

**RIGHT-OF-WAY PERMIT AGREEMENT
BETWEEN THE CITY OF OLYMPIA
AND VINE STREET INVESTORS, LLC**

THIS AGREEMENT is made and entered into the ____ day of _____, 2014, by and between the City of Olympia, a Washington municipal corporation, hereinafter referred to as "Olympia" and Vine Street Investors, LLC, a Washington limited liability company, J. Brent McKinley, Managing Partner, hereafter referred to as "Vine Street." This agreement is intended to provide the terms by which Vince Street may use the unopened City right-of-way for parking purposes.

WITNESSETH:

1. There exists within the City of Olympia a platted right-of-way known as Quince Street, southerly of 8th Avenue and northerly of the south line of 9th Avenue, which right-of-way has never been opened for public use.
2. Vine Street is a developer of private buildings and the owner of the underlying fee over which said unopened right-of-way runs. Vine Street sees to use the property in question for parking for Vine Street customers until such time as Olympia elects to vacate the street or requires it to be opened and used as a public street.
3. Olympia has determined that use of unopened right-of-way for parking purposes is consistent with proper use of said right-of-way.

THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Olympia hereby grants to Vine Street the right to temporary use the unopened right-of-way of, as described below, for parking purposes:

That part of Quince Street lying South of the South line of Eighth Avenue and North of the South line of Ninth Avenue, said street being adjacent to Blocks 33, 34, 45 and 46 of Swan's Addition to Olympia as recorded in Volume 1 of Plats, Page 37, Records of Thurston County. In the City of Olympia, Thurston County, Washington. Parcel No. 78203300500

2. The term of this Agreement will be for four (4) years from the date of this Agreement unless it is terminated by the City prior to that data. The City can terminate this Agreement as its discretion by providing written notice of such termination. The effective date of such a termination will be 120 days after the date of receipt by Vine Street of the notice of termination. Upon receipt of a termination notice, Vine Street shall take the necessary action to ensure that the street may be

opened when the termination notice becomes effective. Required street improvements shall be per paragraph 10 of this Agreement.

3. In consideration therefor, Vine Street shall annually pay to Olympia, on or before October 1 of each year, the amount of Four Thousand Eight Hundred Ninety Dollars and No Cents (\$4,890.00). Said amount shall be proportionately discounted or reimbursed if this Agreement is terminated within any year prior to October 1. At Vine Street's options, the above amount may be paid in two installments, to wit, Two Thousand Four Hundred Forty-Five Dollars(\$2,445.00) on October 1 and April 1 of each year. The annual payment shall be adjusted each year based upon the Consumer Price Index (CPI) published by the U.S. Bureau of Labor Statistics for the preceding year.
4. Vine Street shall construct and maintain parking on said right-of-way at its own expense and shall maintain said facilities in good repair. Olympia is to be liable for no costs or expense of construction, maintenance, or otherwise by reason of this Agreement.
5. Olympia retains the right to construct underground utilities through the entire length and breadth of the right-of-way, but shall, upon completion of any such construction during the term of this Agreement, restore to site to the condition created by the developer.
6. Vine Street, its successors and assigns, agrees to defend, indemnify, and hold Olympia harmless from any claim, suit, action, damages, liability, or expense incurred by reason of Vine Street's construction, use, or maintenance of the property for parking facilities. The intent of this paragraph is that vine Street, its successors, or assigns, will have full, complete, and exclusive care and responsibility for the premises, its construction and use; therefore, ensuring that Olympia will incur no expense by reason of Vine Street's use of the property. Vine Street shall maintain insurance in sufficient amounts to ensure liability coverage.
7. It is recognized that Vine Street may impose restrictions on the use of the temporary parking facilities, including limited the use to be made thereof.
8. This Agreement may be assigned by Vine Street to any successor in interest taking fee ownership in the surrounding property. To secure a release from liability under this Agreement, Vine Street shall advise Olympia of such change and secure Olympia's consent in writing to the assignment of this Agreement. Such consent shall not be unreasonably withheld if the assignee is a purchaser for value of the surrounding property.

9. Vine Street has the option to petition again for the vacation of the right-of-way described herein and if said petition be granted, the vacated right-of-way shall be sold to abutting property owners as provided under Olympia's Municipal Code.
10. The possibility exists that the public interest required that Quince Street be opened for use as a public right-of-way in which event Vine Street shall improve the right-of-way to Olympia Standards for the length of Vine Street's abutting property. Vine Street shall take immediate action to open the street and construct same to Olympia Commercial Collector Street standard upon notice given by Olympia to Vine Street that the street, if not vacated, is needed for right-of-way purposes. If the street construction is required, it shall be landscaped in accordance with criteria for landscaping parking lots.
11. Vine Street shall post a bond in the form of an assigned savings account or stand-by irrevocable letter of credit in an amount equal to 125% of the cost of improving the referenced right-of-way plus landscaping to Olympia standards. The Public works Director shall set the amount of bond and Vine Street shall have the opportunity to occupy and use the right-of-way as provided in this Agreement only after the bond has been posted.

The bond referenced in the paragraph above may be released upon the happening of either of two events: (a) Olympia takes such action as is required to vacate the reference right-of-way, or (b) Olympia has accepted, in writing, the roadway that is constructed by Vine Street after receiving notice pursuant to paragraph 10 of this Agreement.

12. If this Agreement shall be determined invalid by a court of competent jurisdiction, the parties agree that Olympia shall not be liable to Vine Street or its successors in interest for any damages occasioned thereby and Vine Street and successors in interest hereby specifically waive any claim therefor.

