



Correspondence Between Staff and Applicant

Approval Letter

Denial Letter



## Planning & Development Services

7447 East Indian School Road  
Scottsdale, Arizona 85251

December 18, 2020

7-DR-2020  
Taylor Earl  
Earl & Curley, PC  
3101 N Central Ave Ste 1000  
Phoenix, AZ 85012

**RE: DRB APPROVAL NOTIFICATION**

**Case Reference No:** 7-DR-2020 Platinum Storage

The Development Review Board approved the above referenced case on November 19, 2020. For your use and reference, we have enclosed the following documents:

- Approved Stipulations/Ordinance Requirements
- Accepted Basis of Design Reports
- Accepted Case Drainage Report
- Construction Document Submittal Requirements/Instructions

**\*\*\* PLEASE NOTE \*\*\***

- DRB - This approval expires two (2) years from date of approval if a permit has not been issued, or if no permit is required, work for which approval has been granted has not been completed.
- These instructions are provided to you so that you may begin to assemble information you will need when submitting your construction documents to obtain a building permit. For assistance with the submittal instructions, please contact your project coordinator, Ben Moriarity, 480-312-2836.
- Table: "About Fees" – This is provided as a brief overview of fee types. A plan review fee is paid when construction documents are submitted. You may review the current year's fee schedule at: <https://www.scottsdaleaz.gov/planning-development/fees>

Please note that fees may change without notice. Since every project is unique and will have permit fees based upon its characteristics, some projects may require additional fees. Please contact the One Stop Shop at 480-312-2500 with any questions regarding fees.

**Finally, please note that as the applicant, it is your responsibility to distribute copies of all enclosed documents to any persons involved with this project, including, but not limited to, the owner, engineers, architect, and developer.**

Sincerely,

Ben Moriarity  
Planner  
bmoriarity@ScottsdaleAZ.gov

## About Fees

The following table is intended to assist you in estimating your potential application, plan review, and building permit fees. Other fees may also apply, for example Water Resources Non-Residential Development, Parking-in-Lieu Fees, or Assessment District Fees; and those fees are not listed in this package the plan review staff is responsible for determining additional applicable fees.

Type of Activity	Type of Fee	Subcategory	When paid?
Commercial	Application	<ul style="list-style-type: none"> <li>Preapplication, Variance, Zoning Appeal, Continuance, Development Review Board, ESL, General Plan, Rezoning, Sign Review, Special Event, Staff Approval, Temporary Sales Trailer, Use Permit, or Zoning Text Amendment</li> </ul>	At time of application submittal
	Plan Review	<ul style="list-style-type: none"> <li>Commercial, foundation, addition, tenant improvement/remodel</li> <li>Apartments/Condos</li> <li>Engineering site review</li> <li>Signs</li> <li>Plat fees</li> <li>Misc. Plan Review</li> <li>Lot Tie/Lot Split</li> <li>Pools &amp; Spas</li> <li>Recordation</li> </ul>	At time of construction document submittal
	Building Permit	<ul style="list-style-type: none"> <li>Commercial addition, remodel, tenant improvement, foundation only, shell only</li> <li>Fence walls or Retaining walls</li> <li>Misc. Permit</li> <li>Signs</li> </ul>	After construction document approval and before site construction begins
Residential	Application	<ul style="list-style-type: none"> <li>Preapplication, Variance, Zoning Appeal, Continuance, Development Review Board, ESL, General Plan, Rezoning, Sign Review, Special Event, Staff Approval, Temporary Sales Trailer, Use Permit, or Zoning Text Amendment</li> </ul>	At time of application submittal
	Plan Review	<ul style="list-style-type: none"> <li>Single family custom, addition, remodel, standard plans</li> <li>Engineering site review</li> <li>Misc. plan reviews</li> </ul>	At time of construction document submittal
	Building Permit	<ul style="list-style-type: none"> <li>Single family custom, addition, remodel, detached structure, standard plans</li> <li>Fence walls or Retaining walls</li> <li>Misc. Permit</li> <li>Signs</li> </ul>	After construction document approval and before site construction begins

10450 N. 74<sup>th</sup> STREET  
SUITE 200  
SCOTTSDALE, AZ 85258  
T 480 991 3985  
F 480 991 3986

## RESPONSE TO CITY DR REVIEW COMMENTS

TO: **City of Scottsdale**  
FIRM: **Hunter Engineering**  
FROM: **Grant Hirneise**  
DATE: **May 11, 2020**  
SUBJECT: **Platinum Storage**  
CITY #: **7-DR-2020**  
HE PROJ. #: **PLAT003**

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### **Zoning:**

1. *Please update the site plan to list the proposed floor area ratio (FAR) percentage. Not to exceed 0.80 (excluding the underground unoccupied storage), per Zoning Ordinance Section 5.1704.A.*

Site plan has been updated to list floor area ratio and provide calculation.

2. *Revise required parking to reflect internalized community storage requirement from Zoning Ordinance Table 9.103.A.*

Required parking calculations have been updated to reflect internalized community storage requirements.

3. *Provide required amount of ADA parking spots, 4% of the amount of parking spots provided. Zoning Ordinance Sec. 9.105.B.4.*

ADA parking requirements updated in plan and added to Site Plan Site Layout Summary table.

4. *Include bicycle parking on the site plan. Zoning Ordinance Sec. 9.103.*

Bicycle parking updated and reflected in site plan near the proposed office.

5. *Please provide information and details related to screening devices that will be utilized to screen any mechanical equipment. Parapet walls or louver systems that are utilized for screening shall be equal to, or exceed, the height of the tallest roof-mounted mechanical equipment. Please refer to Zoning Ordinance Sec. 1.904.A.4 and Sec. 7.105.A.3.*

Refer to the Architectural and Landscape Plans for screening details.

**7-DR-2020**  
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6. *Parking shall be setback twenty feet (20') from the right-of-way. Please revise or remove the line of nine parking spots closest to N. Pima Rd. per Zoning Ordinance Sec. 10.402.A.3.*

Parking closest to N. Pima Road has been removed.

7. *Based on Scottsdale Revised Code, Chapter 46, Article VI, Protection of Archaeological Resources, Section 46-132 - Surveys of archaeological sites and exemptions, this development proposal will be exempt from the requirement to provide an archaeological resources survey and report. Regardless of the exemption, any development on the property is subject to the requirements of Scottsdale Revised Code, Chapter 46, Article VI, Protection of Archaeological Resources, Section 46-134 - Discoveries of archaeological resources during construction.*

Comment noted.

**Fire:**

8. *Provide location of the Fire Department Connection on the site plan. Fire Ordinance 4283, 912.*

FDC location shown on the Site Plan in the NWC of the building.

**Airport:**

9. *This project falls within the Airport Influence Area, AC-2, and per the Scottsdale Revised Code, Chapter 5, Aviation requires the following to be submitted with final plans:*
- a. The owner of the new development shall complete a height analysis (Sec 5-354) and submit required forms;*
  - b. Owner shall make fair disclosure to each purchaser or if subject to CC&Rs, this disclosure should be included; (Sec 5-355)*
  - c. An Avigation easement shall be granted to the city and recorded (Sec. 5-357).*

Comment noted and FAA items are currently underway.

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**10. Site Design:**

*DSPM 2-1.309: Please update site plan with the following refuse servicing requirements:*

*1. Non-Residential, Mixed-Use, and Multi-Family Residential Refuse and Recycling Enclosure Location:*

*v. Demonstrate that the path of travel for the refuse truck accommodates a minimum vehicle of turning radius of 45 feet, and vehicle length of 40 feet.*

See new Site Plan sheet SP1.3, Vehicle Turning Exhibit, demonstrating proposed turning movements.

- 11.** *DSPM 2-1.310: Update site plan with a 6' width accessible pedestrian route from the main entry of the development to each abutting public/private street that provides a pedestrian sidewalk – both Princess and 101 frontages. Update site plan accordingly.*

Pedestrian accessibility route updated on Site Plan to each abutting public right of way in the NEC of the site.

**Landscape Design:**

- 12.** *Provide additional planter dimensions (depth and width) to support mature Desert Museum Palo Verdes and Mesquite trees or revise the tree types to a tree with a smaller mature size. Please also note the requirement to at least %50 of the trees to be mature per Zoning Ordinance Sec. 10.501.B.*

Tree planters shall be 2' high x 6' diameter as noted on the landscape concept plan; which is large enough to support mature desert trees. A note has also been added, stating that at least 50% of the trees shall be mature per Zoning Ordinance Sec. 10.501.B

**Building Elevation Design:**

- 13.** *Update the elevations to include shading over the windows per the Sensitive Design Principle 9, Consider shade canopies similar to the neighboring buildings within the medical office complex.*

See response to comments from Architect.

