

WHEN RECORDED RETURN TO:

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

PUBLIC ACCESS EASEMENT AGREEMENT

This Public Access Easement Agreement (this “**Agreement**”) is made on this ____ day of _____, 2025, by and between OZ16 QOZB, LLC, a Utah limited liability company (“**Grantor**”), and the City of Mesa, a municipal corporation (“**City**”). Grantor and City may be herein referred to collectively as “**Parties**” and each individually as a “**Party**.”

RECITALS

A. Grantor and City entered into that certain development agreement dated _____, 2025, recorded as Instrument No. _____, Records of Maricopa County, Arizona (the “**Development Agreement**”) pertaining to the development of certain real property owned by Grantor located near the southwest corner of S. Country Club Drive and W. Main Street in downtown Mesa. The Development Agreement requires, in part, the construction of a mixed-use development with commercial, retail/restaurant or offices, and market-rate apartments on or along W. Main Street, and structured parking and other improvements.

B. To develop the property as set forth in the Development Agreement, a portion of S. Morris Street between W. Main Street and W. Mahoney Avenue needed to be abandoned by City, and the Mesa City Council approved the abandonment on _____, 2025 pursuant to Resolution No _____. The abandonment was recorded as Instrument No. _____, Records of Maricopa County, Arizona, and upon such recordation, title to the abandoned roadway vested with Grantor.

C. The Development Agreement requires Grantor to construct and install, and thereafter maintain, a central plaza area, and certain improvements therein, for pedestrian access and use for the benefit of the public on the portion of S. Morris Street that City abandoned (the “**Morris Plaza Area**”) and further requires Grantor to grant a perpetual non-exclusive easement in, on, over, under, and across the Morris Plaza Area to provide City and the public free, open, and continuous pedestrian access to and use of the Morris Plaza Area (the “**Morris Plaza Easement**”). The Morris Plaza Area is legally described on Exhibit A and depicted on Exhibit B.

D. Grantor’s agreement to construct and maintain the Morris Plaza Area and to grant the Morris Plaza Easement to City in, on, over, under, and across the Morris Plaza Area as set forth in this Agreement and the Development Agreement was valuable partial consideration in City’s decision to abandon the Morris Plaza Area; and City would not have entered into the Development Agreement or agreed to abandon the Morris Plaza Area but for Grantor’s granting of the Morris Plaza Easement to City as set forth in this Agreement.

Now, therefore, in consideration of the foregoing recitals and representations and the mutual promises contained in this Agreement, the Parties agree as follows:

AGREEMENTS

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

2. Grant of Morris Plaza Easement. Grantor hereby grants and conveys to City, for the benefit of the public, a perpetual non-exclusive easement in, on, over, under, and across the Morris Plaza Area that is legally described on Exhibit A and depicted on Exhibit B. Upon and after recordation of this Agreement, subject to the limitations of this Agreement, City and the public will have free, open, and continuous access to and use of the Morris Plaza Area for pedestrian ingress, egress, and access, including access to and use of all the improvements therein, which include the pedestrian pathway, central open space, seating, lighting, landscaping, and related improvements. The Morris Plaza Easement, and City's and the public's rights granted by this Agreement, are perpetual and cannot be cancelled, rescinded, or terminated by Grantor.

3. Free, Open, and Continuous Access. Upon and after the recordation of this Agreement, the Morris Plaza Area shall remain open at all times to ensure City and the public have free, open, and continuous access to and use of the Morris Plaza Area. Grantor shall not interfere with City's or the public's access to or use of the Morris Plaza Area, including to close or restrict the Morris Plaza Area, or any portion thereof, except as allowed by Section 4.

3.1 Obstructions. Grantor shall not, whether directly or indirectly by granting permission: (a) construct, install, or place any building, structure, fence, access control, or barrier that obstructs, restricts, or prohibits the free, open, and continuous access to and use of the Morris Plaza Area by City or the public; (b) store items or materials of any kind in the Morris Plaza Area (except for temporary storage of items or materials necessary, and being used at the time of storage, for repair, maintenance, construction, or reconstruction of the Morris Plaza Area); or (c) permit any activity that obstructs, restricts, or prohibits the free, open, and continuous access to and use of the Morris Plaza Area by City or the public, except as allowed by Section 4.

