

Return Address:
 URBAN OLYMPIA 5, LLC
 PO Box 7534
 Olympia, WA 98507-7534

EASEMENT AGREEMENT

Grantor	URBAN OLYMPIA 5, LLC, a Washington limited liability company
Grantee	THE CITY OF OLYMPIA, a Washington municipal corporation
Legal Description	Section 14, Township 18, Range 2W Quarter NW SW Sylvester Town of Olympia BLA 174666OL LT A Document 4654811
Assessor's Tax Parcel ID Nos.	7850-72-00600
Reference No. of Related Document	N/A

THIS EASEMENT AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, 2020, by URBAN OLYMPIA 5, LLC, a Washington limited liability company, as “Grantor” and THE CITY OF OLYMPIA, a Washington municipal corporation, as “Grantee” (collectively the “Parties”).

RECITALS

A. Grantor is the owner of that certain real property located in Thurston County, Washington and legally described as follows (the “Grantor Property”):

PARCEL A OF BOUNDARY LINE ADJUSTMENT NO. 17-4666-OL MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 55 FEET OF LOT 5 AND ALL OF LOTS 6, 7 AND 8 IN BLOCK 72 OF SYLVESTER’S PLAT OF OLYMPIA, AS RECORDED IN VOLUME 1 OF PLATS, PAGE 14; TOGETHER WITH THE NORTH-SOUTH VACATED ALLEY ADJACENT TO SAID LOTS AS VACATED BY CITY ORDINANCE 7079 AS RECORDED UNDER AUDITOR’S FILE NO 4579154.

SITUATE IN THE COUNTY OF THURSTON, STATE OF WASHINGTON.

B. Under the terms and subject to the conditions set forth in this Agreement, Grantor intends to grant to Grantee an easement for ingress and egress over and across Grantor's Property that will be used for public shoreline access, enjoyment, and recreational purposes, and Grantee desires to accept such an easement.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein and for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree to the following:

1. Easement. Grantor hereby grants to Grantee a non-exclusive easement for ingress and egress across, along, in, upon, and under that portion of Grantor's Property legally described and depicted on **Exhibit A** (the "Easement Area") for the purpose of a public plaza that will be open for public shoreline access, enjoyment, and recreation (the "Easement"). Notwithstanding the foregoing, Grantor shall be allowed access over the Easement Area for the purpose of construction, maintenance, and emergency activities. Grantor and its contractors may enter the Easement Area from time to time with the equipment necessary to construct, maintain, repair and replace plaza improvements. Grantor shall perform all work to improve the Easement Area at its sole expense and in accordance with applicable laws.

2. Improvements. Unless the Parties hereto agree in writing to share the cost of improvements in advance of such improvements being made, any improvements shall be solely for the account of the improver.

3. Maintenance. The Easement Area shall be maintained by Grantor at its sole cost and expense. The Easement Area, once improved and open to the public, shall at all times be kept in good condition.

4. Reservation of Rights. The easement rights granted hereunder are non-exclusive and concurrent with the rights of Grantor and any third-party agents, licensees, or invitees of Grantor. Grantor reserves, for itself and its successors and assigns, the right, at all times, and for any and all purposes, to use the Easement Area in any manner that will not unreasonably interfere with the rights granted hereunder.

5. Compliance with Laws and Rules. The Parties shall at all times exercise their rights herein in accordance with the requirements of all applicable statutes, orders, rules, and regulations of any public authority having jurisdiction.

6. Indemnification. Grantee shall indemnify, hold harmless, and defend Grantor and its successors and assigns from and against all liability, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney's fees, arising from or in any way connected with: injury to or the death of

any person resulting or occurring on the Easement Area, or physical damage to any property resulting or occurring on the Easement Area, arising out of the negligence or willful misconduct of Grantee or its agents, employees, successors, or assigns, unless due solely to the negligence or willful misconduct of Grantor or its successors or assigns.

7. **Successors and Assigns; Binding Effect.** The rights and obligations set forth herein shall inure to and be binding upon the successors, heirs and assigns of the Parties to this Agreement and shall burden the Grantor Property for the term of this Agreement.

