplated by this Agreement, and that insofar as it knows, no broker or other person is entitled to any commission, charge, or fee in connection with any of the transactions contemplated by this Agreement. Each party agrees to indemnify, defend, and hold harmless the other party against any loss, liability, damage, cost, claim, or expense, including interest, penalties, and reasonable attorney fees that the other party shall incur or suffer

by reason of a breach by the first party of the representations and warranties set forth in the preceding sentence.

- 11.7 Counterparts.** This Agreement may be executed in several counterparts, and all counterparts so executed shall constitute one Agreement binding on the parties.
- 11.8 Default.** In the event of a breach or default under this Agreement by Seller without any default by Buyer or failure of any condition to Seller's obligations hereunder, which is not cured by Seller in a timely manner, Buyer at its election may terminate this Agreement. The foregoing shall be Buyer's sole and exclusive remedies for Seller's breach or default, other than breach or default of a post-Closing obligation. In the event of Buyer's breach of its obligation to purchase the Property pursuant to this Agreement without any default by Seller or failure of any condition to Buyer's obligations hereunder, which is not cured by Buyer in a timely manner, Seller at its election may terminate this Agreement. The foregoing shall be Seller's sole and exclusive remedies for Buyer's breach or default, other than breach or default of a post-Closing obligation. The parties acknowledge that in the event of a default, Buyer or Seller may have incurred substantial but unascertainable damages and that, therefore, the provisions herein for liquidated damages are valid and enforceable. Buyer further agrees that, notwithstanding anything in this Agreement to the contrary, in no event shall Seller be liable for any special, consequential, or other damages, including but not limited to claims for loss of use, rents, anticipated profit or business opportunity, business interruption, or diminution in value.
- 11.9 Escrow Agent.** The funds deposited into escrow and all interest earned thereon shall be disbursed by the Escrow Agent to the party ultimately entitled to receive same pursuant to the terms and conditions of this Agreement. Escrow Agent has executed this Agreement to indicate its agreement to comply with each of the obligations imposed on it hereunder and to acknowledge that it is aware that in entering into this Agreement both Buyer and Seller are relying on Escrow Agent's agreement so to comply. All parties hereby agree to indemnify and hold Escrow Agent harmless from any loss, liability or expense incurred by Escrow Agent hereunder except for violation by Escrow Agent of this Agreement. If Escrow Agent becomes uncertain at any time of the proper disposition of any funds or documents it may be holding hereunder, then it may interplead the same with a court of competent jurisdiction and abide by such court's direction. Escrow Agent shall file all tax reporting documents required to be filed in connection with the transaction described herein.
- 11.10 Exhibits.** All exhibits attached hereto are incorporated herein by reference and are an integral part of this Agreement.
- 11.11 Headings.** The captions and paragraph headings used in this Agreement are inserted for convenience of reference only and are not intended to define, limit, or otherwise affect the interpretation or construction of any term or provision of this Agreement.

- 11.12 Inducements.** The execution and delivery of this Agreement by the parties hereto has not been induced by any statements, representations, warranties, or agreements other than those expressed herein.
- 11.13 Integration.** This Agreement constitutes the entire understanding and agreement of the parties with respect to its subject matter, and any and all other agreements, understandings, or representations with respect thereto are of no force or effect.
- 11.14 Interpretation.** This Agreement is the result of negotiations between the parties hereto, each of which was represented by legal counsel or had the opportunity to be represented by legal counsel. Each party participated in the preparation of this Agreement and reviewed this Agreement. No particular provision shall be deemed to have been drafted by any particular party, and no question of interpretation shall be resolved by any rule of interpretation providing for interpretation against a drafting party. This Agreement shall be interpreted and construed according to the intent of the parties and a fair reading of the language of this Agreement as a whole, and not for or against any particular party.
- 11.15 Notices.** Any and all notices, requests, approvals, or other communications required or desired to be given hereunder (collectively, "notice") shall be in writing and shall be validly given or made if: (i) personally served; (ii) sent by certified, registered, or express mail with postage prepaid thereon and return receipt requested; or (iii) sent by e-mail if e-mail addresses are provided; provided, that in case of notice of breach or termination, notice shall be in writing and (i) personally served or (ii) sent by certified, registered, or express mail with postage prepaid thereon and return receipt requested. Notice shall be deemed given (i) at the time of personal service; (ii) five (5) business days after mailing; or (iii) at the time of e-mail transmission. Notice shall be effective and deemed given only if properly addressed to the party to whom such notice is to be given as follows:

**To Seller:**

Port of Olympia  
606 Columbia St NW #300,  
Olympia, WA 98501  
Attn: Executive Director  
Phone: (360) 528-8000

**To Buyer:**

City of Olympia  
601 4th Ave E  
P.O. Box 1967  
Olympia, WA 98507  
Attn: Steven J. Burney, City Manager  
Phone: (360) 753-8740

**To Escrow Agent:**

Thurston County Title Insurance Company  
105 8<sup>th</sup> Avenue SE  
Olympia, Washington 98501  
Phone: (360) 743-7300

Any party may change its address for the purpose of receiving notices as herein provided by a written notice given to the other parties hereto.

- 11.16 Possession.** Buyer shall be entitled to possession of the Property upon Closing.
- 11.17 Successors and Assigns.** This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, legal representatives, successors, and assigns.
- 11.18 Third Party Beneficiaries.** Except as otherwise expressly provided in this Agreement, nothing in this Agreement is intended to confer any rights or remedies under or by reason of this Agreement on any person other than the parties to it and their respective successors and assigns, if any, nor shall any provision give any third parties any right of subrogation or action against any party to this Agreement.
- 11.19 Time.** Time is of the essence of each provision of this Agreement.
- 11.20 Waiver.** No waiver shall be effective against a party unless set forth in writing and signed by the party charged with making the waiver. No waiver of any provision of this Agreement shall constitute a waiver of any other provision of this Agreement, whether or not similar, nor shall any waiver constitute a waiver of any preceding, succeeding, or continuing occurrence or condition, unless expressly stated in the waiver.
- 11.21 Applicable Law; Venue.** This Agreement shall be governed in all respects by the laws of the State of Washington. The venue of any action or dispute regarding this Agreement shall be Thurston County Superior Court, Thurston County, Washington.
- 11.22 Attorney Fees.** In any legal action or proceeding, including but not limited to arbitration, brought to enforce this Agreement, to declare the rights and duties under this Agreement, or to resolve a dispute, breach, or default in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and other costs, including expert witness fees, incurred in such action or proceeding, in addition to any other relief to which such party may be entitled.

**11.23 Dispute Resolution.** In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, or the breach thereof, the Parties hereto shall use their best efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable resolution.

**IN WITNESS WHEREOF,** the parties have hereunto set their hands on the day and year written below.

**SELLER:**

**BUYER:**

**PORT OF OLYMPIA**

**CITY OF OLYMPIA**

By: \_\_\_\_\_  
Name: Alexandra K. Smith  
Title: Executive Director  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Debbie Sullivan  
Title: Acting City Manager  
Date: \_\_\_\_\_

**Approved as to Form:**

**Approved as to Form:**

By: \_\_\_\_\_  
Name: Christopher Pierce-Wright  
Title: General Counsel, Port of Olympia  
Date: \_\_\_\_\_

By: Mark Barber  
Name: Mark Barber  
Title: City Attorney, City of Olympia  
Date: 06/26/2025

## ACKNOWLEDGMENT

STATE OF WASHINGTON    )  
                                      ) ss.  
COUNTY OF THURSTON    )

On the \_\_\_\_\_ day of \_\_\_\_\_ 2025, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared ALEXANDRA K. SMITH, to me known to be the EXECUTIVE DIRECTOR of the PORT OF OLYMPIA, a Washington port district, 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/she/they is/are 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: \_\_\_\_\_

STATE OF WASHINGTON    )  
                                      ) ss.  
COUNTY OF THURSTON    )