- 14.** *The stone veneer (material type D) columns should meet the top of the building in a consistent way.*

See response to comments from Architect.

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- 15.** *Please revise the amount and appearance of the display windows:*
- a. Include detail of proposed window glazing. Consider darker glazing for the loading bay.*
  - b. Reduce display windows on the second floor.*
  - c. Revise narrative to describe lighting brightness and hours of operation for display window lights. Consider timed display lights to be turned off between 10pm and 7am.*
  - d. Revise elevations to include wainscoting on ground floor windows. Commercial Design Guideline #5.*
  - e. Consider the interior paint of display areas to be painted muted earth tones to compliment the building architecture with an LRV less than 70%.*
  - f. Revise 1st level floor plan to accurately show display areas shown on the elevations.*
- A. The Development Review Board has shown added interest in storage building elevation and display windows. You can view previous cases heard December 19, 2019 and January 16, 2020 at <https://www.scottsdaleaz.gov/boards/development-review-board>*
- B. Corporate driven design solutions are discouraged per the Commercial Design Guidelines*

See response to comments from Architect.

### **Circulation:**

- 16.** *DSPM 2-1.303: 24' minimum drive aisle width. Any portion of the required 24' falling outside project parcel boundaries will require an Emergency Service Access Easement dedicated to the city from adjacent parcel owner prior to permit issuance + a private access easement dedicated to project parcel owner from adjacent parcel owners prior to permit issuance. Please provide letter of acknowledgement with case resubmittal, from adjacent parcel owner of intent to comply with these project requirements.*

Letter of acknowledgement provided with case resubmittal.

- 17.** *DSPM 5-3.201: Provide cross access and emergency services access easement from abutting parcel driveway connection to Princess along drives to project parcel, prior to permit issuance. Please provide letter of acknowledgement, with case resubmittal, from adjacent parcel owner of intent to comply with these project requirements.*

Letter of acknowledgement provided with case resubmittal.

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**Drainage:**

*Please submit the revised Drainage Report to your Project Coordinator with the rest of the resubmittal material identified in Attachment A.*

**18.**

Drainage Report revised and resubmitted.

**19.**

*Case drainage reports submitted in support of preliminary plat and development review applications should include a 75% level of design and analysis including a preliminary grading and drainage plan to allow an analysis of the viability of the proposed project and an in-depth evaluation of the function and design of the stormwater management system by City staff.*

Drainage Report revised and resubmitted along with corresponding Conceptual Grading and Drainage Plans.

**20.**

*The drainage report needs to address the FLO-2D results from the Pinnacle Peak South (PPS) Area Drainage Master Study (ADMS). The results show a significant amount of offsite flow impacting the site.*

- a. The Engineer must draw orthogonal cross sections and indicate which cells are being added to estimate the flow.*

See the new Cross Section and Summary Table in the back of the Drainage Report showing the orthogonal cross sections of the FLO 2D model

- b. The Engineer must show how these flows are being routed around the site and demonstrate that there are no adverse impacts to adjacent property owners when comparing pre- and post-project conditions (no increases in peak flow, water surface elevations or velocities).*

Flow-2D results and findings addressed within the revised Drainage Report in addition to proposed channel calculations in Appendix B. Also refer to the revised Conceptual Grading and Drainage Plans addressing this issue.

- c. When estimating the 100-yrWSEL to set the lowest floor (LF88), the Engineer must consider applying a safety factor (typically 1.3) to the Q100 to account for any uncertainties with upstream flow splits.*

Comment noted.



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*Other comments on the Drainage Report are as follows:*

- 21.**      *a. Provide a summary of the Q100 entering and leaving the site for pre- and post-project conditions. Show this on an exhibit (or annotate the G&D plan sheet accordingly).*

See the revised Drainage Report for the Q100 and the revised Conceptual Grading and Drainage Plans showing these flows.

- b. Provide a discussion and analysis to show that the proposed project does not increase the stormwater storage requirements beyond existing conditions. In other words, if the TPC Golf Course currently provides stormwater storage of the existing condition, demonstrate why the proposed project does not require additional storage.*

According to Section III of the Princess Medical Center Drainage Report, the site was developed for the ultimate condition and stormwater flows in the post condition will not adversely affect the existing condition.

- c. Discuss the HAG and label it on the G&D plan sheet in the report so that it can be verified.*

The HAG has been referenced in the Drainage Report in addition to being added to the Conceptual Grading and Drainage Plans at the NEC of the building.

- d. Provide hydraulic calculations to estimate the 100-yr WSEL upstream of the building based on the offsite flow. Demonstrate that the LF88 is elevated at least 1 ft above the WSEL.*

Refer to the revised Drainage Report Appendix B Drainage Calculations in addition to the revised Conceptual Grading and Drainage Plans for the 100-year WSE.

- e. Provide a pre- vs post-project hydraulic comparison to demonstrate the project will not be adversely affecting 100-yr WSELs.*

Refer to Appendix B of the Drainage Report for hydraulic calculations. Note that the Princess Medical Center was designed for the developed condition, so per the Princess Medical Center Drainage Report, our proposed development will slightly increase runoff from the site due to more imperviousness on-site but the existing system has been designed for these post-development conditions.

- f. Throughout the report, replace the term “finished floor” with “lowest floor.”*

Report has been updated.

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- g. *Don't just include reference 2 in the report. Explain in the text why the report is relevant and highlight those relevant portions in the attachment. Consider that the FLO-2D results from PPS ADMS show a significant amount of offsite flow impacting the site, rendering much of the previous calculations irrelevant. Provide a thorough discussion of this in the report.*

The Drainage Report has been updated to include specific sections of the existing Drainage Reports we use for assumptions. These drainage reports discuss the construction of the Loop 101 in the area and its impacts on the site.

**Other comments on the G&D Plans are as follows:**

- a. *Add the FEMA FIRM block and Engineer's Certification statement per the DSPM.*

**22.** Items added to the cover sheet of the Conceptual Grading and Drainage Plans.

- b. *Label the Q100 entering and leaving the site.*

Plans have been updated to include the Q100 entering and leaving the site.

- c. *Label the HAG.*

HAG has been labeled in the NEC of the building.

- d. *Ensure that any equipment servicing the building is also elevated a minimum of 2 ft above the HAG. Label that equipment and elevation on the plans.*

Elevation will be provided on the Final Grading and Drainage Plans.

- e. *Show the estimated 100-yr WSEL on the cross sections.*

100-year WSE has been labeled in Section B.

- f. *Change the label of FF (finished floor) to LF88 (lowest floor based on NAVD88 datum).*

Plans have been updated to reflect LF88.

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**Considerations - Circulation:**

23. *Consider moving the sidewalk along the southern side of the building to be placed adjacent to the row of parking spots south of the landscape area to assist safe pedestrian circulation from the parking stalls to the front door.*

Sidewalk along the southern side of the building has been relocated adjacent to the southern parking stalls.

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Please let us know if you have any questions regarding the above response.

Sincerely,

Grant Hirneise, P.E.  
Project Manager

# THE PERIMETER C E N T E R



PROFESSIONALLY MANAGED BY  
CASE, HUFF & ASSOCIATES, INC.  
4835 E. Cactus Road SUITE 443 | Scottsdale, Arizona 85254  
602-252-9300 PHONE | 602-252-6860 FAX

May 27, 2020

Platinum Storage  
8585 E. Princess Drive  
Scottsdale, AZ 85255

**Re:** Lot 20b - Platinum Storage Building

Dear Michael:

On behalf of the Perimeter Center Owners Association, your plans dated March 24, 2020 for the Platinum Storage building to be constructed on lot 20b in the Perimeter Center, have been approved with these stipulations:

The approval is based on the updated elevation plans, which reduced the second-floor window size and added tint to the glass, changed paint colors to muted earth tones with a LRV lower than 70%. The board of directors have also stipulated that no form of advertising in the windows, including signage or any other interior display be used that could be seen from the exterior of the building.

I have also included with this approval letter the architectural review comments.

Signage approval is not given at this time. All signage requirements will need to be submitted on a separate approval process.

We look forward to the finished project.

Sincerely,

Chris Sparkman  
Senior Property Manager

7-DR-2020  
5/29/2020

September 14, 2020

**SENT VIA EMAIL**

Ben Moriarty, Planner  
City of Scottsdale  
Planning and Development Department  
7447 E. Indian School Road  
Scottsdale, AZ 85251  
[BMoriarty@Scottsdaleaz.gov](mailto:BMoriarty@Scottsdaleaz.gov)

Re: DR-2020

Dear Ben:

This correspondence responds to Staff's request for a letter, to be executed by CHP Princess Medical LLC, relating to cross-access and emergency access over and between APN 215-07-231 (CHP Princess Medical) and APN 215-07-212Z (our client, Platinum Storage). Because CHP Princess Medical is uncooperative, the requested letter is not possible.

