

WHEN RECORDED MAIL TO:

City of Mesa
Real Estate Services
P.O. Box 1466
Mesa, Arizona 85211-1466

***PERMANENT PUBLIC RIGHT-OF-WAY AND UTILITY EASEMENT AND
UNDERGROUND PARKING STRUCTURE AGREEMENT***

Maricopa County, Arizona
SW1/4, Sec. 23, T1N, R5E
APN #

DATE: August_ ___, 2018

GRANTOR: Suburban Land Reserve, Inc., a Utah corporation

GRANTEE: City of Mesa, an Arizona municipal corporation

R E C I T A L S

- A. Grantor owns certain real property near downtown Mesa, Arizona and desires to construct the development on such property known as Mesa and Main. The development will include the construction of an underground parking structure ("Parking Structure") on top of which will be built improvements, including the construction of residential and commercial buildings, and such improvements will hereafter be referred to as the "Project".
- B. To facilitate the construction of the Project and the Parking Structure, Grantee agreed to abandon to Grantor a portion of that certain right-of-way commonly known as South Udall Street and described in **Exhibit A**. The vacation and abandonment was conditioned on Grantor granting certain rights to use of the property back to Grantee to provide for the continued use of South Udall Street as a right-of-way, as more fully set forth herein.
- C. Following the vacation and abandonment, Grantor is the owner of the real property situated within the boundaries of the City of Mesa in Maricopa County, Arizona, legally described in **Exhibit A**.
- D. The Parties have agreed to enter into this Permanent Public Right-of-Way and Utility Easement and Underground Parking Structure Agreement ("Easement Agreement") to more fully detail their rights, title, and obligations related to the vacated portion of South Udall Street described in **Exhibit A**, and as a condition for Grantee vacating and abandoning said portion of Udall Street.

For and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Grantor and Grantee agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.
2. Easement. Subject to the terms stated herein, Grantor does hereby grant and convey to Grantee, a permanent (perpetual) easement over, across, under, and upon the lands described below in Section 2(a), as limited by Section 2(b) ("Easement Property") to construct, install, access, maintain, repair, reconstruct, replace, remove, operate and use as a right-of-way for South Udall Street. This easement includes permission for Grantee, or others permitted by Grantee, to install and operate a roadway as well as water, wastewater, gas, electric and storm-water utilities and facilities including, but not limited to: conduits, cables, switching equipment, conductors, fiber optics, communication and signal lines, transformers, vaults, manholes, fire hydrants, street lights, street signs, traffic signs and signals, street pavement, curbs, gutters, sidewalks, landscaping, storm drainage, and all similar and related purposes and associated appurtenances to the foregoing (collectively all permissions are the "Facilities"), at such locations and elevations over, across, under, and upon the Easement Property as Grantee may now or in the future deem convenient or necessary, together with the right to alter ground level to the depth of the Easement Property by cut or fill and the unrestricted right of vehicular and pedestrian ingress and egress to, from and across the Easement Property, for the purposes set forth above. Additionally, Grantee is authorized to permit others and Grantor to use the Easement Property for all uses and Facilities allowed herein.
 - a. Easement Property Description. The lands constituting the Easement Property are more particularly described on the attached **Exhibit A** and depicted in the attached **Exhibit B**.
 - b. Vertical Depth of Easement Property. The vertical depth of the Easement Property is limited and described as follows: the depth of the Easement Property begins at the top of the Parking Structure podium deck, being approximately five and a half feet (5.5') below the surface of the real property of the Easement Property, as described and depicted on **Exhibit B** attached hereto, and extends infinitely upward, such that the Easement Property does not include any portion of the subsurface beginning below the top of the Parking Structure podium deck, as described and depicted on **Exhibit B** attached hereto, and extending infinitely downward.
3. Grantor's Use of and Responsibilities Related to the Easement Property.
 - a. General. Grantor's construction, operation, and maintenance of the Parking Structure and Project will not interfere with Grantee's use of the Easement Property, except as related to the initial construction of the Parking Structure or otherwise necessary to maintain or repair the Parking Structure, provided that Grantor obtains Grantee's consent to any closure of the Easement Property by obtaining the appropriate permit in accordance with the Mesa City Code. Grantor shall not, and shall not permit others to, construct, install or place any building/structure or improvement, drill any well, store materials of any kind, or alter ground level by cut or fill within the Easement Property. Grantor agrees that its use of the Easement Property shall comply with all City of Mesa codes and ordinances including, but not limited to, Grantor must obtain the appropriate

permits for any use of the Easement Property in accordance with the requirements of the Mesa City Code.

