

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF OLYMPIA AND THE STATE OF
WASHINGTON, DEPARTMENT OF ENTERPRISE
SYSTEMS, FOR STREET, SIDEWALK, AND RELATED
INFRASTRUCTURE IMPROVEMENTS AT LEGION WAY
AND WASHINGTON STREET**

This Interlocal Agreement (Agreement) is entered into by and between the State of Washington (State) acting through the Department of Enterprise Services (Enterprise Services), a Washington State governmental agency, and the City of Olympia, Washington (City), a Washington municipal corporation, and is effective on the latter of the date of last signature below or the date of its entry into force by filing or listing under RCW 39.34.040 (effective date).

RECITALS

- A. The parties enter into the Agreement pursuant to RCW chapter 39.34, the Interlocal Cooperation Act.
- B. The State of Washington owns certain real property and improvements located within the City of Olympia at Washington Street between Legion Way and 7th Avenue (the State property). Pursuant to state law, this portion of Washington Street is managed for the State by Enterprise Services. The State property is shown on the plat map included with this Agreement.
- C. The City of Olympia owns and maintains over 216 centerline miles of City streets and related sidewalks and other street infrastructure in Olympia. The City's pavement management system identified four downtown streets that need to be re-paved. The Downtown Strategy process explored the opportunity to make broader improvements to these streets, to go beyond paving to include place-making and multimodal improvements. These projects advance many goals for the downtown and are significant City investments in downtown infrastructure.
- D. In 2016, the City of Olympia finalized the Olympia Downtown Strategy, which focuses on all the issues facing downtown's revitalization, including the redesign and enhancement to downtown streets. As part of the Downtown Strategy, the Transportation Actions identified a number of transformational street improvement projects in downtown, including the Legion Way corridor, which includes the intersection of Legion Way and Washington Street, which is partially on the State property. The Legion Way corridor is identified for multimodal enhancements.
- E. The Legion Way Improvements project includes resurfacing Legion Way from Water Street to Franklin Street and includes a raised, cement concrete intersection at Washington Street.
- F. A portion of the cement concrete intersection will be constructed on the State property.

- G. The project will be funded through a combination of City Pavement Management Program funds and a Washington State grant through the Pedestrian & Bicycle Safety program.
- H. The parties believe that these improvements will improve walkability, make bike connections, support transit operations, and maintain mobility for cars and freight.
- I. The parties agree on the mutual benefits of the Olympia Downtown Strategy, and street improvements for the enhancement of downtown streets.
- J. Construction and maintenance of the Legion Way intersection improvements requires entry by the City onto the State property and the placement of City-owned infrastructure on the State property. The State desires to grant to the City the right for such entry and placement, by means of a Temporary License to Construct.

AGREEMENT

In consideration of the mutual promises reflected in this Agreement, the parties agree as follows:

1. **PURPOSE – OBJECTIVE.** The purpose of this Agreement is to allow the City to construct and maintain the street, sidewalk, and other infrastructure improvements described in this Agreement on State property at Legion Way and Washington Street in Olympia.
2. **INTERSECTION - CONSTRUCTION.** As City funding and grants permit, the City will, at its expense, construct a cement concrete intersection at Legion Way and Washington Street. Construction must meet compliance with all applicable codes, including traffic facility codes, and be done in a workmanlike manner and safe condition. A portion of the improvements to the intersection will be constructed on the State property, referred to herein as the State Property Improvements. Improvements located within this portion of Washington Street include raised, curbless cement concrete roadway and transition ramps; scored cement concrete crosswalk; cement concrete curb and gutter; ADA compliant cement concrete sidewalk; traffic signal poles; traffic signal controller cabinet and electrical service cabinet for traffic signals and roadway illumination; landscape planters with trees; catch basins and storm drain pipes for stormwater conveyance; and utility junction boxes and electrical conduit.

Parking on Washington Street will be impacted and periodically closed during construction. The City will communicate with Enterprise Services throughout construction regarding the extent and duration of parking closures. As part of the project, the City will re-paint the parking stall delineations on Washington Street between 7th Avenue and Legion Way.

If, during construction, changed or unforeseen conditions occur, such as discovery of cultural resources or contamination, the City will be responsible for and cover all costs of resolving the issue.
3. **ADMINISTRATION/FINANCING/BUDGET.** The City is responsible for administering this Agreement and for the financing the construction and maintenance of the improvements under this Agreement and for maintaining the budget therefore.
4. **PERMITS.** The City is responsible for obtaining all necessary permits.