On the \_\_\_\_\_ day of \_\_\_\_\_ 2025, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared DEBBIE SULLIVAN, to me known to be the ACTING 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 she 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: \_\_\_\_\_

## EXHIBIT A

### The Property

Lot 6 – Tax Parcel #: 66130000406

Address: 427 Marine Dr NE, Olympia WA 98501

Legal Description: Section 14 Township 18 Range 2W Quarter NW, NE, SE Binding Site Plan  
OLYMPIA AREA ROWING LT 6 THIRD AMENDMENT 4611194

Lot 7 - Tax Parcel #: 66130000407

Address: 517 Marine Dr NE, Olympia WA 98501

Legal Description: Section 14 Township 18 Range 2W Quarter NW, NE, SE Binding Site Plan  
OLYMPIA AREA ROWING LT 7 THIRD AMENDMENT 4611194



Exhibit B-2 Illustration of Lot 6 and 7, Olympia Area Rowing Binding Site Plan Amendment #3



## **EXHIBIT B**

### **Form of Deed**

#### **RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:**

City of Olympia  
601 4<sup>th</sup> Ave E  
P.O. Box 1967  
Olympia, WA 98507  
Attn: City Attorney

#### **STATUTORY WARRANTY DEED**

**Grantor/Seller/Port:** PORT OF OLYMPIA

**Grantee/Buyer/City:** CITY OF OLYMPIA

#### **Abbreviated Legal:**

**Lot 6:** Section 14 Township 18 Range 2W Quarter NW, NE, SE Binding Site Plan Olympia Area  
Rowing LT 6 Third Amendment 4611194

**Lot 7:** Section 14 Township 18 Range 2W Quarter NW, NE, SE Binding Site Plan Olympia Area  
Rowing LT 7 Third Amendment 4611194

#### **Assessor's Tax Parcel:**

**Lot 6:** 66130000406

**Lot 7:** 66130000407

#### **Address:**

**Lot 6:** 427 Marine Dr NE, Olympia WA 98501

**Lot 7:** 517 Marine Dr NE, Olympia WA 98501

The Grantor, PORT OF OLYMPIA, for good and valuable consideration received, conveys and warrants to Grantee, CITY OF OLYMPIA, the real estate legally described in Schedule A attached hereto and incorporated by this reference, situated in the County of Thurston, State of Washington (the "Property"):

The Property shall be subject to the following conditions and restrictions, which shall run with the land:

- A. The Property will be used solely for the expansion of the Hands On Children's Museum (the "Children's Museum") and additional surface parking for the Children's Museum.
- B. Buyer shall not build above 30 feet within 20 feet of the eastern boundary of the Property, to maintain a view corridor to/from adjoining property.
- C. Buyer shall not use the Property for any other purpose without the prior written consent of the Port in its sole and absolute discretion, and any use of the Property other than the

Children's Museum shall be a public use. Buyer shall not sell, assign, or lease the Property or any part thereof, or the operation of the Children's Museum, to any person without the prior written consent of the Port in its sole and absolute discretion. Pursuant to the preceding sentence, a mere change in the name of such entity shall not give rise to the requirement for the prior written consent of the Port and other rights of the Port as provided herein. If any change other than a mere name change (e.g., a change in ownership of the entity, merger with another entity, or change in the form, type, or purpose of the entity) leads to modifications in the nature and operation of the Children's Museum, such change shall give rise to such requirements and such rights of the Port. If Buyer fails or ceases to use the Property for the Children's Museum or other public use approved by the Port in advance in writing, or attempts or actually does sell, assign, or lease the Property or any part thereof, or the operation of the Children's Museum without the prior written consent of the Port, then the Port shall have the right, but not the obligation, to declare a reversion and to retake ownership and possession of the Property on the following terms:

1. The Port shall have one hundred eighty (180) days from the Port's actual notice of any event on which a reversion may be based to exercise its right to declare a reversion.
2. The Port shall pay the owner of the Property as of the Port's exercise of its right of reversion the fair market value of the Property (land only) at such time. Payment shall be made within one hundred twenty (120) days from the Port's exercise of its right of reversion.
3. The Port shall pay the owner of the Property as of the Port's exercise of its right of reversion the value of such part or all of the building and other improvements constructed by Buyer then located on the Property ("improvements") that the Port, in its sole and absolute discretion, decides to keep on the Property. Payment shall be made within one hundred twenty (120) days from the Port's exercise of its right of reversion.
4. If the Port decides not to keep some or all of the improvements on the Property, then the owner of the Property shall remove such improvements at its cost or abandon such improvements, and if such improvements are abandoned then the Port may remove such improvements, and the reasonable cost of such removal shall be credited against the amount to be paid by the Port for the Property, and any cost in excess of the value of the Property shall be paid by the owner to the Port at closing.

The above conditions and restrictions shall be covenants running with the land and shall be stated in all subsequent deeds to the Property, and any violation thereof shall result in the right by the Port to declare a forfeiture of all interests in the Property and reassume title to the Property.

Furthermore, the Property shall be subject to those permitted exceptions shown on Schedule B attached hereto and incorporated by this reference.

[signature page follows]

IN WITNESS WHEREOF, the undersigned has executed this Deed as of \_\_\_\_\_,  
2025.

GRANTOR:

PORT OF OLYMPIA

By: \_\_\_\_\_  
Name: Alexandra K. Smith  
Title: Executive Director  
Date: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF WASHINGTON    )  
  ) ss.  
COUNTY OF THURSTON    )

On the \_\_\_\_\_ day of \_\_\_\_\_ 2025, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared ALEXANDRA K. SMITH, to me known to be the EXECUTIVE DIRECTOR of the PORT OF OLYMPIA, a Washington port district, 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/she/they is/are 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: \_\_\_\_\_

**Schedule A to Warranty Deed**  
**Legal Description of the Property**

Lot 6: Section 14 Township 18 Range 2W Quarter NW, NE, SE Binding Site Plan Olympia Area  
Rowing LT 6 Third Amendment 4611194

Lot 7: Section 14 Township 18 Range 2W Quarter NW, NE, SE Binding Site Plan Olympia Area  
Rowing LT 7 Third Amendment 4611194

**Schedule B to Warranty Deed**  
**Permitted Exceptions**

[to be inserted after Buyer's review of title report]

## EXHIBIT C

### Form of Environmental Covenant

After Recording Return to:  
Toxics Cleanup Program  
Department of Ecology  
300 Desmond Drive  
Lacey, WA 98503

#### ENVIRONMENTAL COVENANT

Grantor: City of Olympia

Grantee: State of Washington, Department of Ecology (hereafter "Ecology")

Brief Legal Description: Lot 6: Section 14 Township 18 Range 2W Quarter NW, NE, SE Binding Site Plan OLYMPIA AREA ROWING LT 6 THIRD AMENDMENT 4611194  
Lot 7: Section 14 Township 18 Range 2W Quarter NW, NE, SE Binding Site Plan OLYMPIA AREA ROWING LT 7 THIRD AMENDMENT 4611194

Tax Parcel Nos.: Lot 6: 66130000406  
Lot 7: 66130000407

#### RECITALS

A. This document is an environmental (restrictive) covenant (hereafter "Covenant") executed pursuant to the Model Toxics Control Act ("MTCA"), chapter 70.105D RCW, and Uniform Environmental Covenants Act ("UECA"), chapter 64.70 RCW, as amended.

B. The Property that is the subject of this Covenant is part of a site commonly known as the East Bay Redevelopment Site. The Property is legally described in Exhibit A and illustrated in Exhibit B, both of which are attached (hereafter "Property"). If there are differences between these two Exhibits, the legal description in Exhibit A shall prevail.