- b. Continued Use Prior to Demolition. Grantor may continue to use the Easement Property as a roadway until the Grantor is issued permits from Grantee for demolition of the Easement Property.
- c. Demolition: Utility Line Relocation. Grantor acknowledges the Easement Property contained certain utility lines at the time of abandonment and, as a part of the demolition of the Easement Property, Grantor is responsible for all costs and expenses related to the relocation of City of Mesa owned “wet utilities” (i.e. water and sewer water) and the service lines for “dry utilities” (i.e. electric and natural gas). Grantee is responsible for all costs and expenses related to the relocation of City of Mesa owned main lines for “dry utilities” (i.e. electric and natural gas).
- d. Grantor Construction of Facilities. As a part of the construction of the Project, Grantor will construct the following Facilities public improvements on the Easement Property (as set forth in Grantor’s approved plans submitted to Grantee and in accordance with Grantee’s current engineering standards for a right-of-way): roadway, vegetation (landscaping), curbs, gutters, lighting, pedestrian amenities, and sidewalks. Grantor will transfer all warranties for the construction of such Facilities public improvements to the Grantee as reasonably required by Grantee.

4. Utilities in the Easement Property. Grantee, as a governmental authority, maintains the right to control the installation of utilities and other, similar services in the Easement Property, including the installation of utilities by permitted third parties. Grantee agrees that no such utility or other, similar use in the Easement Property shall materially interfere with Grantor’s Parking Structure and the Project. Grantor will not disturb any utility lines within the Easement Property in its operation and maintenance of the Parking Structure and the Project without first obtaining the applicable permit from Grantee required under the Mesa City Code. If any utility lines in the Easement Property are disturbed by Grantor, Grantor will be responsible for all costs and expenses associated with the repair or replacement of such lines.

5. Maintenance and Improvements.

- a. Facilities. The maintenance and repair of the Facilities in the Easement Property is as follows: (i) Grantor will be responsible for the maintenance and repair for all Facilities which are streetscape improvements on the surface of the real property constituting the Easement Property (e.g. sidewalks, landscaping, streetlights, and pedestrian amenities), except Grantee will be responsible for maintenance and repair of the roadway; (ii) Grantee will be responsible for maintenance and repair of the roadway; and (iii) Grantor will reimburse Grantee any costs and expenses (or any incremental increases thereto) for maintenance and repair that are caused, in whole or in part, by the existence of the Parking Structure, Project or by the acts or omissions of Grantor, its employees, agents, contractors or invitees, other than wear and tear that occurs in the ordinary use of the Easement Property as a public right-of-way.
- b. Removal of Interferences with Grantee’s Use. Without limiting the grant of the easement herein, Grantee shall also have the right (but not the obligation), whenever

necessary to use the Easement Property as permitted in this Easement Agreement, to: (i) remove structures and improvements on the Easement Property; and (ii) trim, cut, and clear away trees, brush, or other vegetation on the Easement Property.

- c. Grantor Failure to Maintain or Repair Parking Structure. If Grantor fails to maintain or make repairs within a reasonable time to the Parking Structure or Facilities that are required under this Easement Agreement and such failure affects the Facilities or Grantee's use of the Easement Property, then Grantee shall promptly notify Grantor in writing of the nature and character of such reasonably necessary repairs (the "Repair Notice"). If Grantor fails to make the repairs set forth in the Repair Notice within thirty (30) days after receipt of the same, or if the repairs are of such character as to require more than thirty (30) days to cure and Grantor fails to commence to cure within thirty (30) days after receipt of the Repair Notice and thereafter to diligently proceed to make such repairs, then, in either such event, Grantee may make such reasonably necessary repairs and such repairs shall be at Grantor's sole cost and expense. Notwithstanding the requirements of this Subsection, a Repair Notice is not required for any emergency repairs necessary to avoid damage to the Facilities or for the health and safety of the public as reasonably determined by Grantee.
- d. Grantee Failure to Maintain or Repair Facilities. If Grantee fails to maintain or make repairs to the Facilities on the Easement Property as required under this Easement Agreement and such failure affects the Parking Structure, Grantor shall promptly send a Repair Notice to Grantee. If Grantee fails to make the repairs set forth in the Repair Notice within thirty (30) days after receipt of the same, or if the repairs are of such character as to require more than thirty (30) days to cure and Grantee fails to commence to cure within thirty (30) days after receipt of the Repair Notice and thereafter to diligently proceed to make such repairs, then, in either such event, Grantor may make such reasonably necessary repairs and such repairs shall be at Grantee's sole cost and expense. Notwithstanding the requirements of this Subsection, a Repair Notice is not required for any emergency repairs necessary to avoid damage to the Parking Structure or for the health and safety of the parties using the Parking Structure as reasonably determined by Grantor.
- e. Ownership of Facilities. The Facilities shall at all times remain the personal property of Grantee or the third-party permittee (as applicable), notwithstanding that they may be annexed or fixed to the land, and may at any time and from time to time be removed in whole or in part by Grantee or the third-party permittee, subject to the provisions of this Easement Agreement.
- f. Damage Caused by Facilities. In the event Grantor knows or should have known through commercially reasonable maintenance standards of any potential problems related to the Facilities that would reasonably cause damage to the Parking Structure, the Easement Property, or the real or personal property of the Grantor, Grantee or a third party, Grantor will notify Grantee as soon as reasonably possible of such problems. Failure to provide such notice to the Grantee will result in Grantor waiving its rights to hold Grantee liable for any damage that could have been avoided had Grantor provided notice as required by this Subsection (f) and Grantee responded in a commercially reasonable period of time.