5. **LANDOWNER APPROVAL.** Prior to installation, the City shall collaborate with Enterprise Services to enable Enterprise Services to have the opportunity to review and comment on the design and installation timing of any improvements (improvement work). Enterprise Services shall endeavor to expeditiously review such improvement work but has at least 30 days to do so. If Enterprise Services does not provide comment on the improvement work to the City within 45 days, Enterprise services shall be deemed to have concurred with the improvement work.
6. **LICENSE.** Enterprise Services shall grant a Temporary License to Construct (Attachment A) for construction of the State Property Improvements.
7. **INTERSECTION – MAINTENANCE AND REPAIR.** Upon installation, the City shall be responsible for any maintenance or repairs of the State Property Improvements. The City must, at its expense, maintain such improvements in a condition that is safe and meets all applicable codes for as long as this Agreement is in effect. The City is not responsible for maintenance of sidewalk along the State property frontage that it does not construct.
8. **TERM:** This Agreement shall have a perpetual term, unless terminated under section 10.17 or by agreement of the parties.
9. **RESTORATION.** As part of installing the State Property Improvements or any subsequent maintenance or repair of such improvements, the City shall exercise due care to avoid damaging the State's property and promptly restore the State property to the condition it was in prior to the City's work or to such condition agreed to by the parties as part of the landowner review and approval process.
10. **GENERAL PROVISIONS.**
 - 10.1 Integrated Agreement. This Agreement constitutes the entire Agreement and understanding of the parties with respect to the subject matter and supersedes all prior negotiations, representations, and understandings between them. There are no representations or understandings with respect to the subject matter of any kind not contained in this Agreement.
 - 10.2 Amendment or Modification. This Agreement may not be amended or modified except in writing and signed by a duly authorized representative of each party.
 - 10.3 Authority. Each party, and each individual signing on behalf of each party, represents, and warrants to the other that it has full power and authority to enter into this Agreement and that its execution, delivery, and performance of this Agreement has been fully authorized and approved, and that no further approvals or consents are required to bind such party.
 - 10.4 No Agency. The parties agree that no agency, partnership, or joint venture of any kind shall be or is intended to be created by or under this Agreement. Neither party is an agent of the other party nor authorized to obligate it.
 - 10.5 No separate legal entity created; no joint board created. This Agreement creates no joint board and no separate legal entity.
 - 10.6 No jointly held property. The parties shall not jointly acquire, hold, or dispose of real or personal property under this Agreement.

- 10.7 Binding Effect; Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.
- 10.8 Severability. If any provision of this Agreement is held to be invalid or unenforceable, such provision does not affect or invalidate the remainder of this Agreement, and to this end, the provisions of this Agreement are declared to be severable. If such invalidity becomes known or apparent to the parties, the parties agree to negotiate promptly in good faith in an attempt to amend such provision as nearly as possible to be consistent with the intent of this Agreement.
- 10.9 Waiver. Failure of either party to insist upon the strict performance of any of the terms and conditions, or failure to exercise any rights or remedies provided or by law, or to notify the other party in the event of breach, does not release the other party of any of its obligations under this Agreement, nor does any purported oral modification or rescission of this Agreement by either party operate as a waiver of any of the terms. No waiver by either party of any breach, default, or violation of any term, warranty, representation, Agreement, covenant, right, condition, or provision constitutes waiver of any subsequent breach, default, or violation of the same or other term, warranty, representation, Agreement, covenant, right, condition, or provision.
- 10.10 Governing Law. The validity, construction, performance, and enforcement of this Agreement are governed by and construed in accordance with the laws of the State of Washington, without regard to its choice of law rules.
- 10.11 Jurisdiction and Venue. In the event that any action is brought to enforce any provision of this Agreement, the parties agree to submit to exclusive jurisdiction in Thurston County Superior Court for the State of Washington and agree that in any such action venue lies exclusively at Olympia, Washington.
- 10.12 Fair Construction and Interpretation. The provisions of this Agreement must be construed as a whole according to their common meaning and not strictly for or against any party and consistent with the provisions in order to achieve the objectives and purposes of this Agreement. Each party and its counsel has reviewed and revised this Agreement and agrees that the normal rule of construction that any ambiguities are to be resolved against the drafting party may not be applied in the interpretation of this Agreement. Each term and provision of this Agreement to be performed by either party must be construed to be both a covenant and a condition.
- 10.13 Exhibits and Attachments. All exhibits and attachments referred to are deemed to be incorporated in this Agreement in their entirety.
- 10.14 Captions and Headings. The captions and headings in this Agreement are for convenience only and are not intended to, and may not be construed to, limit, enlarge, or affect the scope or intent of this Agreement or the meaning of any provisions.
- 10.15 Electronic Signatures. A signed copy of this Agreement or any other ancillary Agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement or such other ancillary Agreement for all purposes.