3.2 City's Right to Remove Obstructions. Without limiting the grant of the Morris Plaza Easement in this Agreement, City may, but is not obligated to, remove anything constructed, installed, or placed in the Morris Plaza Area that obstructs, restricts, or prohibits the free, open, and continuous access to or use of the Morris Plaza Area by City or the public, including any building, structure, fence, access control, or barrier, subject to Section 4. If City removes an obstruction from the Morris Plaza Area pursuant to this Section, Grantor must reimburse City, within 30 days of receipt of invoice, for all costs incurred by City, including administrative fees and legal fees incurred to collect the reimbursement.

4. Closures and Restrictions.

4.1 Temporary Closures and Restrictions. Grantor may temporarily close the Morris Plaza Area or portion thereof, or otherwise temporarily restrict or limit City's or the

public's access to and use of the Morris Plaza Area ("**Temporary Closure**") if (a) required in order to perform maintenance or repairs to the Morris Plaza Area; (b) required by law enforcement; (c) required for a public health or safety emergency; or (d) Grantor sponsors, or allows City or the public to sponsor, a special event or other temporary, short-term event in the Morris Plaza Area, such as a festival, fair, outdoor movie, concert, or farmers' market, and such event has received all required permits and other approvals from the City of Mesa. Grantor must notify City of all Temporary Closures that Grantor in good faith believes will last longer than four total days.

4.2 General Hours of Closure. Notwithstanding the foregoing, Grantor may prohibit access to or use of the Morris Plaza Area from 10:00 p.m. to 8:00 a.m.

5. Limitation of Morris Plaza Easement. The Morris Plaza Easement granted by this Agreement does not, and shall not be interpreted or applied to, (a) materially impair the rights of Grantor as a private property owner, including the rights of Grantor to control the Morris Plaza Area as set forth in Section 9; (b) create an interest in the Morris Plaza Area for City or the public that would deem the Morris Plaza Area to be the real property of City or the public (other than City's and the public's express easement rights set forth herein), including the creation of a right-of-way, public park, or public forum; or (c) permit City or the public to construct or install any building, structure, fence, access control, or barrier in the Morris Plaza Area.

6. Micromobility Vehicles. The Morris Plaza Easement granted by this Agreement is for pedestrian access to and use of the Morris Plaza Area and does not grant vehicular access to or use of the Morris Plaza Area. Notwithstanding the foregoing, Grantor, in Grantor's sole discretion, may allow human- or electrically- powered micromobility vehicles, or both, such as bicycles, scooters, and skateboards, in the Morris Plaza Area. If Grantor allows any micromobility vehicles in the Morris Plaza Area, Grantor will be solely responsible for determining the limitations of access to and use of the Morris Plaza Area by such micromobility vehicles and enforcing such limitations, including posting signage. City has no obligation under this Agreement to impose or enforce rules, restrictions, or other limitations on micromobility vehicles in the Morris Plaza Area.

7. Maintenance and Repairs. Grantor shall, at its sole cost and expense, in a sound, clean, and attractive manner, and in compliance with Applicable Laws: (a) maintain the Morris Plaza Area and all the improvements therein; and (b) repair any and all damage to the Morris Plaza Area and the improvements therein, including damage caused by persons, vehicles, or vandalism, or, if repair is not reasonably practical, replace the damaged improvement; except that City shall repair damage to the Morris Plaza Area and the improvements therein to the extent caused solely by the willful acts or omissions of City Indemnified Party. City has no maintenance or repair obligations for the Morris Plaza Area or for any improvements in the Morris Plaza Area, except for repairing damage to the Morris Plaza Area and the improvements therein to the extent caused solely by the willful acts or omissions of a City Indemnified Party. If Grantor fails to maintain or repair the Morris Plaza Area as required by this Section, City may, but does not have an obligation to, maintain or repair the Morris Plaza Area and Grantor must reimburse City, within 30 days of receipt of invoice, for all costs incurred by City, including administrative fees and legal fees incurred to collect the reimbursement.