6. Indemnification.

- a. Grantor shall indemnify, defend, pay and hold Grantee, its agents, representatives, officers, directors, elected and appointed officials and employees (collectively, including the Grantee, the "Grantee Indemnified Parties") harmless for, from and against all claims, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities, and suits (including attorneys' fees, experts' fees and court costs associated with all such matters) (all of the foregoing, collectively, "Claims") imposed upon or asserted against the Grantee Indemnified Parties by a third party by reason of any of the following: (i) any accident, injury to or death of persons (including workmen) or loss of or damage to property occurring in, on or about the Parking Structure or any part thereof arising from, in whole or in part, an act or omission of Grantor, its agents, representatives, officers, directors, and employees (collectively, including the Grantor, the "Grantor Indemnified Parties") ; (ii) Grantor Indemnified Parties' performance of any labor or services or the furnishing of any materials or other property with respect to the Parking Structure, Easement Property, or any part thereof; (iii) the design, construction and structural engineering, maintenance and operation, and any other acts or omissions related in any way to or in connection with, in whole or in part, the Parking Structure or the Easement Property, and all subsequent design, construction, engineering, and other work and improvements by or on behalf of Grantor associated with same; or (iv) any failure on the part of Grantor Indemnified Parties or Grantor's contractors, subcontractors, agents, representatives, or independent contractors to comply with any applicable laws in the use, development, maintenance or operation of the Parking Structure or the Easement Property. The indemnification, duty to defend and hold harmless set forth in this Subsection (a) shall apply to all Claims except Claims arising solely from the negligence or intentional acts of Grantee Indemnified Parties.
- b. Grantee shall indemnify, defend, pay and hold Grantor Indemnified Parties harmless for, from and against all Claims imposed upon or asserted against the Grantor Indemnified Parties by a third party by reason of any accident, injury to or death of persons (including workmen) or loss of or damage to property occurring on or within the Easement Property or any part thereof to the extent such claim arises out of Grantee's failure to maintain and repair the roadway on the Easement Property. The indemnification set forth in this Subsection (b) shall not apply to the extent such Claims arise from or relate to the negligence or intentional acts of Grantor Indemnified Parties.
- c. In the event the party that is indemnified should be made a defendant in any action, suit or proceeding brought by a third party by reason of any of the occurrences described in Subsections (a) or (b), as applicable, the indemnifying party shall at its own expense: (i) resist and defend such action, suit or proceeding or cause the same to be resisted and defended by counsel designated by the indemnifying party and reasonably approved by indemnified party; and (ii) if any such action, suit or proceeding should result in a final judgment against the indemnified party, the indemnifying party shall promptly satisfy and discharge such judgment or shall cause such judgment to be promptly satisfied and discharged. The obligations of this Section 6 arising by reason of any such occurrence taking place while this Easement Agreement is in effect shall survive any termination or other form of cancellation of this Easement Agreement.