8. **Notices.** All notices required or permitted to be given under this Agreement, or given in regard to this Agreement by one Party to the other, shall be in writing and be personally delivered (including by means of professional messenger service) or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below. All notices sent by mail will be deemed received three (3) business days after the date of mailing. All such notices or communications shall be addressed as follows:

If to Grantor: Urban Olympia 5, LLC
 P.O. Box 7534
 Olympia, Washington 98507-7534

If to Grantee: City of Olympia
 P.O. Box 1967
 Olympia, Washington 98507

9. **Severability.** The invalidation by any court of any reservation, covenant, restriction, limitation or agreement contained herein shall in no way affect any other provision and the same shall remain in full force and effect.

10. **Waiver.** No failure of any Party to exercise any power granted under this Agreement or to insist upon strict compliance with any obligations specified under this Agreement, and no custom or practice at variance with the terms of the Agreement, shall constitute a waiver of any Party's right to demand strict compliance with the terms under this Agreement; provided, however, that any Party may, at its sole option, waive any requirement, covenant or condition under this Agreement established for the benefit of such Party without affecting any of the other provisions of this Agreement.

11. **Entire Agreement; Construction.** This Agreement sets forth the entire and complete agreement between the Parties with respect to the subject matter hereof. Any prior agreements, commitments, or representations, express or implied, between the Parties are superseded by this Agreement. No provisions of this Agreement shall be construed against or interpreted to the disadvantage of any Party hereto by any court or governmental or jurisdictional authority by reason of such Party having been deemed to have structured, written, drafted or dictated such provisions. The Recitals to this Agreement and the Exhibits attached to this Agreement are incorporated herein by this reference. The captions and headings of this Agreement are for convenience only and shall not define, limit, or describe the applicability,

scope, meaning, or intent of any provision of this Agreement. Capitalized terms, which are defined in the recitals under this Agreement, shall have the meaning given.

12. Attorneys' Fees. In the event any arbitration, action, suit or legal proceeding is instituted by either Party to this Agreement, the prevailing Party shall be entitled to recover from the non-prevailing Party both reasonable attorneys' fees and reasonable expert witness fees as determined by the court or arbitration panel, both at trial and on appeal or review and in bankruptcy, whether or not the matter in dispute involves an issue peculiar to federal bankruptcy law. Attorneys' fees and expert witness fees shall be in addition to other costs and disbursements allowed by law. "Prevailing Party" shall be determined by the arbitrator, or any court, as the true prevailing party (not statutorily prevailing party) after taking into consideration any settlement offers made by the Parties and the number and importance of issues to be determined.

13. Governing Law; Venue. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Washington. In addition, the Parties agree that in the event of any dispute concerning this Agreement, venue for any cause of action arising out of, or having to do with, this Agreement shall be, and is, in Thurston County, Washington.

14. Amendment. This Agreement may be modified or amended only by a written agreement signed by the Parties, or their applicable successors or assigns.

15. Counterparts. This Agreement may be executed in two or more counterparts and each counterpart shall be deemed to be an original, but all of which together shall constitute one and the same upon delivery of one such counterpart by each Party to this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date and year first written above.

GRANTOR:

URBAN OLYMPIA 5, LLC, a Washington limited liability company

I hereby declare under penalty of perjury pursuant to the laws of the State of Washington that I have read the foregoing Easement Agreement, I am authorized to execute the same, I know the contents thereof, and I sign the same as my free act and deed.

Walker John
Walker John
Manager
walker@oliviabeach.com

Dated: 09/23/2020

GRANTEE:

CITY OF OLYMPIA, a Washington municipal corporation

I hereby declare under penalty of perjury pursuant to the laws of the State of Washington that I have read the foregoing Easement Agreement, I am authorized to execute the same, I know the contents thereof, and I sign the same as my free act and deed.