C. The property is the subject of remedial action conducted under MTCA. This Covenant is required because residual contamination remains on the Property after completion of remedial actions. Specifically, the following principal contaminants remain on the Property:

Medium	Principal Contaminants Present
Soil	Arsenic, lead, total petroleum hydrocarbons (TPH) in the gasoline range (TPH-G), total naphthalenes, TPH in the diesel

Medium	Principal Contaminants Present
	range (TPH-D) and TPH in the heavy oil range (TPH-HO) combined, total carcinogenic polycyclic aromatic hydrocarbons (cPAHs), and total chlorinated dibenzo-p-dioxins and chlorinated dibenzofurans (dioxins/furans) were identified as soil constituents of concern (COCs)

D. It is the purpose of this Covenant to restrict certain activities and uses of the Property to protect human health and the environment and the integrity of remedial actions conducted at the site. Records describing the extent of residual contamination and the remedial actions conducted are available through Ecology.

E. This Covenant grants Ecology certain rights under UECA and as specified in this Covenant. As a Holder of this Covenant under UECA, Ecology has an interest in real property; however, this is not an ownership interest which equates to liability under MTCA or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.). The rights of Ecology as an “agency” under UECA, other than its rights as a “holder”, are not an interest in real property.

### **COVENANT**

The City of Olympia, as Grantor and fee simple owner of the Property hereby grants to the Washington State Department of Ecology, and its successors and assignees, the following covenants. Furthermore, it is the intent of the Grantor that such covenants shall supersede any prior interests the Grantor has in the property and run with the land and be binding on all current and future owners of any portion of, or interest in, the Property.

#### **Section 1. General Restrictions and Requirements.**

The following general restrictions and requirements shall apply to the Property:

a. **Interference with Remedial Action.** The Grantor shall not engage in any activity on the Property that may impact or interfere with the remedial action and any operation, maintenance, inspection, or monitoring of that remedial action without prior written approval from Ecology.

b. **Protection of Human Health and the Environment.** The Grantor shall not engage in any activity on the Property that may threaten continued protection of human health or the environment without prior written approval from Ecology. This includes, but is not limited to, any activity that results in the release of residual contamination that was contained as part of the remedial action or that exacerbates or creates a new exposure to residual contamination remaining on the Property.

c. **Continued Compliance Required.** Grantor shall not convey any interest in any portion of the Property without providing for continued adequate and complete operation, maintenance and monitoring of remedial actions and continued compliance with this Covenant.

d. Leases. Grantor shall restrict any lease for any portion of the Property to uses and activities consistent with this Covenant and notify all lessees of the restrictions on the use of the Property.

e. Preservation of Reference Monuments. Grantor shall make a good faith effort to preserve any reference monuments and boundary markers used to define the areal extent of coverage of this Covenant. Should a monument or marker be damaged or destroyed, Grantor shall have it replaced by a licensed professional surveyor within thirty (30) days of discovery of the damage or destruction.

## Section 2. Specific Prohibitions and Requirements.

In addition to the general restrictions in Section I of this Covenant, the following additional specific restrictions and requirements shall apply to the Property.

a. Land Use. Prohibited uses on the Property include but are not limited to K-12 public or private schools, grazing of animals, and growing of food crops.

b. Containment of Soil/Waste Materials. The remedial action for the Property is based on containing contaminated soil under a cap consisting of an engineered cap consisting of 12 inches of clean, washed gravel overlying a permeable, geotextile fabric and located as illustrated in Exhibit B. The primary purpose of this cap is to minimize the potential for contact with contaminated soil; prevent runoff from contacting contaminated soil; and minimize airborne contaminants. As such, the following restrictions shall apply within the area illustrated in Exhibit B:

Any activity on the Property that will compromise the integrity of the cap including: drilling; digging; piercing the cap with sampling device, post, stake or similar device; grading; excavation; installation of underground utilities; removal of the cap; or, application of loads in excess of the cap load bearing capacity, is prohibited without prior written approval by Ecology. The Grantor shall report to Ecology within forty-eight (48) hours of the discovery of any damage to the cap. Unless an alternative plan has been approved by Ecology in writing, the Granter shall promptly repair the damage and submit a report documenting this work to Ecology within thirty (30) days of completing the repairs.

