



## City Council

### Approval of a Resolution Authorizing Subordination of City Right-of-Way to the State of Washington Department of Ecology for an Environmental Covenant

**Agenda Date:** 5/9/2023  
**Agenda Item Number:** 4.I  
**File Number:**23-0410

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**Type:** resolution **Version:** 1 **Status:** Passed

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#### Title

Approval of a Resolution Authorizing Subordination of City Right-of-Way to the State of Washington Department of Ecology for an Environmental Covenant

#### Recommended Action

##### Committee Recommendation:

Not referred to a committee

##### City Manager Recommendation:

Move to approve a Resolution authorizing subordination of City Right-of-Way to the State of Washington Department of Ecology for an environmental covenant.

#### Report

##### Issue:

Whether to to approve a Resolution authorizing subordination of City Right-of-Way to the State of Washington Department of Ecology for an environmental covenant.

##### Staff Contact:

Mark Barber, City Attorney, 360.753.8338

##### Presenter(s):

None - Consent Calendar Item.

#### Background and Analysis:

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 filed by Thurston County Superior Court in 2014. 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.

A final Cleanup Action Plan for the Property was issued by the State of Washington Department of

Ecology (DOE) on October 29, 2014, which, amongst other things, requires that an environmental covenant be recorded for the affected site properties which prohibits activities that may result in the release of any contamination remaining on the site properties after cleanup.

Testing shows that contamination from the Property is into the City's right-of-way on Cherry Street (see attached map), at no fault by the City.

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.

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.

**Climate Analysis:**

Tetrachloroethylene (PCE), trichloroethylene (TCE), and associated chlorinated volatile organic compounds in affected soil, groundwater, and surface water were found on the Property. These chemicals are known to be detrimental to the environment. Subordinating to the Environmental Covenants recorded for the affected site properties will assist in protecting the integrity of remedial actions conducted on the Property, therefore protecting the environment.

**Equity Analysis:**

All residents of and visitors to the City will benefit from the City's subordination of interest to the Environmental Covenants, as this action will assist in protecting human health from the release of hazardous substances remaining in the right-of-way.

**Neighborhood/Community Interests (if known):**

Protecting human health and the environment from a release or threatened release of hazardous substances is an inherent interest to the community.

**Financial Impact:**

There is no financial impact to the City for subordination of the interest in right-of-way.

**Options:**

1. Approve the Resolution.
2. Direct staff to modify the Resolution.
3. Do not subordinate the City's interest in the Cherry Street right-of-way.

**Attachments:**

Resolution

Map