8. Security. Grantor is solely responsible for the security of the Morris Plaza Area, including for determining the type and extent of security. To that end, Grantor may, at its sole cost and expense, provide security or install security improvements in the Morris Plaza Area, including bollards, fences, and security cameras, and Grantor will be responsible for all permits or fees required for such security measures; provided, however, security measures installed by Grantor shall not obstruct, restrict, or prohibit public access to or use of the Morris Plaza Area in violation of this Agreement. City has no security obligations under this Agreement for the Morris Plaza Area.

9. Control of Morris Plaza Area. Grantor may, at its sole cost and expense and in compliance with all Applicable Laws, and provided Grantor does not interfere with City's or the public's rights under this Agreement: (a) trespass individuals from the Morris Plaza Area who are creating a public or private nuisance, who are intoxicated, who are violating any law, or who are otherwise interfering with the public's quiet use and enjoyment of the Morris Plaza Area; and (b) place signage in the Morris Plaza Area.

10. Grantor's Reserved Rights. Grantor reserves the right to the use and enjoyment of the Morris Plaza Area, provided such use and enjoyment does not interfere with City's or the public's rights under this Agreement, and is in compliance with this Agreement, the Development Agreement, and Applicable Laws.

11. Indemnification. Grantor will pay, defend, indemnify, and hold harmless City and City's officers, employees, elected and appointed officials, agents, and representatives (all of the foregoing, including City, collectively, "**City Indemnified Parties**") 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 such matters (all of the foregoing, collectively, "**Claims**") arising from or related to, in whole or part, (a) the use of the Morris Plaza Area, including the use of any improvement in the Morris Plaza Area, by the public or by Grantor or Grantor's employees, tenants, subtenants, licensees, sublicensees, contractors, subcontractors, independent contractors, agents, clients, or invitees (all of the foregoing, collectively, "**Grantor Agents**"); (b) the security, lack of security, or adequacy or inadequacy of security for the Morris Plaza Area; (c) the allowance by Grantor of any micromobility vehicles in the Morris Plaza Area as set forth in Section 6, or the use of any micromobility vehicle in the Morris Plaza Area by the public, Grantor, or a Grantor Agent; (d) performance of any labor or service or the furnishing of any materials or other property with respect to the Morris Plaza Area or any improvement in the Morris Plaza Area; (e) the design, construction, installation, location, maintenance, repair, replacement, or removal of any improvement in the Morris Plaza Area; (f) any act or omission of Grantor or a Grantor Agent on or in the Morris Plaza Area or related to any improvement in the Morris Plaza Area; (g) any failure on the part of Grantor or a Grantor Agent to comply with any Applicable Laws in the design, construction, installation, location, maintenance, repair, replacement, removal, or use of the Morris Plaza Area or any improvement in the Morris Plaza Area; (h) any failure of Grantor or a Grantor Agent to comply with any Hazardous Materials Laws; (i) the storage, handling, treatment, release, or disposal of Hazardous Materials on the Morris Plaza Area or contamination of the Morris Plaza Area by Hazardous Material if attributable to the actions or omissions of Grantor or a Grantor

Agent; except those Claims solely and exclusively arising from or caused by the gross negligence or intentional misconduct of a City Indemnified Party.

12. Waiver of Claims; No Liability on City. In addition to the rights and obligations to pay, defend, indemnify, and hold harmless in Section 11, Grantor, as the fee owner of the Morris Plaza Area, on behalf of itself and its successors and assigns, hereby waives and releases any and all Claims against City Indemnified Parties arising from or related to, in whole or part, the use of the Morris Plaza Area by the public, Grantor, and Grantor Agents, including claims for damages. City Indemnified Parties will not have any liability whatsoever to Grantor or Grantor Agents related to the use of the Morris Plaza Area by the public, Grantor, or Grantor Agents, in any form or for any purpose, including public liability, property damage, or personal injury, except for those Claims solely and exclusively arising from or caused by the gross negligence or intentional misconduct of a City Indemnified Party.