7. Insurance.

- a. Construction. During the period of any construction of the Parking Structure and Project, and with respect to any construction activities relating to the Easement Property, Grantor will obtain and provide Grantee with proof of payment of premiums and certificates of insurance showing that Grantor is carrying, or causing its contractor(s) to carry, policies of insurance in amounts and coverages set forth in this Subsection 7(a). Such policies of insurance will be placed with financially sound and reputable insurers, require the insurer to give at least thirty (30) days advance written notice of cancellation to Grantee, and will name the Grantee Indemnified Parties as an additional insured by endorsement on such policies.
- i. Property. During the period of any construction involving the Parking Structure or Project, builder's risk insurance on an all-risk, replacement cost basis for the Parking Structure and Project.
- ii. Liability. During the period of any construction involving the Parking Structure or Project, insurance covering Grantor and (endorsing as an additional insured) Grantee Indemnified Parties against liability imposed by law or assumed in any written contract, and/or arising from personal injury, bodily injury or property damage, with a limit of liability of \$5,000,000.00 per occurrence with a \$5,000,000.00 products/completed operations limit and a \$10,000,000.00 general aggregate limit. Such policy must be primary and written to provide blanket contractual liability, broad form property damage, premises liability and products and completed operations.
- iii. Contractor. During the period of any construction involving the Parking Structure or Project, each of the general or other contractors with which Grantor contracts for any such construction will be required to carry liability insurance of the type and providing the minimum limits set forth below:
- A. Workman's Compensation insurance and Employer's Liability with limits of \$1,000,000.00 per accident, \$1,000,000.00 per disease and \$1,000,000.00 policy limit disease.
- B. Commercial general liability insurance on a \$5,000,000.00 per occurrence basis providing with coverage included for (and endorsing the Grantee Indemnified Parties as additional insured for):
- Products and Completed Operations
Blanket Contractual Liability
Personal Injury Liability
Broad Form Property Damage
X.C.U.
- C. Business automobile liability including all owned, non-owned and hired autos with a limit of liability of not less than \$1,000,000.00 combined single limit for personal injury, including bodily injury or death, and property damage.

- iv. Architect. In connection with any construction involving the Parking Structure or Project, Grantor's architect will be required to provide architect's or engineer's professional liability insurance with a limit of \$1,000,000.00 per claim. This policy, or other policies, will cover claims for a period of not less than three (3) years after the completion of construction involving the Parking Structure or Project.
- v. Engineer. In connection with any construction involving the Parking Structure or Project, Grantor's soils engineer or environmental contractor will be required to provide engineer's professional liability insurance with a limit of \$1,000,000.00 per claim. This policy, or other policies, will cover claims for a period of not less than three (3) years after the completion of the construction involving the Parking Structure or Project.
- b. Insurance Following Completion of Construction. Following completion of construction of the Parking Structure and Project, Grantor will obtain and provide Grantee with proof of payment of premiums and certificates of insurance showing that Grantor is carrying, or causing its contractor(s) to carry, policies of insurance in amounts and coverages set forth in this Subsection 7(b). Such policies of insurance will be placed with financially sound and reputable insurers, require the insurer to give at least thirty (30) days advance written notice of cancellation to Grantee, and will name the Grantee Indemnified Parties as an additional insured by endorsement on such policies.
 - i. During the period following the completion of construction of the Parking Structure and Project, Grantor will be required to carry liability insurance of the type and providing the minimum limits set forth below:
 - A. Workman's Compensation insurance and Employer's Liability with limits of \$1,000,000.00 per accident, \$1,000,000.00 per disease and \$1,000,000.00 policy limit disease.
 - B. Commercial general liability insurance on a \$5,000,000.00 per occurrence basis providing with coverage included for (and endorsing the Grantee Indemnified Parties as additional insured for):
 - Products and Completed Operations
 - Blanket Contractual Liability
 - Personal Injury Liability
 - Broad Form Property Damage
 - X.C.U.
 - ii. CPI Adjustments. The minimum coverage limits set forth in Subsection 7(b)(i) above will be adjusted every five (5) years by rounding each limit up to the million-dollar amount which is nearest the percentage of change in the Consumer Price Index (the "CPI") determined in accordance with this Subsection 7(b)(ii). In determining the percentage of change in the CPI for the adjustment of the insurance limits for any year, the CPI for the month of October in the preceding year, as shown in the column for "All Items" in the table entitled "All Urban Consumers" under the "United States City Averages"

as published by the Bureau of Labor Statistics of the United States Department of Labor, will be compared with the corresponding index number for the month of October one (1) year earlier. If such method of calculation under the CPI outlined in this Subsection becomes impossible for the parties to utilize, the parties will utilize an agreed upon, commercially reasonable method of determining the percentage of change in the CPI.