The Grantor covenants and agrees that it shall annually, or at another time as approved in writing by Ecology, inspect the cap and report within thirty (30) days of the inspection the condition of the cap and any changes to the cap that would impair its performance.

c. Stormwater Facilities. To minimize the potential for mobilization of contaminants remaining in the soil on the Property, no storm water infiltration facilities or ponds shall be constructed within the area of the Property illustrated in Exhibit B. All stormwater catch basins, conveyance systems, and other appurtenances located within this area shall be of water-tight construction.

d. Groundwater Use. The groundwater beneath the Property remains contaminated and shall not be extracted for any purpose other than temporary construction dewatering, investigation, monitoring or remediation. Drilling of a well for any water supply

purpose is strictly prohibited. Groundwater extracted from the Property for any purpose shall be considered potentially contaminated and any discharge of this water shall be done in accordance with state and federal law.

### Section 3. Access.

a. The Grantor shall maintain clear access to all remedial action components necessary to construct, operate, inspect, monitor and maintain the remedial action.

b. The Grantor freely and voluntarily grants Ecology and its authorized representatives, upon reasonable notice, the right to enter the Property at reasonable times to evaluate the effectiveness of this Covenant and associated remedial actions, and enforce compliance with this Covenant and those actions, including the right to take samples, inspect any remedial actions conducted on the Property, and to inspect related records.

c. No right of access or use by a third party to any portion of the Property is conveyed by this instrument.

### Section 4. Notice Requirements.

a. Conveyance of any Interest. The Grantor, when conveying any interest in any part of the Property, including but not limited to title, easement, leases, and security or other interest, must:

i. Provide written notice to Ecology of the intended conveyance at least thirty (30) days in advance of the conveyance.

ii. Include in the conveying document a notice in substantially the following form, as well as a complete copy of this Covenant:

NOTICE: THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT GRANTED TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY ON [DATE] AND RECORDED WITH THE THURSTON COUNTY AUDITOR UNDER RECORDING NUMBER [INSERT NUMBER]. USES AND ACTIVITIES ON THIS PROPERTY MUST COMPLY WITH THAT COVENANT, A COMPLETE COPY OF WHICH IS ATTACHED TO THIS DOCUMENT.

iii. Unless otherwise agreed to in writing by Ecology, provide Ecology with a complete copy of the executed document within thirty (30) days of the date of execution of such document.

b. Reporting Violations. Should the Grantor become aware of any violation of this Covenant, Grantor shall promptly report such violation in writing to Ecology.

c. Emergencies. For any emergency or significant change in site conditions due to Acts of Nature (for example, flood or fire) resulting in a violation of this Covenant, the Grantor is authorized to respond to such an event in accordance with state and federal law.

The Grantor must notify Ecology in writing of the event and response actions planned or taken as soon as practical but no later than within 24 hours of the discovery of the event.

d. Notification Procedure. Any required written notice, approval, reporting or other communication shall be personally delivered or sent by first class mail to the following persons. Any change in this contact information shall be submitted in writing to all parties to this Covenant. Upon mutual agreement of the parties to this Covenant, an alternative to personal delivery or first class mail, such as e-mail or other electronic means, may be used for these communications.

To Grantor: City of Olympia  
601 4th Ave E  
P.O. Box 1967  
Olympia, WA 98507  
Attn: City Attorney

To Ecology: Washington State Department of Ecology  
Toxics Cleanup Program  
300 Desmond Drive  
Lacey, WA 98503-1274

#### Section 5. Modification or Termination.

a. Grantor must provide written notice and obtain approval from Ecology at least sixty (60) days in advance of any proposed activity or use of the Property in a manner that is inconsistent with this Covenant. For any proposal that is inconsistent with this Covenant and permanently modifies an activity or use restriction at the site:

i. Ecology must issue a public notice and provide an opportunity for the public to comment on the proposal; and

ii. If Ecology approves of the proposal, the Covenant must be amended to reflect the change before the activity or use can proceed.

b. If the conditions at the Property requiring a Covenant have changed or no longer exist, then the Grantor may submit a request to Ecology that this Covenant be amended or terminated.