13. Insurance. Grantor shall, at Grantor's sole cost and expense, procure and maintain the following insurance for the duration of this Agreement and comply with all the following requirements:

(a) General liability insurance (including contractual liability coverage) for personal injury, bodily injury (including wrongful death), and damage to property, in, on, or at the Morris Plaza Area, with a combined single limit of not less than three million dollars (\$3,000,000.00) per occurrence and not less than five million dollars (\$5,000,000.00) general aggregate limit, insuring against any and all liability and claims for injury to persons or damage to property that may arise from or in connection to the use or maintenance of the Morris Plaza Area or criminal acts, and for injuries to persons or damages to property that may arise from or in connection with this Agreement by Grantor or Grantor Agents. The general liability insurance must include contractual liability coverage of Grantor's indemnification obligations under this Agreement.

(b) As of the date of this Agreement, the amount of general liability insurance described herein is reasonable; however, this Agreement creates a perpetual obligation of, and relationship among, Grantor and City; and inflation and other economic pressures arising after the date of this Agreement may, over time, cause the amount stated above to be inadequate and may need to be adjusted to provide the protection reasonably required and expected by City. Accordingly, Grantor must maintain general liability insurance in amounts that are standard and reasonable for the sorts of activities being conducted at or from the Morris Plaza Area, in amounts sufficient to provide adequate public liability as contemplated by this Agreement. City will review the general liability insurance coverage amounts every five years and work in good faith to adjust the coverages to provide the protection required and expected by City but in no event less than three million dollars (\$3,000,000.00) per occurrence with respect to any one accident in, on, or at the Morris Plaza Area and not less than five million dollars (\$5,000,000.00) general aggregate limit.

(c) All policies of insurance procured by Grantor related to the Morris Plaza Area must be from insurance companies authorized to do business in the state of Arizona and with

an “AM Best” rating of not less than A-VII. City in no way warrants that the above-required minimum insurer rating is sufficient to protect Grantor from potential insurer insolvency.

(d) City Indemnified Parties must be named as additional insureds (up to the full coverage limit and to the same extent of coverage as the insurance purchased by Grantor, even if those limits of coverage exceed those required by this Agreement) and added by endorsements on all policies of insurance procured by Grantor. All required Certificates of Insurance and endorsements must be provided to City, for City’s review and approval, before the applicable coverage period, sent directly to:

Mesa City Attorney’s Office
Attn: Risk Management
P.O. Box 1466
Mesa, Arizona 85211

and

City of Mesa
Attn: Real Estate Services
P.O. Box 1466
Mesa, Arizona 85211
With a required copy to: propertymanagement@mesaaz.gov

(e) All policies of insurance procured by Grantor related to the Morris Plaza Area (i) will be primary and non-contributory with respect to all of City’s insurance sources; (ii) must include a waiver of subrogation rights in favor of City Indemnified Parties; (iii) must include provisions to the effect that they will not be suspended, voided, cancelled, or reduced in coverage except after 30 days’ prior Notice to City.

(f) In addition to a primary policy, an excess or umbrella policy may be used to meet the minimum requirements if the excess or umbrella policy is written on a “following form” basis.

(g) All deductibles and self-insured retention in excess of \$250,000 will be declared to, and subject to approval by, City. Grantor will be solely responsible for payment of any deductible or self-insured amounts and waives all rights it may have to seek recovery of such amounts from City Indemnified Parties.

(h) If Grantor fails to procure or maintain any insurance required by this Agreement, City may, but is not required to, procure and maintain any and all insurance required by this Agreement and Grantor must fully reimburse City for all costs incurred in procuring or maintaining such insurance within 10 days of City requesting reimbursement.

14. Default. Grantor will be in default of this Agreement if Grantor fails to comply with any provision of this Agreement (“**Default**”). In the event of a Default, City may provide written notice to perform to Grantor and Grantor will have 30 days from receipt of the written notice to

cure the Default. In the event the Default is such that more than 30 days would reasonably be required to cure the Default or otherwise comply with any term or provision in this Agreement, then Grantor must notify City of such and the timeframe needed to cure the Default, and, so long as Grantor commences performance or compliance within the required 30 day period and diligently proceeds to complete such performance or fulfill such obligation, then the time to cure the Default will be extended; however, no time to cure a Default may exceed 90 days total. A written notice of Default must specify the nature of the Default and the manner in which the Default may be satisfactorily cured, if possible.