- c. Primary Coverage. Grantor's insurance coverage will be primary insurance with respect to the Grantee Indemnified Parties. Any insurance or self-insurance maintained by the Grantee Indemnified Parties will be in excess of the coverage provided by Grantor and will not contribute to it.
- d. Indemnities; Additional Insurance. Coverage provided by Grantor will not be limited to the liability assumed under the indemnification provisions of this Easement Agreement. Grantee in no way warrants that the minimum limits of coverage contained in Section 7 are sufficient to protect Grantor from liabilities that might arise, and Grantor may purchase such additional insurance as Grantor determines necessary.
- e. Waiver of Subrogation. All policies will contain a waiver of subrogation against the Grantee Indemnified Parties.
- f. Notice of Cancellation. Each insurance policy will include provisions to the effect that it will not be suspended, voided, cancelled, or reduced in coverage except after thirty (30) days' prior written notice has been given to Grantee. Such notice will be provided directly to Grantee in accordance with the provisions of Section 10 below.
- g. Acceptability of Insurers. Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the State of Arizona and with an "A.M. Best" rating of not less than A-VII. Grantee in no way warrants that the above-required minimum insurer rating is sufficient to protect Grantor from potential insurer insolvency.
- h. Endorsements and Verification of Coverage. Grantor will furnish Grantee with endorsements naming the Grantee Indemnified Parties as additional insureds for all insurance required under this Easement Agreement. The endorsements will be original certificates of insurance on ACCORD forms reasonably approved by Grantee. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict or limit coverage will be clearly noted on the certificate of insurance.
- i. For insurance required during construction (Subsection 7(a) above), all certificates of insurance are to be received and reasonably approved by Grantee before commencement of construction of the Parking Structure or Project begins. For insurance required following completion of construction of the Parking Structure and Project (Subsection 7(b) above): (a) all initial certificates of insurance are to be received and reasonably approved by Grantee prior to completion of the Parking Structure and Project; and (b) for all certificates of insurance issued after the initial certificates are issued, those such certificates are to be received by Grantee prior to the expiration of the previous certificates of insurance.

- ii. Each insurance policy must be in effect: (a) for insurance required during construction (Subsection 7(a) above), at or prior to commencement of construction of the Parking Structure and must remain in effect through completion of construction; and (b) for insurance required following completion of construction of the Parking Structure (Subsection 7(b) above), for the duration of this Easement Agreement.
- iii. All certificates required by this Easement Agreement will be sent directly to City of Mesa, Attn: Risk Manager, 20 E. Main Street, P.O. Box 1466, Mesa, Arizona 85211-1466. Grantee reserves the right to require complete, certified copies of all required insurance policies and endorsements at any time.
- i. Review of Insurance. Grantor and Grantee agree that, following fifteen (15) years from the date of the Easement Agreement and every five (5) years thereafter, the parties will review in good faith the insurance requirements in Section 7 to determine whether a modification of the insurance requirements may be appropriate, including the option for Grantor to utilize self-insurance.
- j. Approval. Any modification or variation from the insurance requirements in Section 7 must have prior, written approval from Grantee's City Manager's Office whose decision will be final. The Grantee's City Manager's Office may also allow Grantor through prior, written approval, to meet the insurance requirements of this Easement Agreement through a form of self-insurance. Such action permitted under this Subsection 7(j) will not require a formal contract amendment, but may be made by administrative action.

8. Engineering Requirements for the Parking Structure.

- a. Underground Improvement. Grantor acknowledges that the Parking Structure is an underground improvement being built beneath the Easement Property (e.g. beneath a right-of-way). The Parking Structure will be underneath: (i) a public roadway used by motor vehicles, including commercial vehicles, as a right of way; (ii) other Facilities, which may include utilities such as water, waste water, and storm water, as well as landscaping irrigation; and (iii) the Project. As such, Grantor agrees the Parking Structure will be constructed in a commercially reasonable manner to withstand the uses previously stated in this Subsection and maintenance and repair of the Facilities in the Easement Property, including the weight of commercial motor vehicles using the roadway, the normal use of road construction equipment for the maintenance and repair of a roadway, and the break of a pipe transporting water, sewer water, waste water or irrigation. Grantor waives and releases Grantee from any and all claims, losses and damages due to Grantor's failure to construct and maintain the Parking Structure in accordance with Sections 5 and 8 of this Easement Agreement and applicable law.
- b. Submission of Plans. Grantor will submit to Grantee a complete set of as constructed plans and specifications to the City of Mesa Engineer upon completion of the Parking Structure.
- c. Depth of Structural Fill. Grantor will ensure that at all times there exists, beginning at the surface of the real property constituting the Easement Property, a minimum of approximately five and a half feet (5.5') depth of structural fill or other material capable

of supporting the Facilities in a commercially reasonable manner.

- d. Maintenance Standards. Grantor, at Grantor's sole cost and expense, agrees it will provide to Grantee in a form and on dates agreed upon by the parties:
 - i. Annual structural and maintenance inspection reports meeting AASTHO standards (American Association of State and Highway Transportation Officials); and
 - ii. Annual documentation demonstrating the Parking Structure's air exchange system, ventilation system, air monitoring system, and storm water handling and drainage system are in good working order.
 - e. General Maintenance. Grantor will maintain the Parking Structure in a sound, clean, and attractive manner.
9. Compliance with Law. Grantor will comply with all applicable local, state, and federal laws in the construction, maintenance and use of the Parking Structure and Project, and the construction of the Facilities in Subsection 3(d). Grantee will comply with all applicable local, state, and federal laws in the construction, maintenance and use of the Facilities (except for the construction of the Facilities in Subsection 3(d) above that is the responsibility of Grantor) and the Easement Property. This Easement Agreement does not modify, change, or alter Mesa City Code requirements, ordinances or regulations unless specifically set forth herein; accordingly, separate from this agreement, Grantor will obtain all applicable permits and approvals required for the lawful construction, maintenance and use of the Parking Structure and any other improvements located on the Easement Property.
10. Notices. All notices provided for herein shall be delivered personally or sent by certified United States Mail, postage pre-paid, return receipt requested to:

Grantee: City of Mesa
P.O. Box 1466
Mesa, AZ 85211-1466
Attn: City Manager

With a copy to: City of Mesa
P.O. Box 1466
Mesa, AZ 85211-1466
Attn: City Attorney

Grantor: Suburban Land Reserve, Inc.
c/o City Creek Reserve
15 W. South Temple, Suite 250
Salt Lake City, UT 84101
Attn: Carl Duke

With a copy to: Kirton McConkie
50 E. South Temple #400
Salt Lake City, UT 84111
Attn: Robert Hyde

Or to such other address or addresses as may hereafter be specified by notice given by any of the above for itself to the others. Any notice or other communication directed to a party to this Easement Agreement shall become effective upon the earliest of the following: (a) actual receipt by that party; (b) personal delivery to the address of the party, addressed to the party; or (c) if given by certified or registered U.S. Mail, return receipt requested, thirty-six (36) hours after deposit with the United States Postal Service, addressed to the party.

11. Ownership and Authority to Execute. The individuals executing this document represents and warrants: (i) that he or she is authorized to do so on behalf of the party for which they are signing; and (ii) that he or she has full legal power and authority to bind the party for which they are signing in accordance with the terms herein and, if necessary, has obtained all required consents or delegations of such power and authority.
12. Governing Law, Venue, Jurisdiction, Severability, and Construction. This instrument shall be construed in accordance with the laws of the State of Arizona. A party shall bring any action related to a dispute arising out of this Easement Agreement in a court of appropriate venue and jurisdiction in Maricopa County, State of Arizona. If any provision of this Easement Agreement is or becomes illegal, is found to be null or void for any reason or is held unenforceable by a court of competent jurisdiction, then the remaining portions of the Easement Agreement shall remain in full force and effect so long as removing the severed portion does not materially alter the overall intent of this Easement Agreement. This instrument shall be given a reasonable construction so that the intention of the parties is implemented. Grantor and Grantee acknowledge and agree: (a) they were advised and had the opportunity to obtain independent legal counsel to review this Easement Agreement; (b) this Easement Agreement is the product of arm's length negotiations among the parties and shall not be construed against any party due to authorship; and (c) the parties understand the terms and conditions contained herein.
13. Amendments. This Easement Agreement may be amended only by recording, in the office of the Recorder of Maricopa County, Arizona, an instrument in writing reciting such amendment, bearing the acknowledged signatures of both parties hereto, or their successors and assigns.
14. Running of Benefits and Burdens. The benefits and burdens, and the covenants and agreements in this Easement Agreement shall run with and burden the land and shall extend and inure in favor and to the benefit of, and shall be binding on, Grantor and Grantee and their respective successors and assigns.
15. Exhibits. The exhibits attached to the Easement Agreement are incorporated as if fully set forth herein.
16. Agreement Administrator. Except for notices required pursuant to Section 10 and the application for permits, which will be done in accordance with Grantee policy and the Mesa City Code, all documents that must be submitted to Grantee pursuant to this Agreement will be

addressed to the administrator of this Agreement which is the Grantee's Engineering Department Real Estate Services Administrator or his/her designee.

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IN WITNESS WHEREOF, _____ has caused its name to be executed by its duly authorized representative(s) this _____ day of _____, 2018.

GRANTOR:

By _____
Its _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing Permanent Public Right-of-Way and Utility Easement and Underground Parking Structure Agreement was acknowledged before me this _____ day of _____, 2018, by _____, acting as _____, for _____, who executed the foregoing instrument for the purposes therein contained.

Notary Public

(Notary Stamp/Seal)

Note: This instrument is exempt from the real estate transfer fee and affidavit of legal value required under A.R.S. Sections 11-1132 and 11-1133 pursuant to the exemptions set forth in A.R.S. Sections 11-1134(A)(2) and/or (A)(3).

IN WITNESS WHEREOF, _____ has caused its name to be executed by its duly authorized representative(s) this _____ day of _____, 2018.

GRANTEE:

By _____
Its _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing Permanent Public Right-of-Way and Utility Easement and Underground Parking Structure Agreement was acknowledged before me this _____ day of _____, 2018, by _____, acting as _____, for _____, who executed the foregoing instrument for the purposes therein contained.