Steven J. Burney
City Manager

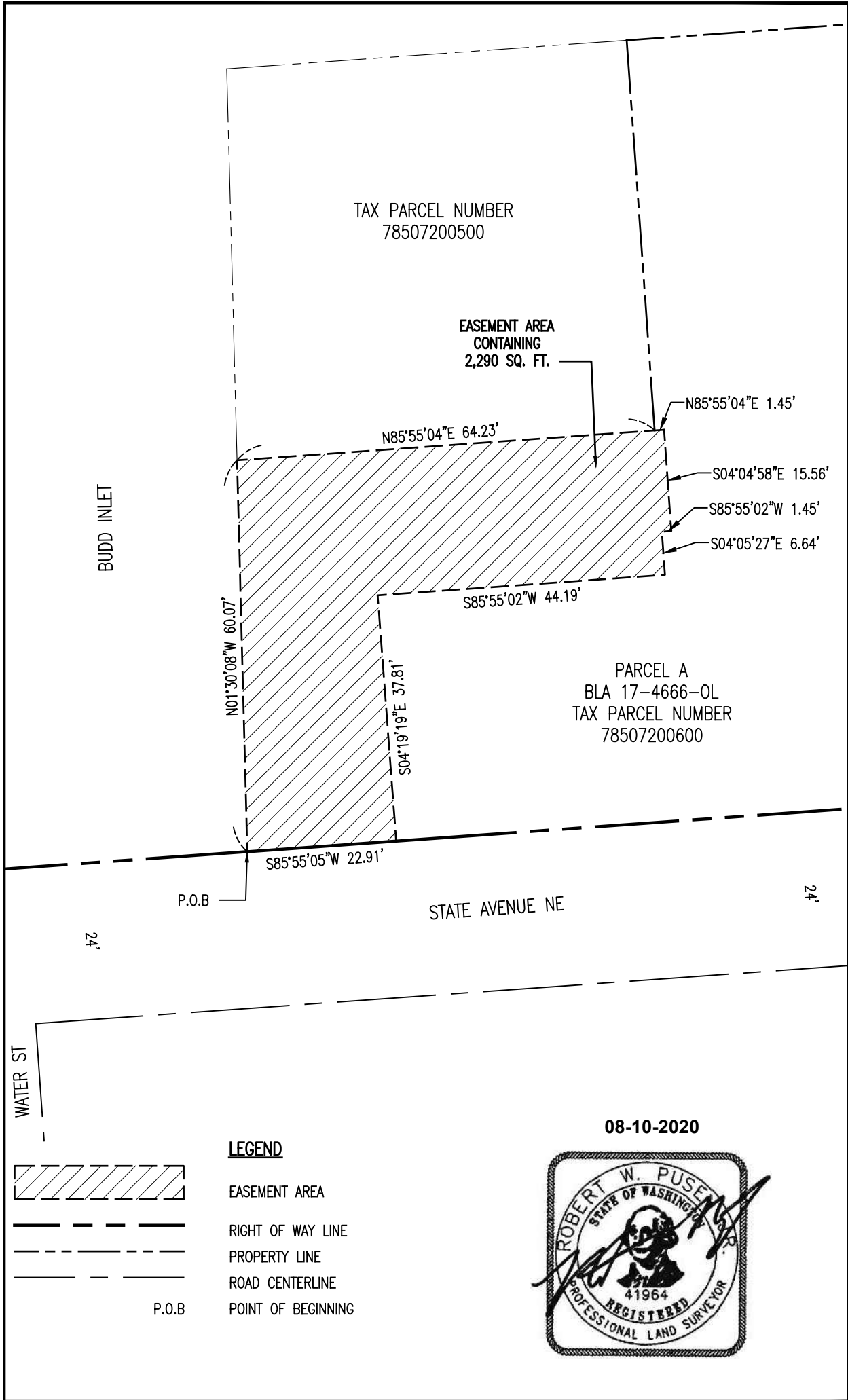
Dated: _____

Approved as to Form:

Michael M. Young

Deputy City Attorney

EXHIBIT A



Parametrix

NW 1/4, SW 1/4 SEC. 14,
T. 18 N., R. 2 W., W.M.
THURSTON COUNTY, WASHINGTON

EXHIBIT B
URBAN OLYMPIA III LLC
ACCESS EASEMENT FOR:
PARCEL 78507200600

EASEMENT AREA = 2,290 SQ.FT.

DATE: 8/5/2020 FILE: 217-7257-003-EASEMENT.DWG