15. Remedies for Default. The Parties agree if a Default occurs, monetary damages would not be an adequate remedy and City will be entitled to equitable relief, including a temporary restraining order, an injunction, and specific performance of this Agreement, in addition to any other remedy available (including costs and damages), without any requirement to post a bond or other security or to prove actual damages or that monetary damages would not afford an adequate remedy. Grantor agrees not to oppose or otherwise challenge the appropriateness of equitable relief or the entry by a court of competent jurisdiction of an order granting equitable relief, in either case, consistent with the terms of this Agreement.

16. Rights and Remedies Cumulative. City's rights and remedies are cumulative, and the exercise by City of one or more of such rights or remedies will not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same Default or any other Default by Grantor.

17. Effect of Default. A Default will not terminate the Morris Plaza Easement or this Agreement or render the Morris Plaza Easement or any provision of this Agreement invalid or unenforceable, nor will a Default entitle Grantor to cancel, rescind, or terminate the Morris Plaza Easement or this Agreement.

18. Notices.

(a) Notice. Except as otherwise required by law, any notice required or permitted under this Agreement will be in writing and will be given by (i) personal delivery; (ii) deposited in the United States mail, certified or registered, return receipt requested, postage prepaid, addressed to the Parties at their respective addresses set forth below, or at such other address as a Party may designate in writing pursuant to the terms of this Section; or (iii) any nationally recognized express or overnight delivery service (e.g., Federal Express or UPS), delivery charges prepaid:

If to City:

City of Mesa
Attn: City Manager
20 E. Main Street, Suite 750
Mesa, Arizona 85201

and

City of Mesa
Attn: Manager of Urban Transformation
26 N. MacDonald, Suite 200
Mesa, Arizona 85201

With a required copy to: City of Mesa
Attn: City Attorney
20 E. Main Street, Suite 850
Mesa, Arizona 85201

If to Grantor: OZ16 QOZB, LLC
Attn: Steve Ruf
195 North State, # 100
Lindon, Utah 84042

With a required copy to:

(b) Effective Date of Notices. Any notice sent by the United States Postal Service certified or registered mail will be deemed to be effective the earlier of the actual delivery, or three days after deposit in a post office operated by the United States Postal Service. Any notice sent by a recognized national overnight delivery service will be deemed effective one day after deposit with such service. Any notice personally delivered or delivered through a same-day delivery/courier service will be deemed effective upon its receipt (or refusal to accept receipt) by the addressee. Any Party may designate a different person or entity or change the place to which any notice will be given as herein provided.

19. Calculating Days. If the last day of any time period stated in this Agreement or the date on which any obligation to be performed under this Agreement falls on a Friday, Saturday, Sunday, a legal holiday, or a day on which national banking associations are not open for general banking business, then the duration of such time period or the date of performance, as applicable, will be extended so that it will end on the next succeeding day which is not a Friday, Saturday, Sunday, a legal holiday, or a day on which national banking associations are not open for general banking business.

20. Representations and Warranties; Authority to Execute. Grantor represents and warrants to City that: (a) Grantor is the fee owner of the Morris Plaza Area; (b) Grantor has the full right, power, and authorization to enter into and perform this Agreement and the obligations and undertakings of Grantor under this Agreement, and the execution, delivery, and performance of this Agreement by Grantor has been duly authorized and agreed to in compliance with the organizational documents of Grantor; (c) Grantor has obtained all consents and approvals necessary for the execution, delivery, and performance of this Agreement, and no further action needs to be taken by Grantor in connection with such execution, delivery, and performance; (d) on the date of this Agreement, Grantor has no actual knowledge of any litigation, proceeding, or investigation pending or threatened against or affecting Grantor that could have a material adverse effect on Grantor's performance under this Agreement; and (e) this Agreement is granted free and clear of all liens, claims, and encumbrances.

21. Recordation. After this Agreement has been executed by the Parties, City will cause this Agreement to be recorded in the Official Records of Maricopa County, Arizona.

22. Priority. In the event of a conflict or ambiguity between this Agreement and the Development Agreement, or between this Agreement and any other document, agreement, or instrument previously given with respect to the subject matter of this Agreement, the terms of this Agreement will prevail.