However, we are pleased to submit to you the recorded cross-access and emergency access rights controlling both properties:

Declaration of Easements, Covenants, Conditions and Restrictions, dated 2/17/2006, recorded in the Official Records of Maricopa County, on 2/17/2006, #20060231197 (attached).

Please note:

Highlighted Section 2.1(a)

Highlighted Section 1(b)

Note that the easement allows for "reasonable access, ingress and egress" over "Common Areas," providing for "passage of motor vehicles and pedestrians between all portions of the Common Areas." Note also the highlighted, broad language defining "Common Areas" as virtually all areas "outside of exterior walls of buildings."

Clearly cross-access and emergency access are permanently provided for by this recorded document; thus, no letter from the uncooperative neighbor is needed.

Please let me know if you require anything further in this regard.

Very truly yours,

A handwritten signature in black ink, appearing to read "RQ Jarvis", with a stylized flourish extending from the top left.

**Rodney Q. Jarvis**  
Partner

o (602) 265-0094  
rjarvis@earlcurley.com

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OFFICIAL RECORDS OF  
MARICOPA COUNTY RECORDER  
HELEN PURCELL  
20060231197 02/17/2006 04:49  
ELECTRONIC RECORDING

When Recorded, Return to:

James H. Patterson  
Mariscal Weeks McIntyre & Friedlander, P.A.  
2901 North Central  
Suite 200  
Phoenix, Arizona 85012

4420862-31-4-4--  
gonzalessj

**FIRST AMERICAN TITLE**

3 of 3  
4420862

**DECLARATION OF EASEMENTS,  
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration") is made and entered into this 17 day of February, 2006 by Princess Medical Center, L.L.C., an Arizona limited liability company ("Declarant").

RECITALS

A. Declarant is the owner of that certain real property situated in Scottsdale, Maricopa County, Arizona, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference ("Project"). The Project consists of two parcels (each, a "Parcel"; and collectively, the "Parcels"), as depicted on the site plan attached hereto as Exhibit "B" and made a part hereof (the "Site Plan").

B. Declarant wishes to impose certain easements upon the Project, and wishes to establish certain covenants, conditions and restrictions with respect to the Parcels, for the mutual and reciprocal benefit and complement of the Project and the present and future Owners thereof, on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing Recitals and the agreements, covenants and promises contained in this Declaration, intending that the Parcels and all present and future Owners and occupants of the Parcels be subjected to the terms, easements, covenants, conditions and restrictions set forth in this Declaration and that the Parcels be maintained, kept, sold and used in full compliance with and subject to this Declaration, Declarant on behalf of itself and its successors and assigns, agrees, covenants and declares as follows

AGREEMENTS

1. Definitions. For purposes hereof:
  - (a) "City" shall mean the City of Scottsdale, Arizona.



## EXHIBIT "C"

(b) "Common Area" or "Common Areas" shall mean those portions of a Parcel that are outside of exterior walls of buildings which are available, in accordance with the terms of this Declaration, for the nonexclusive use, convenience and enjoyment of all Owners and their Permittees, including those portions of the Parcels intended for use as access drives, parking areas, landscaped areas, walkways, roadways and ingress and egress to and from public rights of way as may exist from time to time; excluding, however, loading, docking, delivery or service areas or facilities and drive up or drive through facilities located on a Parcel.

(c) "First-Class Condition" shall mean a manner consistent with Class "A" office buildings in metropolitan Phoenix, Arizona.

(d) "Owner" or "Owners" shall mean the person who executed this Declaration and any and all successors or assigns of such person as the owner or owners of fee simple title (or beneficial title) to all or any portion of the real property covered by this Declaration whether by sale, assignment, inheritance, operation of law, trustee's sale, foreclosure, or otherwise. The term "Owner" or "Owners" shall not, however, include the holder of any monetary lien or monetary encumbrance on such real property until such holder acquires fee simple title to such real property.

(e) "Parcel" or "Parcels" shall mean each separately identified parcel of real property now constituting a part of the real property subjected to this Declaration, and any future subdivisions thereof; provided, however, upon dedication by an Owner to an applicable governmental authority of any portion of such Owner's Parcel for purposes of a public right-of-way, and so long as the same is used solely for such purpose, such dedicated portion shall not be considered a Parcel, but shall thereupon automatically be deemed excluded from the operation and effect of this Declaration as fully as though the legal description of such portion were not included in the description of the property originally subject to this Declaration.

(f) "Permittees" shall mean the tenant(s) or occupant(s) of a Parcel, and the respective employees, agents, contractors, customers, invitees, and licensees of (i) the Owner of such Parcel, and/or (ii) such tenant(s) or occupant(s).

## 2. Easements.

### 2.1 Access and Parking.

(a) Grant of Reciprocal Access Easement. Subject to any express conditions, limitations or reservations contained in this Declaration, each Owner of a Parcel grants to the other Owner of a Parcel, for the use and benefit of such Owner, its successors and assigns, its Permittees and its Parcel, a non-exclusive and perpetual easement for reasonable access, ingress and egress over the Common Areas of the Parcels as presently or hereafter constructed, so as to provide for the passage of motor vehicles and pedestrians between all portions of the Common Areas of the Parcels intended for such purposes and to and from all abutting public streets or rights-of-way furnishing access to the respective Parcels.



**EXHIBIT "C"**

(b) Self-Parking. The Owners do not grant to the other Owners any reciprocal easements for parking; and each Owner shall park only (and shall so cause its employees, tenants, occupants and invitees to "self-park") on such Owner's own Parcel.

**2.2 Water and Sewer Easements**

(a) Sewer Easement. Subject to any express conditions, limitations or reservations contained in this Declaration, each Owner of a Parcel grants to the other Owners, for the use and benefit of such other Owners, their successors and assigns, their Permittees and their Parcels, a nonexclusive, nondelegable perpetual easement in, upon, over, above, under and across those portions of the Project in the location shown on Exhibit C attached hereto (the "Sewer Easement") for the purpose of the use, operation, installation, maintenance and repair of a sewer line having a diameter of not more than eight (8) inches (including pipes, connections, manholes and necessary appurtenances) to provide sewer service to the buildings and improvements now or hereafter situated on the Parcels (collectively, the "Sewer Improvements"). In the event that Exhibit C does not depict or describe a specific location for the Sewer Easement, the Owners agree that the Sewer Easement shall not be located within, on, under or through any portion of a building or a so-called building "envelope" or "footprint" (whether presently existing or proposed) upon an Owner's Parcel, but rather shall only run through drive, walk, parking, landscape and other similar, non-building areas. The Sewer Improvements shall not be relocated, replaced or modified without the consent of all Owners, which consent shall not be unreasonably withheld or delayed. In the event of any relocation of the Sewer Improvements, the Owners shall execute, acknowledge and deliver an amendment to this Declaration modifying Exhibit C so as to depict the then location of the Sewer Improvements and the related easement.

(b) Water Easement. Subject to any express conditions, limitations or reservations contained in this Declaration, each Owners of a Parcel grants to the other Owners, for the use and benefit of such other Owners, their successors and assigns, their Permittees and their Parcels, a nonexclusive, nondelegable, perpetual easement in, upon, over, above, under and across those portions of the Project in the location shown on Exhibit C attached hereto (the "Water Easement") for the purpose of the use, operation, installation, maintenance and repair of a fire water line having a diameter of not more than eight (8) inches, domestic (potable) water lines and landscape irrigation and/or reclaimed water lines (including pipes, connections, fittings, valves and necessary appurtenances) to provide water service to the buildings and improvements now or hereafter situated on the Parcels (collectively, the "Water Improvements"). In the event that Exhibit C does not depict or describe a specific location for the Water Easement, the Owners agree that the Water Easement shall not be located within, on, under or through any portion of a building or a so-called building "envelope" or "footprint" (whether presently existing or proposed) upon an Owner's Parcel, but rather shall only run through drive, walk, parking, landscape and other similar, non-building areas. The Water Improvements shall not be relocated, replaced or modified without the written consent of all Owners, which consent shall not be unreasonably withheld or delayed. In the event of any relocation of the Water Improvements, the Owners shall execute, acknowledge and deliver an amendment to this Declaration modifying Exhibit C so as to depict the then location of the Water Improvements and the related easement.