Notary Public

(Notary Stamp/Seal)

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Exhibit A
Easement Property: Legal Description

EXHIBIT "A"
MESA TEMPLE DISTRICT
RIGHT OF WAY ABANDONMENT
LEGAL DESCRIPTION

That portion of Right-of-Way known as Udall Street as shown on the Plat of Arizona Temple Addition to Mesa City, Arizona filed as Book 11, of Maps, Page 8, Records of Maricopa County, Arizona, being within a portion of the Southwest Quarter of Section 23, Township 1 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

COMMENCING at a calculated position established by found reference monuments accepted as the West Quarter corner of said Section 23 from which a found brass cap in hand hole accepted as the Southwest corner of said Section 23 thereof bears South 00°20'07" West, 2655.03 feet;

Thence North 89°37'12" East, 304.98 feet along the centerline of Main Street

Thence leaving said centerline, South 00°22'48" East, 64.30 feet to the south Right-of-Way line of Main Street being the **POINT OF BEGINNING**;

Thence North 89°37'12" East, 60.00 feet along said south Right-of-Way to the east line of Udall Street of said plat;

Thence leaving said south Right-of-Way, South 00°19'00" West, 306.96 feet along said east line;

Thence leaving said east line, South 89°39'11" West, 60.00 feet to the Southeast corner of Lot 76, Arizona Temple Addition to Mesa City, being on the west Right-of-Way of said Udall Street;

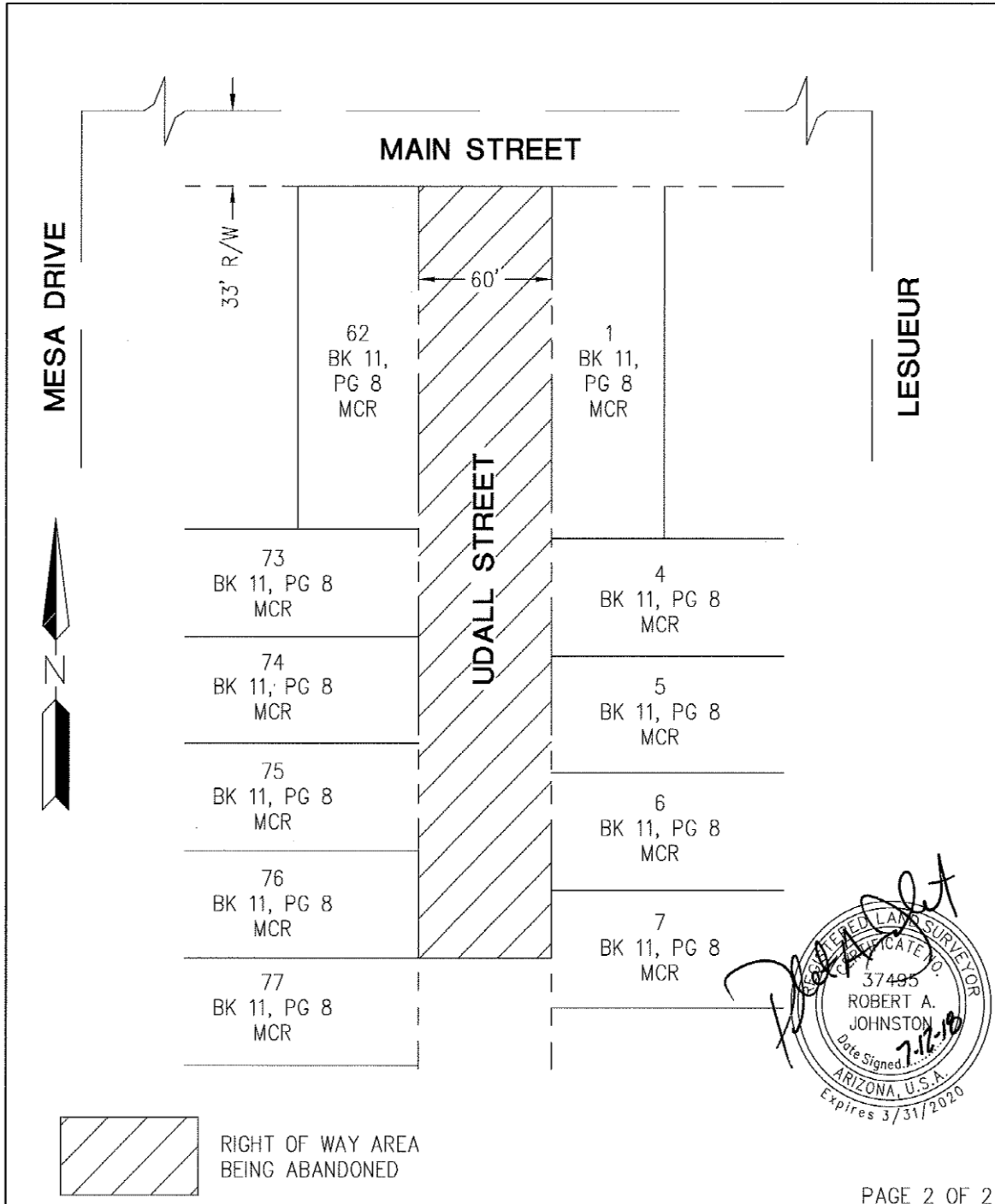
Thence North 00°19'00" East, 306.93 feet along said west Right-of-Way to the **POINT OF BEGINNING**.