Any amendment or termination of this Covenant must follow the procedures in MTCA and UECA and any rules promulgated under these chapters.

c. By signing this Agreement, per RCW 64.70.100, the original signatories to this agreement, other than Ecology, agree to waive all rights to sign amendments to and termination of this Covenant.

Section 6. Enforcement and Construction.

- a. This Covenant is being freely and voluntarily granted by the Grantor.
- b. Within ten (10) days of execution of this Covenant, Grantor shall provide Ecology with an original signed Covenant and proof of recording and a copy of the Covenant and proof of recording to others required by RCW 64.70.070.
- c. Ecology shall be entitled to enforce the terms of this Covenant by resort to specific performance or legal process. All remedies available in this Covenant shall be in addition to all remedies at law or in equity, including MTCA and UECA. Enforcement of the terms of this Covenant shall be at the discretion of Ecology, and any forbearance, delay, or omission to exercise its rights under this Covenant in the event of a breach of any term of this Covenant is not a waiver by Ecology of that term or of any subsequent breach of that term, or any other term in this Covenant, or of any rights of Ecology under this Covenant.
- d. The Grantor shall be responsible for all costs associated with implementation of this Covenant. Furthermore, the Grantor, upon request by Ecology, shall be obligated to pay for Ecology's costs to process a request for any modification or termination of this Covenant and any approval required by this Covenant.
- e. This Covenant shall be liberally construed to meet the intent of MTCA.
- f. The provisions of this Covenant shall be severable. If any provision in this Covenant or its application to any person or circumstances is held invalid, the remainder of this Covenant or its application to any person or circumstance is not affected and shall continue in full force and effect as though such void provisions had not been contained herein.
- g. A heading used at the beginning of any section or exhibit of this Covenant may be used to aid in the interpretation of that section or exhibit but does not override the specific requirements in that section or exhibit.

[signature page follows]

The undersigned warrants that he/she has authority to execute this Environmental Covenant on behalf of the Grantor.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_ 2025.

**GRANTOR:**

**CITY OF OLYMPIA**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

Title: \_\_\_\_\_

The State of Washington Department of Ecology hereby accepts the status as GRANTEE and HOLDER of the above Environmental Covenant.

**GRANTEE:**

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

**GRANTOR ACKNOWLEDGMENT:**

STATE OF WASHINGTON    )  
  ) ss.  
COUNTY OF THURSTON    )

On the \_\_\_\_\_ day of \_\_\_\_\_ 2025, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared DEBBIE SULLIVAN, to me known to be the ACTING 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 she 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: \_\_\_\_\_

**STATE OF WASHINGTON DEPARTMENT OF ECOLOGY ACKNOWLEDGMENT:**

STATE OF WASHINGTON    )  
  ) ss.  
COUNTY OF THURSTON    )

On the \_\_\_\_\_ day of \_\_\_\_\_ 2025, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of the STATE OF WASHINGTON DEPARTMENT OF ECOLOGY, 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/she/they is/are 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: \_\_\_\_\_

## **Exhibit A to Environmental Covenant**

### **Legal Description**

Lot 6: Section 14 Township 18 Range 2W Quarter NW, NE, SE Binding Site Plan  
OLYMPIA AREA ROWING LT 6 THIRD AMENDMENT 4611194

Lot 7: Section 14 Township 18 Range 2W Quarter NW, NE, SE Binding Site Plan  
OLYMPIA AREA ROWING LT 7 THIRD AMENDMENT 4611194

### Illustration of Lots 6 and 7



Exhibit B-2 Illustration of Lot 6 and 7, Olympia Area Rowing Binding Site Plan Amendment #3



Soil Cover Locations  
Engineering Design Report for Cleanup Implementation  
East Bay Redevelopment Site

Exhibit B