## EXHIBIT "C"

(c) Maintenance and Repair. Those portions of the Sewer Improvements and the Water Improvements exclusively serving a Parcel (i.e., stubs and extensions from the Main Lines (as hereinafter defined)) shall be operated and maintained at the sole cost and expense of the Owner (or such Owner's Permittee(s)) of such Parcel in good order, condition and repair. Those portions of the Sewer Improvements and the Water Improvements serving more than one (1) Parcel within the Project (the "Main Lines") shall be maintained by the Owners of all the Parcels served by such Main Lines in good order, condition and repair; provided, however, that as long as Declarant has an interest in any Parcel within the Project, the maintenance of the Main Lines may be maintained by Declarant in its sole discretion subject to reimbursement in accordance with the further provisions of this paragraph. Each Owner of a Parcel shall, from time to time, within thirty (30) days after receipt of a request for reimbursement, reimburse Declarant (or its successor) for the actual out-of-pocket costs and expenses incurred in repairing, maintaining and replacing, if necessary, the Main Lines. Each Owner shall be responsible for its prorata share of such costs and expenses. For the purposes of this Declaration, each Owner's "Prorata Share" shall be as set forth in Section 4.2(c). If any Owner shall so request, Declarant (or its successor) shall provide copies of receipts, invoices and/or other reasonable documentation evidencing the costs and expenses incurred.

### 2.3 Utility Easements.

(a) Utility Easement. Subject to any express conditions, limitations or reservations contained in this Declaration, each Owner of a Parcel grants to the other Owners, for the use and benefit of such other Owners, their successors and assigns, their Permittees and their Parcels, a nonexclusive, nondelegable perpetual easement in, upon, over, above, under and across those portions of the Project in the location shown on Exhibit D attached hereto (the "Utility Easement") for the purpose of the use, operation, installation, maintenance and repair of a utility line or conduit (including pipes, connections, manholes and necessary appurtenances) to provide electrical, telephone, cable, and similar public utility services (but expressly excluding natural gas) to the buildings and improvements now or hereafter situated on the Parcels (collectively, the "Utility Improvements"). In the event that Exhibit D does not depict or describe a specific location for the Utility Easement, the Owners agree that the Utility Easement shall not be located within, on, under or through any portion of a building or a so-called building "envelope" or "footprint" (whether presently existing or proposed) upon an Owner's Parcel, but rather shall only run through drive, walk, parking, landscape and other similar, non-building areas. The Utility Improvements shall not be relocated, replaced or modified without the consent of all Owners, which consent shall not be unreasonably withheld or delayed. In the event of any relocation of the Utility Improvements, the Owners shall execute, acknowledge and deliver an amendment to this Declaration modifying Exhibit D so as to depict the then location of the Sewer Improvements and the related easement.

(b) Maintenance and Repair. Those portions of the Utility Improvements exclusively serving a Parcel (i.e., stubs and extensions from the Main Lines (as hereinafter defined)) shall be operated and maintained at the sole cost and expense of the Owner (or such Owner's Permittee(s)) of such Parcel in good order, condition and repair. Those portions of the Utility Improvements serving more than one (1) Parcel within the Project (the "Main Lines") shall be maintained by the Owners of all the Parcels served by such Main Lines in good order, condition and repair; provided, however, that as long as Declarant has an interest in any Parcel within the

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Project, the maintenance of the Main Lines may be maintained by Declarant in its sole discretion subject to reimbursement in accordance with the further provisions of this paragraph. Each Owner of a Parcel shall, from time to time, within thirty (30) days after receipt of a request for reimbursement, reimburse Declarant (or its successor) for the actual out-of-pocket costs and expenses incurred in repairing, maintaining and replacing, if necessary, the Main Lines. Each Owner shall be responsible for its Prorata Share of such costs and expenses. If any Owner shall so request, Declarant (or its successor) shall provide copies of receipts, invoices and/or other reasonable documentation evidencing the costs and expenses incurred.

2.4 Encroachment Easement. Subject to any express conditions, limitations or reservations contained in this Declaration, each Owner of a Parcel grants to the other Owner of a Parcel, for the use and benefit of such other Owner, its successors and assigns, its Permittees and its Parcel, an easement for footings, screen walls, curbing and light pole bases or standards which may encroach by no more than four (4) feet into or upon the Common Areas of another Owner's Parcel; provided, however, the Owner of a Parcel upon which an improvement encroaches, but for this easement, may require by advance written notice to the encroaching Owner that in the event of damage, destruction, demolition, exterior renovation or remodeling, or other removal by any means of all or any significant portion of the encroaching improvement so identified, that the encroaching improvement must be removed in its entirety from the notifying Owner's Parcel at the encroaching Owner's sole cost and expense.

2.5 Temporary Construction Easement. Subject to any express conditions, limitations or reservations contained in this Declaration, each Owner of a Parcel grants to the other Owner of a Parcel, for the use and benefit of such other Owner "the "Constructing Owner"", its successors and assigns, its Permittees and its Parcel, a temporary construction easement which may encroach by no more than fifteen (15) feet into or upon the Common Areas of another Owner's Parcel; provided, however, the Constructing Owner shall (i) minimize its use of the other Owner's Parcel to the fullest extent possible, including (but not limited to) restrictions imposed by the other Owner with respect to construction fencing and safety, location of construction trailers, storage of supplies and equipment, etc.; (ii) not permit the temporary construction easement to interfere with the other Owner's (or its Permittees') use of such Owner's Parcel; (iii) not damage or interfere with any improvements upon the other Owner's Parcel; (iv) prosecute the completion of any such construction work diligently and expeditiously in order to minimize the scope, extent and duration of any such temporary construction easement; (v) restore the other Owner's Parcel to its condition prior to its use by the Constructing Owner; and (vi) indemnify, defend and hold harmless the other Owner (and its Permittees) for, from and against any and all claims arising out of or in connection with the Constructing Owner's (which shall include the Constructing Owner's employees, agents, consultants and contractors) use of or activities on the other Owner's Parcel.

2.6 Incidental Storm Water Drainage Easement. Subject to any express conditions, limitations or reservations contained in this Declaration, each Owner of a Parcel grants to the other Owner of a Parcel, for the use and benefit of such other Owner, its successors and assigns, its Permittees and its Parcel, a perpetual easement for the incidental drainage of storm water runoff from one Parcel onto another Parcel over, across and through the



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paved portions of the Common Areas in minimal volumes consistent with the original design of the Project as approved by Declarant.

2.7 Grant of Self-Help Easement. Each Owner shall have an easement to enter upon a Parcel pursuant to the provisions of paragraph 9.2 hereof for the purpose of performing any obligation which the Owner of such Parcel is required to perform pursuant to of this Declaration but fails or refuses to perform within the applicable time period provided in said paragraph 9.2.

2.8 Reasonable Use of Easements. The easements established and granted herein shall be used and enjoyed by each Owner and its Permittees in such a manner as not to unreasonably interfere with, obstruct or delay the conduct and operations of the business of any other Owner or its Permittees at any time conducted on its Parcel, including, without limitation, public access to and from said business, and the receipt or delivery of merchandise in connection therewith.

2.9. No Implied Easements. Nothing contained in this Declaration shall be deemed to create any implied easements not otherwise expressly provided for herein.

2.10 Indemnification. Each Owner having rights with respect to an easement granted hereunder shall indemnify, defend and hold the Owner whose Parcel is subject to the easement harmless for, from and against all claims, liabilities, and expenses (including reasonable attorneys' fees) relating to accidents, injuries, loss, or damage of or to any person or property arising from or in any manner relating to the use by the indemnifying Owner or its Permittees of any easement or exercise of any remedy granted hereunder except as may result from the gross negligence or intentional misconduct of the Owner whose Parcel is subject to the easement or its Permittees.

3. Architectural Committee.

3.1 Architectural Committee. The Architectural Committee for the Project (the "Committee") shall consist of three (3) Members. Declarant shall appoint the members of the Committee; provided, however, that the Parcel B Owner shall always be entitled to appoint one member to the Committee. It is also agreed that the Architectural Committee shall not include any individuals or representatives of companies that lease space on any improvements located on Parcel A. All decisions of the Committee shall be by a majority vote of its members. The Committee shall coordinate the actions with respect to the approval of Architectural Documents (as defined in paragraph 3.3) and construction of any improvements. Any member of the Committee who is an employee of the Declarant will not be paid for his or her time and effort. Any registered architect or engineer who is a member of the Committee or is retained by the Committee will be paid at the reasonable rates such Person normally charges for reviewing architectural or engineering documents, with such Owner to pay for such charges. It is acknowledged and agreed that the provisions of Section 3.1 shall not be amended without written (and recorded) approval of the Declarant and the Parcel B Owner.