23. Governing Law, Venue, and Jurisdiction. This Agreement will be deemed to be made under, will be construed in accordance with, and will be governed by the internal, substantive laws of the State of Arizona (without reference to conflict of law principles). Any action brought to interpret, enforce, or construe any provision of this Agreement must be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Maricopa (or, as may be appropriate, in the Justice Courts of Maricopa County, Arizona, or in the United States District Court for the District of Arizona, if, but only if, the Superior Court lacks or declines jurisdiction over such action). The Parties irrevocably consent to jurisdiction and venue in such courts for such purposes and agree not to seek transfer or removal of any action commenced in accordance with the terms of this Section.

24. Limited Severability. City and Grantor each believe that the execution, delivery, and performance of this Agreement are in compliance with all Applicable Laws. However, in the unlikely event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring City to do any act in violation of any Applicable Laws, constitutional provision, law, regulation, City Code or City Charter), such provision will be deemed severed from this Agreement and this Agreement will otherwise remain in full force and effect; provided that this Agreement will retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. The Parties further agree, in such circumstances, to do all acts and to execute all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

25. Construction. The terms and provisions of this Agreement represent the results of negotiations between the Parties, each of which has been or has had the opportunity to be represented by counsel of its own choosing, and none of which has acted under any duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this Agreement will be interpreted and construed in accordance with their usual and customary meanings, and the Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions contained in this Agreement will be interpreted or construed against the Party who prepared or whose attorney prepared the executed Agreement or any earlier draft of the same.

26. Amendments; Termination. This Agreement may not be modified or amended in any respect, or canceled, terminated or rescinded, in whole or in part, except by a written instrument acknowledged and signed by both Parties hereto, or their successors and assigns, and duly recorded in the Official Records of Maricopa County, Arizona.

27. Running of Benefits and Burdens. The benefits and burdens, and the covenants and agreements in this Agreement run with and burden the Morris Plaza Area and extend and inure in favor and to the benefit of, and are binding on, Grantor and City and their respective successors and assigns. Upon the conveyance of all or any portion of the Morris Plaza Area, Grantor will be relieved of all duties, obligations, and liabilities under this Agreement arising on or after the date of the recording of the deed for such portion of the Morris Plaza Area in the Official Records of Maricopa County, Arizona, with respect to the portion of the Morris Plaza Area so conveyed, and the assignee will be deemed to have assumed all of Grantor's duties, obligations, and liabilities under this Agreement arising on or after the date of the recording of the deed for such portion of the Morris Plaza Area in the Official Records of Maricopa County, Arizona, with respect to the portion of the Morris Plaza Area so conveyed. Each owner of fee simple title to the Morris Plaza Area will be liable for the duties, obligations, and liabilities of Grantor under this Agreement arising during the period of such person's ownership of the Morris Plaza Area.

28. Surviving Provisions. All obligations of Grantor to pay, indemnify, defend, and hold harmless will survive the cancelation, termination, or rescindment (which is only allowed as set forth in Section 26) of this Agreement.

29. Enforcement. Although the Morris Plaza Easement is granted to City for the benefit of the public, the terms and conditions of this Agreement are enforceable only by the Parties, and the public does not have any right to enforce the terms and conditions of this Agreement.

30. Exhibits. The exhibits referenced in and attached to this Agreement are incorporated into and made an integral part of this Agreement for all purposes.

31. Time of Essence. Time is of the essence of this Agreement and each provision hereof.

32. Section Headings. The section headings contained in this Agreement are for convenience in reference only and are not intended to define or limit the scope of any provision of this Agreement.

33. Attorneys' Fees and Costs. In the event of a breach by any Party and commencement of subsequent legal action in an appropriate forum, the prevailing Party in any such dispute will be entitled to reimbursement of its reasonable attorneys' fees and court costs.

34. Waiver. The Parties agree that neither the failure nor the delay of any Party to exercise any right, remedy, power, or privilege under this Agreement will operate as a waiver of such right, remedy, power, or privilege, nor will any single or partial exercise of any right, remedy, power, or privilege preclude any other or further exercise of the same or of any other right, remedy, power, or privilege, nor will any waiver of any right, remedy, power, or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power, or privilege with respect to any other occurrence. A waiver will not be effective unless it is in writing and is signed by the Party asserted to have granted such waiver.