10.16 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Agreement at different times and places by the parties shall not affect the validity so long as all the parties execute a counterpart of this Agreement.

10.17 Termination. After fifteen years of the Effective Date, the state may terminate this agreement upon 60 days written notice to the City. Upon termination, the State Property Improvements will remain in place at no cost to the state unless mutually agreed to in writing by both parties.

10.18 Posting or Recording. Prior to its entry into force, this Agreement must be listing on the City's website or other electronically retrievable public source or filed with the Thurston County Auditor's Office or as required by RCW 39.34.040.

EXECUTED and Effective as provided above on the "effective date."

State of Washington
Department of Enterprise Services

City of Olympia
A Washington Municipal Corporation

By:




Seth Wallace
Assistant Director

By:

Steven R. Hall
City Manager

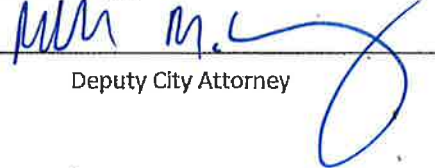
Approved as to Form:

By:


Assistant Attorney General

Approved as to Form:

By:


Deputy City Attorney



TEMPORARY LICENSE TO CONSTRUCT

ATTACHMENT A

Project / Number:	Legion Way Improvements / 1705G
Site Address:	600 and 615 Washington Street SE, Olympia, WA 98501
Parcel Number(s):	78502600000 and 78501600000
Grantor(s):	State of Washington Department of Enterprise Services
Grantee(s):	City of Olympia

The Grantor(s), WASHINGTON STATE DEPARTMENT OF ENTERPRISE SERVICES, hereby grant to the Grantee, CITY OF OLYMPIA, A MUNICIPAL CORPORATION, a temporary license ("License") over, under, upon, and across Parcel Number 78501600000 and Parcel Number 78502600000, and specifically the area depicted upon Exhibit "A" attached hereto that depicts the "License Area" located in Olympia, Thurston County, Washington.

The temporary rights granted herein are to provide the City and the City's contractor access to the property shown on Exhibit "A" for the purpose of installing cement concrete roadway and transition ramps; scored cement concrete crosswalk; cement concrete curb and gutter; ADA compliant cement concrete sidewalks; traffic signal poles; traffic signal controller cabinet and electrical service cabinet for traffic signals and roadway illumination; landscape planters with trees and decorative plantings; catch basins and storm drain pipes for stormwater conveyance; pavement markings; and utility junction boxes and electrical conduit; all within the area depicted upon Exhibit "A".

The temporary rights granted herein shall commence upon the start of construction of the Project referenced above and continue until physical completion or January 1, 2021, whichever occurs first.

Construction related activities and improvements shall be limited to an area entirely within the public right-of-way and "License Area". In the event that any private improvements in the "License Area" or any other portion of Grantors' property are disturbed or damaged by Grantee, its contractors, agents, or permittees, the City of Olympia agrees that it will, at its own expense and to the extent reasonably practicable, restore the surface of land to the same conditions that existed prior thereto.

Except for those times when Grantee is making use of the "License Area", the Grantor shall retain the right to use and enjoy the "License Area", including the right to use existing private improvements located in the "License Area" so long as such use does not interfere with Grantee's construction of the public improvements described in this "License".

The "License" granted hereby is for the benefit of Grantee and Grantee shall have the right to authorize City contractors, agents, or permittees to enter upon the "License Area" to accomplish the purposes described herein.

Grantor initials _____

Grantee initials _____

Grantee shall indemnify and hold Grantor harmless from any and all costs, expenses (including reasonable attorney's fees), damages, claims, fines, and penalties ("Claims"), to the extent arising from the negligent acts of the Grantee, its contractors, agents or permittees in exercising the rights granted pursuant to this License, but not to the extent arising from the negligent acts of the Grantor, its' agents or employees.