3.2 Architectural Responsibility and Conformity. All improvements shall be designed and constructed in substantial compliance with the plans and specifications as approved by the Committee, which shall not be unreasonably withheld or delayed, and as

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approved by the City and the Committee, and in accordance with the zoning and use restrictions to which the Property is subject, any master conditions or restrictions, and the standards and procedures hereinafter set forth. The design and construction of all improvements on the Property shall (a) comply with applicable laws, and (b) be compatible with, or complementary to, to the extent possible, the architectural style and type of construction of all other existing or future improvements at the Project. The Committee shall have the final authority reasonably exercised to decide whether such compatibility has been achieved. Approval of plans and specifications by the Committee shall be based, among other things, on the adequacy of the dimensions, structural design, conformity and compatibility of the external design of the proposed improvements with other existing or future improvements on the Property and at the Project, the relation of finished grades and elevations to neighboring properties and the conformity to both the specific and general intent of this Declaration. Any decision of the Committee shall be final, conclusive, enforceable by any court of competent jurisdiction, and binding upon all Owners and Permittees, provided it is made in accordance with the provisions of this Declaration.

3.3 Submission of Plans and Specifications. Prior to the submission of any materials for design review by the City of any improvements on the Property or any Parcel, plans and specifications as described below for such proposed improvements, (hereinafter referred to as the "Architectural Documents") shall be submitted to the Committee in duplicate in drawings of a standard size and scale. The Architectural Documents shall be submitted in a single submittal and shall include the following:

- (a) A statement regarding the proposed use of the improvements.
- (b) A site plan showing the location of all existing and proposed improvements, including, without limitation, all parking areas with number and size of parking spaces, location of mail boxes, trash receptacle locations, required fire lanes, site ingress and egress, including size and location of all curb cuts and the location of all delivery or pick-up doors, personnel doors, entry doors, exterior glass or windows, any other openings in the buildings, signs and other sign structures, and any other information required by the Committee.
- (c) All exterior elevations, building materials and colors for the proposed improvements including sample exterior and exposed roofing materials, four sided elevations, renderings and/or photo based renderings (the "Renderings") shall be shown to the Committee. All improvements on Parcel B shall be designed and constructed in accordance with the parameters set forth in the approved View Corridor Study attached hereto as Exhibit E. One portion of the building can be two stories and the second floor of this portion of the building can not exceed 3,350 gross square feet. The remainder of the building shall be first floor space. No portion of the building shall extend outside of the building mass envelopes shown in Exhibit E; provided, however, that the Owner of Parcel B shall have the right to construct to the limits of the building mass envelopes shown in Exhibit E. The Declarant can require any other reasonable information to assess the impact of the improvements on the Princess Medical Center.
- (d) A landscaping plan showing the landscape treatment for the entire Parcel, which shall be consistent with similar landscaping and related items used by Declarant in its development of the Project, and which shall include (1) the scale and type of sodding,

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seeding, trees, shrubs and plants, and their size and location and (2) the location and type of all fences walls, drainage and screening.

(e) Such other information as may reasonably be requested by the Committee.

All Architectural Documents listed in (b) through (e) above, inclusive, shall be prepared by an architect or engineer licensed to practice in the State of Arizona and shall be submitted to the Committee in writing over the signature of both the Owner and such architect or engineer. The submission of the Architectural Documents to the Committee does not constitute the grant of any property interests in those Architectural Documents to the Committee, the Declarant or any Owner.

3.4 Committee Approval. Upon receipt of all the Architectural Documents, the Declarant shall promptly call a meeting of the Committee or otherwise inform the members of the Committee of the receipt of the Architectural Documents. The Committee shall have thirty (30) calendar days thereafter within which either to approve or disapprove the Architectural Documents, with conditions or stipulations as reasonably imposed by the Committee, if any. The Committee may, in its sole discretion, reasonably exercised, give conditional or partial approvals to the Architectural Documents; provided, however, that no permitted delay in the submission of the Architectural Documents and no conditional or partial approval shall in any way obligate the Committee to permit or grant any subsequent or additional delay or approval; and provided further that no Owner may submit any Architectural Documents to the City until the Owner has first received Committee approval of those Architectural Documents as provided in this paragraph 3.4.

(a) When the Committee grants its approval of the submitted Architectural Documents, the date of approval, the word "Approved" and the signature of the Committee representative shall be affixed to the approved Architectural Document. If the Committee imposes any stipulations or conditions to its approval, the Committee shall also inscribe or attach the stipulations or conditions on the Architectural Document(s) to which they apply. No construction of any disapproved improvements on the Parcel may be commenced until the disapproved portions of the Architectural Documents are revised, resubmitted for review, and approved by the Committee.

(b) If the Committee, acting pursuant to this paragraph 3.4, disapproves of any matter in the submitted Architectural Documents, the Committee shall state its reasons for disapproval in reasonable detail in writing, and the Owner submitting the Architectural Documents shall make such changes as are required to satisfy the Committee's disapproval and resubmit the affected Architectural Document(s) to the Committee. Upon receipt of the resubmitted Architectural Document(s) bearing such changes, the Committee shall have twenty (20) calendar days thereafter within which to render its approval or disapproval thereof. Approvals shall be rendered in the form set forth in this paragraph 3.4.

(c) The Committee's approval of the Architectural Documents shall be final unless subsequent approvals are required pursuant to paragraph 3.5.



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(d) Failure of the Committee to approve or disapprove submitted Architectural Documents within the applicable review period provided above shall constitute the Committee's disapproval thereof, subject to the terms and conditions of this Declaration.

(e) The Committee's approval of submitted Architectural Documents shall constitute compliance by Owner of the requirements for the Committee's approval of the submitted Architectural Documents, but shall not constitute the Committee's assumption of any responsibility for the accuracy, sufficiency, structural integrity, or propriety thereof, or a representation or warranty that the Architectural Documents describe improvements which will comply with applicable zoning, building, environmental or other laws. The Owner who submitted such Architectural Documents shall be solely responsible for such Architectural Documents and the improvements constructed. Any recommendation or requirement with respect to any Architectural Document or the means or method of construction made by the Committee or any member thereof shall not alter the Owner's responsibility for the safe and proper design and construction of the improvements, nor shall it give rise to any liability of the Committee or any member thereof for any defect in design or construction of any such improvements.

3.5 Changes and Modifications. If an Owner, either on its own initiative or in response to City requirements, materially amends any of the Architectural Documents previously approved by the Committee, or if a requested variance is denied by the City, which denial results in a material change to one or more Architectural Documents previously approved by the Committee, the amended Architectural Document(s) shall be submitted in duplicate to the Committee and shall be subject to approval or disapproval only with respect to the amendments. If the Architectural Document(s) are amended in response to City requirements, then the Committee shall approve or disapprove such amended Architectural Document(s) within ten (10) business days after their submission to the Committee in duplicate in drawings of a standard size and scale, and shall be prepared by an Architect or engineer licensed to practice in the State of Arizona, over the signature of both the Owner and such Architect or Engineer. If the Architectural Document(s) are amended by the Owner on the Owner's own initiative, then the Committee shall review such amendments, and the amendments shall be reviewed and approved or disapproved by the Committee, in accordance with the terms and conditions of Sections 3.3 and 3.4. An Owner may depart from its final approved Architectural Documents without the necessity of obtaining the Committee's prior approval only for the sole and limited purpose of substituting quantities and types of workmanship, materials, equipment and supplies which are equal to or better than those specified in the approved Architectural Documents, but only if the Committee is given notice thereof and such departure substantially conforms to the architectural style of the approved Architectural Documents.

3.6 Expiration of Approvals. The approvals by the Committee will remain in full force and effect unless the Architectural Documents, as approved, must be resubmitted for the Committee's further approval because of material changes by the Owner in order to comply with City requirements. In such event, that portion of the Architectural Documents containing such material changes must also be resubmitted to the Committee for its approval.

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3.7 Identical Replacements. Notwithstanding the foregoing, any Improvements on the Parcel for which Architectural Documents were previously approved by the Committee as provided above may be repaired, replaced or reconstructed without further approval by the Committee, but only if such repair, replacement or reconstruction is substantially similar to the Improvements previously approved by the Committee.