35. Entire Agreement. This Agreement, together with the Development Agreement, constitutes the entire agreement between the Parties pertaining to the Morris Plaza Area. All prior and contemporaneous agreements, representations, and understandings of the Parties, oral or written, pertaining to the Morris Plaza Area are hereby superseded.

36. Estoppel Certificates. City will, at any time upon reasonable request by Grantor, provide to any Lender an estoppel certificate or other document evidencing that (a) this Agreement is in full force and effect and (b) no Default by Grantor exists hereunder (or, if appropriate, specifying the nature and duration of any existing Default).

37. Definitions. In this Agreement, words in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number; the term “including” or “includes” means “including but not limited to” or “including without limitation”; the term “shall” means a requirement or mandate; and all references to laws or regulations mean such laws and regulations as amended or replaced. The following definitions apply to this Agreement:

“**Applicable Laws**” means the federal, state, county, and local laws (statutory and common law), ordinances, rules, regulations, permit requirements, licensing requirements, and other requirements and official policies of City, as they may be amended from time to time, which apply to the use, development, maintenance, or operation of the Morris Plaza Area.

Signatures of the Parties on the following two pages.

IN WITNESS WHEREOF, _____ has caused its name to be executed by its duly authorized representative(s) this _____ day of _____, 2025.

GRANTOR:

OZ16 QOZB, LLC,
a Utah limited liability company

By: _____

Name: _____

Title: _____

STATE OF _____)
) ss.

COUNTY OF _____)

The foregoing Perpetual Public Access Easement Agreement was acknowledged before me this _____ day of _____, 2025, by _____, acting as _____, for _____, who executed the foregoing instrument for the purposes therein contained.

Notary Public

(Notary Stamp/Seal)

IN WITNESS WHEREOF, _____ has caused its name to be executed by its duly authorized representative(s) this _____ day of _____, 2025.

CITY:

City of Mesa,
an Arizona municipal corporation

By: _____

Name: _____

Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing Perpetual Public Access Easement Agreement was acknowledged before me this _____ day of _____, 2025, by _____, acting as _____, for _____, who executed the foregoing instrument for the purposes therein contained.

Notary Public

(Notary Stamp/Seal)

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

**Exhibit A to Public Access Easement Agreement
Legal Description of Morris Plaza Area**

Bowman

PAGE 1 OF 1

May 30, 2025
PROJECT # 051417-02-001

**LEGAL DESCRIPTION
RIGHT-OF-WAY ABANDONMENT**

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 1 NORTH, RANGE 5 EAST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 22, FROM WHICH POINT THE CENTER QUARTER CORNER OF SAID SECTION 22 BEARS SOUTH 89°47'53" EAST (BASIS OF BEARINGS), A DISTANCE OF 2608.43 FEET;

THENCE SOUTH 89°47'53" EAST, ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22, A DISTANCE OF 190.31 FEET;

THENCE DEPARTING SAID NORTH LINE, SOUTH 00°12'07" WEST, A DISTANCE OF 66.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF MAIN STREET, AND THE POINT OF BEGINNING;

THENCE SOUTH 89°47'53" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 99.00 FEET;

THENCE DEPARTING SAID SOUTH RIGHT-OF-WAY LINE, SOUTH 00°13'45" WEST, A DISTANCE OF 239.56 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 49.48 FEET, AND A RADIUS POINT WHICH BEARS NORTH 89°41'51" WEST;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 90°06'02", AN ARC DISTANCE OF 77.80 FEET TO A POINT OF TANGENCY;

THENCE NORTH 89°47'53" WEST, A DISTANCE OF 49.50 FEET;

THENCE NORTH 00°13'45" EAST, A DISTANCE OF 190.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 19,336 SQ.FT. OR 0.4439 ACRES, MORE OR LESS.



Bowman • 1600 N Desert Drive, #210 • Tempe, Arizona 85288 • P: 480.629.8830

Exhibit B to Public Access Easement Agreement Depiction of Morris Plaza Area