Accepted and Approved:

GRANTOR:

Seth Wallace Date
Assistant Director
Real Estate Services

Approved as to Form:

Assistant Attorney General Date

Accepted and Approved:

GRANTEE:

CITY OF OLYMPIA

Fran Eide, P.E. Date
City Engineer
Public Works Department

Approved as to Form:

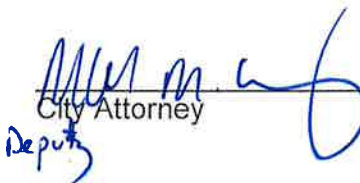
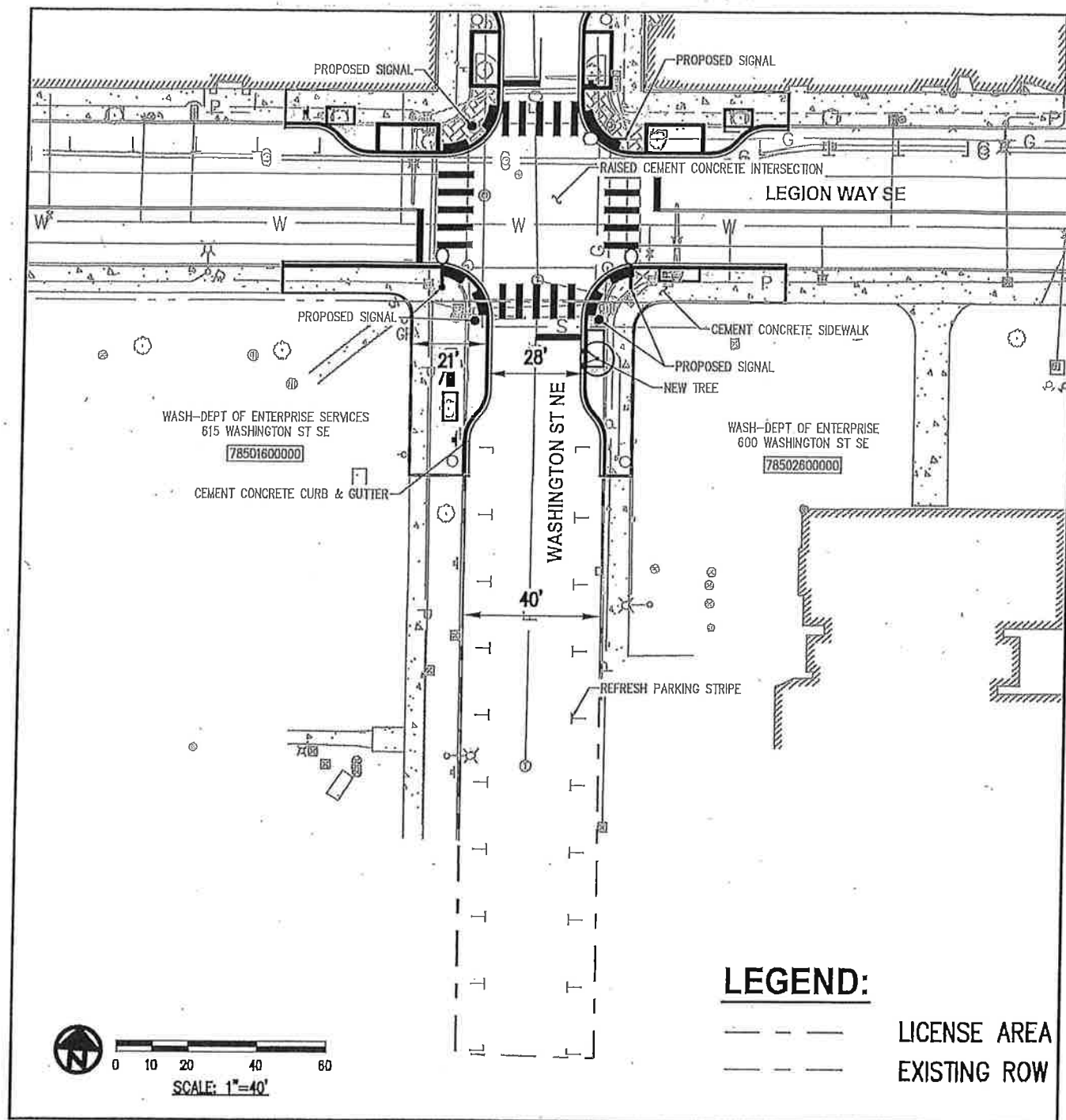
 _____
City Attorney Date 11/7/2019
Deputy

EXHIBIT "A"



PROJECT/NUMBER: LEGION WAY IMPROVEMENTS/1705G
 SITE ADDRESS: 600 AND 615 WASHINGTON ST SE, OLYMPIA, WA 98501
 PARCEL NUMBERS: 785026000000 AND 78501600000
 GRANTOR: WASHINGTON STATE DEPARTMENT OF ENTERPRISE SERVICES
 GRANTEE: CITY OF OLYMPIA