3.8 Presumption of Compliance and Estoppel. Notwithstanding anything to the contrary herein contained, after the expiration of one (1) year from the earlier to occur of either (a) the date of issuance of a permanent certificate of occupancy by the City or other applicable governmental authority for any improvement, or (b) the date of recording a valid notice of completion with respect to such improvement, that improvement shall, in favor of purchasers and encumbrancers in good faith and for value, be deemed to be in compliance with all provisions of this Article 3, unless prior to the expiration of the one (1) year period, either (i) actual notice by the Committee of such noncompliance or noncompletion shall have been delivered to Owner, or (ii) legal proceedings shall have been instituted to enforce compliance or completion. Within fifteen (15) days after receipt by the Committee of written request from any Owner, the Committee shall deliver to the Owner either (a) a notice stating that the Improvements on the Owner's Parcel are in compliance with this Article 3, or (b) a notice advising the Owner of the basis for the Committee's belief that such Improvements are not in compliance. The Committee's failure timely to deliver to Owner either such document or notice shall conclusively evidence the Improvements' noncompliance with this Article 3.

3.9 Enforcement by Committee. No improvements shall be constructed, erected, placed, altered (by addition or deletion), maintained or permitted to remain on a Parcel or the Property except in accordance with the Architectural Documents approved by the Committee and, as applicable, by the City. Any improvements not designed and constructed in accordance with such approved Architectural Documents shall conclusively be deemed in violation of this Declaration and shall be removed or corrected by the Owner to the reasonable satisfaction of the Committee. The Committee may enforce all of its remedies at law or in equity including but not limited to a suit to enjoin the construction of any Improvements not in conformity with the Architectural Documents approved by the Committee and, as applicable, the City, or to compel removal of any non-conforming Improvements already constructed or to correct such non-conforming Improvement so as to comply with the reasonable requirements of the Committee and, as applicable, the City.

3.10 Waivers and Variances. It is recognized that particular circumstances may from time to time and on a case-by-case basis necessitate the waiving or varying of certain of the requirements set forth in this Article 3. Therefore, in good faith and for good cause shown, the Committee may, in its sole discretion, reasonably exercised, waive or vary one or more of the requirements and standards of this Article 3 so long as such waiver or variance does not materially and adversely violate the overall scheme and intent of this Article 3. Any waiver or variance, when granted, shall be final and binding upon all Owners, provided that it is granted in accordance with the provisions of this paragraph 3.10. The granting of a waiver or variance to an Owner shall not entitle that Owner to any subsequent or additional waiver or variance. All waivers and variances by the Committee shall be in writing and signed by a majority of the members of the Committee. Any waiver or variance in any form other than as set



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forth in the immediately preceding sentence shall not be binding on the Committee and shall not be valid.

4. Construction, Maintenance and Modification.

4.1 Buildings. Each Owner covenants to keep and maintain, at its sole cost and expense, the building(s) located from time to time on its respective Parcel in First Class Condition, including but not limited to, repainting, window washing, graffiti removal, etc. Once constructed, in the event of any damage to or destruction of a building on any Parcel, the Owner of such Parcel shall, at its sole cost and expense, with due diligence either (a) repair, restore and rebuild such building to a condition as shall not conflict with this Declaration, or (b) tear down and remove all portions of such damaged or destroyed building then remaining, including the debris resulting therefrom, and otherwise clean and restore the area affected by such casualty to a level, graded condition; provided, however, nothing contained in this subparagraph 4.1 shall be deemed to allow an Owner to avoid a more stringent obligation for repair, restoration and rebuilding contained in a lease or other written agreement between an Owner and such Owner's Permittee.

4.2 Surface Common Area. Each Owner at its sole cost and expense shall maintain the surface portions of the Project's Common Areas (that is, as contrasted with underground utility infrastructure, which shall be maintained by Declarant, subject to reimbursement by the Owners, in accordance with Article 2 above) located on its Parcel in good order, condition and repair. In the event the Parcel B Owner fails to maintain the surface portions of the Common Areas included in Parcel B following thirty (30) days' written notice of default to the Parcel B Owner from Declarant (or Declarant's successors and assigns) sent pursuant to Section 14, and the failure of the Parcel B Owner to remedy such default within the 30-day period, then the right of the Parcel B Owner to maintain the surface portions of the Common Areas included in Parcel B shall thereupon automatically, and without further act or notice required, be rescinded, and all of the surface areas of the Common Areas for the Project thereafter shall be maintained by Declarant (or Declarant's successors or assigns), subject to reimbursement by the Parcel B Owner for its Prorata Share of such costs and expenses for maintenance, repair or replacement of the Project's Common Areas.

(a) Maintenance and Repair. Maintenance and repair (or replacement) of Common Areas shall include, without limitation, maintaining and repairing all sidewalks and the surface of the parking and roadway areas; removing all papers, debris and other refuse from and periodically sweeping all parking and road areas to the extent necessary to maintain the same in a clean, safe and orderly condition; sealing and striping all parking and roadway areas; maintaining appropriate lighting fixtures for the parking areas and roadways, maintaining all directional, directory, monument and similar signs (but not building identification signs); maintaining lines and striping as needed; maintaining landscaping (including water); and performing any and all such other duties as are necessary to maintain such Common Areas in a clean, safe and orderly condition.

(b) Payment. To the extent that Declarant maintains the Common Areas of the Project pursuant to Section 2.2(c), Section 2.2(b) and Section 4.2, then each year, Declarant (or Declarant's successors or assigns) shall prepare a proposed budget outlining in reasonable detail the expenses of the Project's Common Areas anticipated for the next 12-month calendar year (or until year end for the first and last year of this Declaration) and shall submit a copy of such budget

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to each Owner, including a calculation of each Owner's Prorata Share, for such Owner's approval, not to be unreasonably withheld, conditioned or delayed, and to be given to Declarant within fifteen (15) calendar days of receipt. Failure of an Owner reasonably to disapprove the budget within such time period shall be deemed the Owner's approval of the budget, including the calculation of such Owner's Prorata Share. Payment of each Owner's Prorata Share shall be due from each Owner within thirty (30) days from such Owner's receipt of an invoice from Declarant, for such Owner's Prorata Share. Declarant may submit bills to the Owners monthly or quarterly, as Declarant may elect; and Declarant shall have the ability to reconcile such Owner's Prorata Share annually. If such annual reconciliation reveals that an Owner has underpaid its Prorata Share for the previous 12-month period, the Owner shall pay such underpayment within thirty (30) days from the receipt of an invoice from Declarant. If such annual reconciliation reveals that an Owner has overpaid its Prorata Share for the previous 12-month period, Declarant shall apply such overpayment to the next payment or payments required from such Owner as its Prorata Share. If Common Area costs are not billed separately to each Parcel, then the costs shall be allocated to each Parcel on a Prorata basis, as defined herein.

(c) Prorata Share. The Prorata Share of each Owner shall be the percentage form of a fraction, the numerator of which is the land area of such Owner's Parcel and the denominator of which is the land area of all Parcels. The Owners agree and acknowledge that the Prorata Share of the Owner of Parcel A shall be 76.41%, and the Prorata Share of the Owner of Parcel B shall be 23.59%.

(d) Assessments. For single expenditures in excess of \$5,000.00 (whether for maintenance or for capital expenditures), Declarant may elect to assess the Owners their Prorata Share in advance of incurring such expenditure, in which event each Owner's Prorata Share of the assessment shall be due within thirty (30) days from receipt of an invoice from Declarant. To the extent such expenditures have not been included in the budget previously approved pursuant to Section 4.2(b), the Owners shall have the right to approve such expenditures, with such approval not to be unreasonably withheld, conditioned or delayed. Declarant shall submit the request to each Owner in writing, accompanied by reasonable documentation establishing the need for such expenditure(s) and costs for repair or remediation; and in the event an Owner does not reasonably disapprove such item within ten (10) business days of receipt, then the Owner shall be deemed to have approved such expenditure and consented to such assessment.

(e) Insurance. If Declarant maintains any portion of the Common Areas, Declarant shall purchase and maintain casualty and commercial general liability insurance, in such amount or amounts as Declarant reasonably deems sufficient, insuring the Owners against claims for damage or casualty to improvements in the Common Areas and for bodily injury, personal injury, death or property damage occurring on or about the Common Areas. The cost of the premiums for such insurance shall be charged to the Owners in accordance with their Prorata Shares.

(f) Late Payments. Any amounts not paid within thirty (30) days of being due, shall bear a late fee of ten percent (10%) of the invoiced amount, together with interest on all sums at the rate of twelve percent (12%) per annum.

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4.3 Trash Enclosure and Disposal. Each Parcel shall have a fully enclosed area for its trash receptacles, and each Owner shall cause or arrange for the emptying of its trash receptacle, at such Owner's sole cost and expense, on a regular basis, but not less often than weekly.

4.4 Signs. Each Owner may place and maintain identification signs on its Parcel and on any building located on its Parcel in conformity with all applicable law. All such signs shall be placed and maintained at such Owner's sole cost and expense. Directional, directory and monument signs shall be maintained by Declarant as part of Declarant's Common Area maintenance pursuant to paragraph 4.2.