The above described parcel contains a computed area of 18,417 sq. ft. (0.423 acres) more or less and being subject to any easements, restrictions, rights-of-way of record or otherwise.

The description shown hereon is not to be used to violate any subdivision regulation of the state, county and/or municipality or any land division restrictions.

Prepared by: HILGARTWILSON, LLC
2141 E. Highland Avenue, Suite 250
Phoenix, AZ 85016
Project No. 1989
Date: July 2018

Exhibit B
Easement Property: Depiction



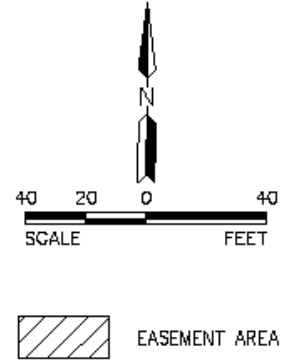
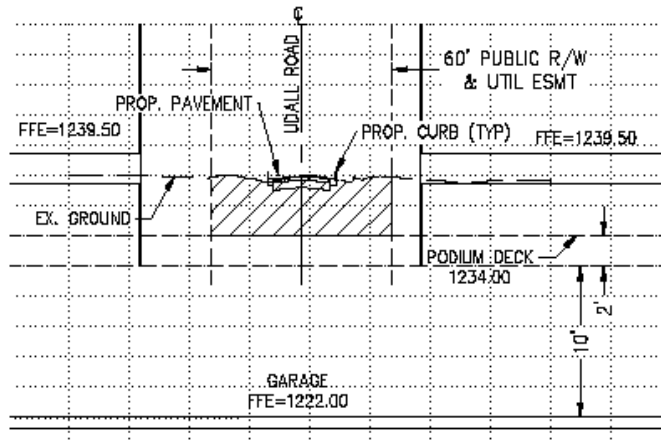
PAGE 2 OF 2

PROJ.NO.: 1989	MESA TEMPLE DISTRICT	 HILGARTWILSON 2141 E. HIGHLAND AVE., STE. 250 PHOENIX, AZ 85016 P: 602.490.0535 / F: 602.368.2436
DATE: JULY 2018	MAIN STREET & MESA DRIVE	
SCALE: NTS	RIGHT OF WAY ABANDONMENT	
DRAWN BY: DSP	EXHIBIT "B"	
CHECKED BY: RAJ		

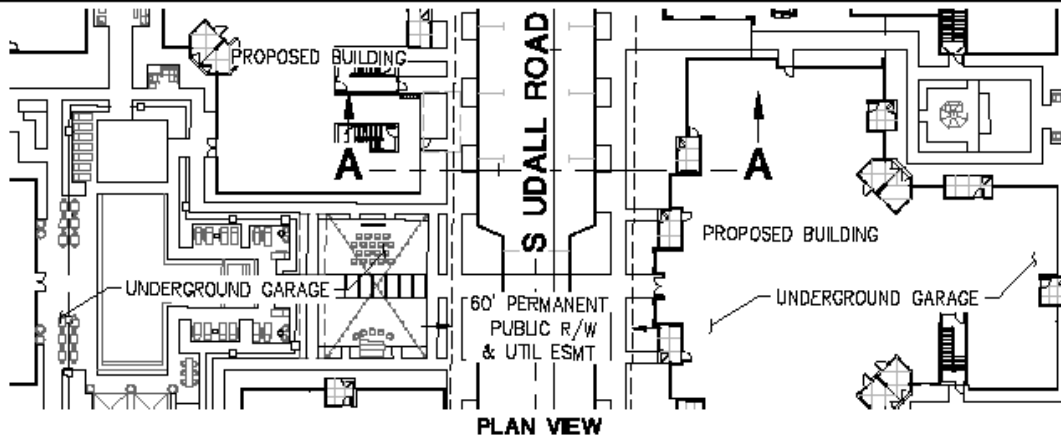
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UDALL EXHIBIT SHEET 1 OF 2



PROFILE VIEW



PLAN VIEW