KPG
 Interdisciplinary Design
 3131 E East Ave
 Suite 400
 Seattle, WA 98121
 (206) 226-1600
 2502 Jefferson Ave
 Tacoma, WA 98402
 (253) 627-0720
 www.kpg.com

After recording return document to:

State of Washington
Department of Enterprise Services
Real Estate Services
P O Box 41468
Olympia WA 98504-1468

Document Title: Easement Deed

Grantor: State of Washington, Department of Enterprise Service

Grantee: City of Olympia

Legal Description: Exhibit A (Attached)

Assessor's Tax Parcel Numbers: A portion of 78501600000 and 78502600000

EASEMENT DEED

The Grantor, State of Washington, acting through the Department of Enterprise Services for and in consideration of mutual and offsetting benefits, does hereby convey and quitclaim unto the City of Olympia, Grantee, the non-exclusive easement to access and maintain infrastructure associated with the Legion Way Improvements project within the permanent easement area shown on Exhibit B over and across the following described real estate:

See Exhibit A, attached, for legal description.

This agreement allows the Grantee access to maintain all infrastructure improvements, including but not limited to cement concrete roadway; cement concrete crosswalk; cement concrete sidewalk; traffic signal poles; traffic signal controller cabinet and electrical service cabinet for traffic signals and roadway illumination; landscape planters; catch basins and storm drain pipes for stormwater conveyance; and utility junction boxes and electrical conduit, associated with the Legion Way Improvements project within the permanent easement area shown on Exhibit B.

Upon request of the Grantor, Grantee shall relocate any facilities on Grantor's land provided the Grantor agrees to pay for the cost of such relocation.

The Grantee, its successors or assigns, will protect, save and hold harmless the Grantor, its authorized agents and employees, from all claims, actions, costs, damages or expenses of any nature whatsoever arising out of or in connection with any acts or activities authorized by this Easement. The Grantee further agrees to defend the Grantor, its agents or employees, in any litigation, including the payment of any costs or attorneys' fees, for any claims or action commenced thereon arising out of or in connection with acts or activities authorized by this Easement. This obligation shall not include such claims, costs, damages, or expenses which may be caused by the sole negligence of the Grantor or its authorized agents or employees; Provided, that if the claims or damages are caused by or result from the concurrent negligence of (a) the Grantor, its agents or employees, and (b) the Grantee, its agents or employees and involves actions covered by RCW 4.24.115, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Grantee or Grantee's agents or employees.

This Easement shall terminate upon the termination of the Interlocal Agreement between The City Of Olympia and The State Of Washington, Department of Enterprise Services, for street, sidewalk, and related infrastructure improvements at Legion Way and Washington Street (on file at the Department of Enterprise Services, Facility Professional Services Division).

Dated this _____ day of _____, 20_____.

ACCEPTED BY:

STATE OF WASHINGTON,

By: _____

acting through the
Department of Enterprise Services

Title: _____

Seth Wallace, Assistant Director
Real Estate Services

Date: _____

Date: _____

RECOMMENDED FOR APPROVAL

Stefanie Fuller, Acquisition /Disposal Manager

APPROVED AS TO FORM:

By: _____
Assistant Attorney General

Date: _____

STATE OF WASHINGTON)
) ss.
County of Thurston)

I, the undersigned, a Notary Public, do hereby certify that on this _____ day of _____, 20_____, personally appeared before me SETH WALLACE, Assistant Director, Real Estate Services, Department of Enterprise Services, State of Washington, to me known to be the individual described in and who executed the within instrument, and acknowledged that he signed and sealed the same as the free and voluntary act and deed of the Department, for the purposes and uses therein mentioned, and on oath stated that he was duly authorized to execute said document.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

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

EXHIBIT "A"

PARCEL NO'S. 78501600000 & 78502600000 PERMANENT EASEMENT

A PORTION OF BLOCKS 16 AND 26 OF SYLVESTER'S PLAT, SECTION 14, TOWNSHIP 18 NORTH, RANGE 2 WEST, AS RECORDED IN VOLUME 1 OF PLATS ON PAGE 14, RECORDS OF THURSTON COUNTY, WASHINGTON, TOGETHER WITH VACATED STREET LYING BETWEEN SAID BLOCKS, AND BEING FURTHER DESCRIBED AS FOLLOWS;

THE NORTHERLY 50 FEET OF SAID PORTION OF SYLVESTER'S PLAT, EXCEPTING THEREFROM THE WESTERLY 231 FEET, AND THE EASTERLY 244 FEET.

CONTAINING 3900 SQUARE FEET, MORE OR LESS.



9/6/2019

EXHIBIT "B"