4.5 Utilities. Each Owner shall at all times during the term hereof construct, operate and maintain or cause to be constructed, operated and maintained, in good order, condition and repair, at its sole expense any utility or other installations serving the Parcel of such Owner and from time to time existing on the Parcel of another Owner pursuant to an easement granted in accordance herewith.

4.6 General. The Owner of an unimproved Parcel shall maintain said Parcel in a clean condition, free of all natural growth, litter or debris.

4.7 Modification. Once constructed, any modification or relocation of any curb cut providing access from any Parcel to any adjacent public right-of-way shall require the prior written consent of other Owners, which consent may be withheld in the reasonable judgment of such Owner. Any reconstruction, modification or relocation of such access points and/or curb cuts shall be in a manner and with materials consistent with the original installation thereof.

4.8 No Barriers. The access easement described in paragraph 2.1 shall be paved and free of obstructions and shall meet at equal grade at the common boundary of the Parcels so as to permit the vehicular and pedestrian access, ingress and egress contemplated by this Declaration.

4.9 Dedications. No Owner of any Parcel may dedicate any portion of its Parcel to a governmental authority for the purposes of a public right of way without the consent of the other Owners, which consent may be withheld in the reasonable judgment of such other Owners.

5. Restrictions.



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5.1 General. Each Parcel shall be used for lawful purposes in conformance with all restrictions imposed by all applicable governmental laws, ordinances, codes, and regulations, and no use or operation shall be made, conducted or permitted on or with respect to all or any portion of a Parcel which is illegal. No Parcel shall be used for nude or semi-nude dancing; an x-rated book or movie store (except that this provision shall not prohibit the sale or rental of adult or x-rated video tapes or books as part of a business of a video store or bookstore offering a selection of other types of books and/or video tapes as a majority of its selection); a massage parlor (but this shall not prohibit massage services offered by a doctor, nurse or chiropractor or massage services offered in connection with the operation of a beauty parlor, nail salon, health club, day spa or barber shop); or in any manner so as to create or constitute a nuisance, and no Owner shall permit the accumulation on its Parcel of unsightly trash or debris.

5.2 Additional Use Restrictions and Grant of First Right to Place ATM. Notwithstanding the foregoing, no portion of the Project other than Parcel B may be used as a bank, credit union, savings and loan association or mortgage company; provided, however, that this limitation shall not prohibit the placement and maintenance of a walk-up "automatic teller machine" or similar device anywhere within the Project (but it shall prohibit the placement and maintenance of a drive-through or drive-up automatic teller machine in any portion of the Project other than Parcel B); provided, however, that any Owner of Parcel B that is a bank, shall have a first right to place and maintain such walk-up automatic teller machines within the Project.

6. Insurance.

6.1 Each Owner agrees to carry or cause its Permittees to carry commercial general liability insurance insuring against claims for bodily injury, personal injury, death or property damage (including contractual liability arising under the indemnity contained in paragraph 2.9 above), occurring on or about such Owner's Parcel, the easement areas which are subject to use and enjoyment by such Owner and its Permittees hereunder, and the Common Areas, with combined single limit coverage of not less One Million Dollars (\$1,000,000.00) per occurrence. The amount of coverage may be increased by unanimous consent of the Owners. Any insurance required under this Declaration may be brought within the coverage of so-called blanket or master policies of insurance, provided that such blanket or master policies contain a so-called per project aggregate endorsement preventing the coverages required hereunder from being reduced or diminished by reason of the use of such policies. Any Owner (or Permittee of such Owner responsible for carrying insurance hereunder) having a net worth in excess of One Hundred Million and No/100 Dollars (\$100,000,000) may self insure. By self-insuring, an Owner (or a Permittee of such Owner responsible for carrying insurance hereunder) shall be deemed to have agreed to make payment in the event of loss at such times, in such amounts, and to such person(s) as would an insurance company authorized to do business in the state of Arizona having a rating in Bests Insurance Guide of A:VII or better, it being the intention in permitting self-insurance hereunder that the same be equivalent to the third-party insurance coverage otherwise required under this Article 6. Each policy of commercial general liability insurance maintained by an Owner or its Permittees shall name the other Owner(s) (including the Owner of the Parcel occupied by a Permittee if the Permittee is carrying the insurance or is self-insuring) as additional insured(s), provided that the Owner (or its Permittee, as the case may be) obtaining such insurance has been supplied with the name(s) of the other Owner(s) in the event of a change therein. Such policies of insurance shall be

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primary and not contributing with any policy or policies of insurance maintained by any other Owner or its Permittees.

6.2 Upon reasonable request an Owner shall furnish to the requesting Owner certificates of insurance (Accord Form No. 27, March 1993, or its equivalent) or other reasonable evidence indicating that insurance meeting the requirements hereof has been obtained and is in full force and effect, or in the case of self-insurance, reasonable evidence substantiating a net worth in excess of One Hundred Million and No/100 Dollars (\$100,000,000.00) (e.g., audited financial statements prepared by a reputable national accounting firm in accordance with generally accepted accounting principles, consistently applied, or if such Owner or Permittee is publicly traded on a national securities exchange, current SEC reports or filings).

6.3 Each Owner hereby waives its rights of recovery against all other Owners and their Permittees for any damage or loss which would be covered by a "Causes of Loss-Special Form" policy of insurance or which is actually covered by a policy of property insurance (or a program of self-insurance) maintained by such Owner, regardless of whether such damage or loss shall have been caused by the acts or omissions of another Owner or its Permittees. Each Owner covenants to notify its insurance carrier(s) that the foregoing waiver of subrogation is contained in this Declaration and to obtain from such carrier(s) a waiver of subrogation endorsement denying such carrier(s) any subrogation rights against other Owners or their Permittees that might otherwise arise by virtue of the payment of a loss covered by such property insurance or self-insurance.

7. Taxes and Assessments. Each Owner shall pay all taxes, assessments, or charges of any type levied or made by any governmental body or agency with respect to its Parcel. In the event that the Parcels are not separately assessed for real property taxes, the Owner of the Parcel B shall pay the Declarant (or its successor) its Prorata Share of such taxes promptly upon written demand from Declarant, including a copy of the tax bill (or bills) for the Project.

8. No Rights in Public. Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of a Parcel.

9. Remedies.

9.1 All Available Remedies. In the event of a breach by any Owner or its Permittees of any of the terms or provisions hereof, any other Owner shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including payment of any amounts due and/or specific performance.

9.2 Self-Help. In addition to all other remedies available at law or in equity, upon the failure of a defaulting Owner to cure a breach of this Declaration by such Owner or its Permittees within thirty (30) days following written notice thereof by another Owner (unless, with respect to any such breach the nature of which cannot reasonably be cured within such 30-day period, the defaulting Owner commences such cure within such 30-day period and thereafter diligently prosecutes such cure to completion), any nondefaulting Owner shall have the right to perform such obligation contained in this Declaration on behalf of such defaulting Owner and be

## EXHIBIT "C"

reimbursed by such defaulting owner upon demand for the reasonable costs thereof together with interest at the "Prime Rate" as published in the Wall Street Journal, plus two (2) percentage points (not to exceed the maximum rate of interest allowed by law). Notwithstanding the foregoing to the contrary, if the nature of the breach of this Declaration presents an immediate risk of damage to property, injury to persons, interruption of utility service or loss, obstruction or blockage of access, the prior notice requirement of this paragraph shall not apply, and such nondefaulting Owner shall be authorized to take immediate steps to minimize or eliminate such risk, and be reimbursed for the reasonable costs thereof as aforesaid. In such event, notice of such action shall be given to the defaulting Owner as soon as reasonably practicable under the circumstances.

9.3 Remedies Cumulative. The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

9.4 No Termination for Breach. Notwithstanding anything to the contrary herein contained, no breach hereunder shall entitle any Owner to cancel, rescind, or otherwise terminate this Declaration, or shall defeat or render invalid the lien of any mortgage or deed of trust upon all or any portion of the Parcels made in good faith for value, but the easements, rights and obligations contained herein shall be binding upon and effective against any owner thereof whose title thereto is acquired by foreclosure, trustee's sale, or otherwise.

10. Term. The covenants, conditions and restrictions contained in this Declaration shall be effective commencing on the date of recordation of this Declaration in the office of the Maricopa County Recorder and shall remain in full force and effect for a period of twenty-five (25) years from and after said date of recordation, and be deemed to be renewed thereafter automatically for successive twenty-five (25) year terms, unless this Declaration is modified, amended, cancelled or terminated by the written consent of all then record Owners in accordance with paragraph 11.3 hereof.

11. Miscellaneous.

11.1 Notices. Any notice to be given hereunder shall be given in writing and delivered in person, or by reputable nationwide overnight courier (e.g., Federal Express), or forwarded by certified or registered mail, postage prepaid, return receipt requested, to the Declarant at the address indicated below, or to any Owner at the street address for the Owner's Parcel, unless the party giving such notice has been notified, in writing of a change of address:

Declarant: Princess Medical Center, L.L.C.  
c/o The Plaza Companies  
9401 West Thunderbird Road  
Suite 200  
Peoria, Arizona 85381  
Attention: Sharon Harper

With a copy to:  
Mariscal Weeks McIntyre & Friedlander, P.A.  
2901 North Central Avenue



## EXHIBIT "C"

Suite 200  
Phoenix, Arizona 85012  
Attention: James H. Patterson

Any such notice shall be deemed effective on the date on which such notice is delivered, if notice is given by personal delivery or overnight courier, or if notice is sent through the United States mail, on the date of actual delivery as shown on the addressee's receipt or upon the expiration of three (3) days following the date of mailing, whichever first occurs.

11.2 Attorneys' Fees. In the event of any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing party shall be entitled to recover from the unsuccessful party its costs and reasonably attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

11.3 Amendment. This Declaration may be terminated, modified or amended solely by Declarant without the joinder of any other Owner. From and after the date Declarant no longer has an interest in the Parcels, this Declaration may be terminated, modified or amended only by the written consent of all record Owners of all of the Parcels. Any such termination, modification or amendment of this Declaration shall be evidenced by a document that has been fully executed and acknowledged by all requisite Owners and recorded in the Official Records of Maricopa County, Arizona. No Owner of any Parcel may impose additional conditions, covenants, easements and restrictions on its Parcel (or impose any future subdivision thereof).

11.4 Consents. Wherever in this Declaration the consent or approval of an Owner is required, unless otherwise expressly provided herein, such consent or approval shall not be unreasonably withheld or delayed. Any request for consent or approval shall: (a) be in writing; (b) specify the section hereof which requires that such notice be given or that such consent or approval be obtained; and (c) be accompanied by such background data as is reasonably necessary to make an informed decision thereon. The failure of an Owner to give such consent or approval, or specific grounds for disapproval, within thirty (30) days following the date such notice is effective in accordance with paragraph 11.1 hereof shall be deemed to constitute such Owner's consent or approval to the matter which is the subject of such request.

11.5 No Waiver. No waiver of any default of any obligation by any party hereto shall be implied from any omission by the other party to take any action with respect to such default.

11.6 No Agency. Nothing in this Declaration shall be deemed or construed by either party or by any third person to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between the parties.

11.7 Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective

## EXHIBIT "C"

parties and their successors, assigns, heirs, and personal representatives. However, no easement, covenant, condition, restriction or other right or benefit accruing hereunder in favor of any Parcel shall be assignable, transferable or otherwise delegable to or for the benefit of neighboring real property that is not a Parcel hereunder.

11.8 Grantee's Acceptance. The grantee of any Parcel or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof (within the meaning of A.R.S. Section 33-741(2)), whether from an original party or from a subsequent Owner of such Parcel, shall accept such deed or contract upon and subject to each and all of the easements, covenants, conditions, restrictions and obligations contained herein. By such acceptance, any such grantee shall for himself and his successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with all other Owners, to keep, observe, comply with, and perform the obligations and agreements set forth herein with respect to the property so acquired by such grantee, whereupon the grantor of such property shall be released from such obligations and agreements thereafter arising in respect of such property.

11.9 Separability. Each provision of this Declaration and the application thereof to the Parcels is hereby declared to be independent of and severable from the remainder of this Declaration. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Declaration. In the event the validity or enforceability of any provision of this Declaration is held to be dependent upon the existence of a specific legal description, the parties agree to promptly cause such legal description to be prepared.

11.10 Time of Essence. Time is of the essence of this Declaration.

11.11 Entire Agreement. This Declaration contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.

11.12 Counterparts. This Declaration may be executed in one or more counterparts, each of which may be executed by one or more of the parties hereto, with the same force and effect as though all the parties executing such counterparts had executed but one instrument. Signature and/or acknowledgment pages may be detached from such counterparts and attached to this Declaration to physically form one legally effective document for recording purposes.

11.13 Governing Law and Jurisdiction. The laws of the State of Arizona shall govern the interpretation, validity, performance, and enforcement of this Declaration. All Owners irrevocably consent to jurisdiction and venue in the State of Arizona and agree not to attempt to remove or transfer any action properly commenced in the State of Arizona.

11.14 Estoppel Certificate. Each Owner, upon the written request of another Owner, must execute, acknowledge and deliver, without charge and within fifteen (15) days following such request, an estoppel certificate certifying that this Declaration is in full force and effect, that no Owner is in default hereunder (or stating such default(s), if any are claimed),



**EXHIBIT "C"**

identifying all amendments hereto, and setting forth such other information as may reasonably be requested, is reasonably acceptable to the party to whom the request is made, and is true and correct.

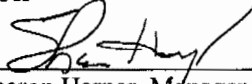
11.15 Prescriptive Easements/Adverse Possession. No title, easement or use pertaining to the Project or any portion thereof may be established by prescription or adverse possession, the statute of limitations for such purposes being expressly hereby waived.

11.16 Single Ownership. The validity and enforceability of this Declaration is not adversely affected by the ownership of the entire Project by a single Owner.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first written above.

PRINCESS MEDICAL CENTER, L.L.C.,  
an Arizona limited liability company

By: H.G. Plaza and Co, LLC, an Arizona  
limited liability company, its Managing  
Member

By   
Sharon Harper, Manager

## EXHIBIT "C"

STATE ARIZONA                    )  
  ) ss.  
County of Maricopa                )

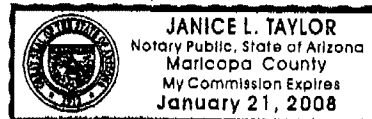
On Feb. 14, 2006, before me, Jan Taylor,  
a Notary Public in and for said state, personally appeared Sharon Harper, personally known to  
me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are  
subscribed to the within instrument and acknowledged to me that they executed the same in their  
authorized capacities, and that by their signatures on the instrument, the persons, or the entity  
upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Janice L. Taylor  
Notary Public in and for said State

My Commission Expires:

1-21-2008



**EXHIBIT "C"**

List of Exhibits

A = Project Legal Description

B = Site Plan [Depiction of Parcels A {Plaza} and B {Bank}]

C = Water and Sewer Easements

D = Utility Easements

E = View Corridor Study

Exhibit A  
Project Legal Description

## PROPERTY DESCRIPTION

A portion of the Southeast quarter of Section 36, Township 4 North, Range 4 East, Gila and Salt river Meridian, Maricopa County, Arizona, being more particularly described as follows:

COMMENCING at the centerline intersection of Perimeter Drive with Anderson Drive, as shown on the MAP OF DEDICATION OF RIGHT-OF-WAY AND EASEMENTS FOR PERIMETER CENTER PHASE II, recorded in Book 332, Page 49 of Maricopa County Recorder;

THENCE North 70 degrees 35 minutes 26 seconds East, along the centerline of said Anderson Drive, 428.06 feet;

THENCE North 19 degrees 24 minutes 34 seconds West, 35.00 feet to a point on the Northerly right-of-way line of said Anderson Drive marking the POINT OF BEGINNING;

THENCE continuing North 19 degrees 24 minutes 34 seconds West, 438.64 feet to a point on a curve on the Southerly right-of-way line of Princess Drive from which the center of said curve bears North 27 degrees 43 minutes 13 seconds West, 2765.00 feet;

THENCE North easterly, along said Southerly right-of-way line and along the arc of said curve, through a central angle of 03 degrees 53 minutes 11 seconds for an arc distance of 187.55 feet;

THENCE North 58 degrees 23 minutes 36 seconds East, continuing along said right-of-way line, 277.10 feet;

THENCE South 09 degrees 50 minutes 37 seconds East, 544.18 feet to a point on a curve on the aforementioned Northerly right-of-way line of Anderson Drive from which the center of said curve bears South 09 degrees 50 minutes 37 seconds East, 435.00 feet;

THENCE Westerly, along said right-of-way line and along the arc of said curve, through a central angle of 09 degrees 33 minutes 57 seconds for an arc distance of 72.63 feet;

THENCE South 70 degrees 35 minutes 26 seconds West, continuing along said right-of-way line, 292.65 feet to the POINT OF BEGINNING.

Exhibit B  
Site Plan

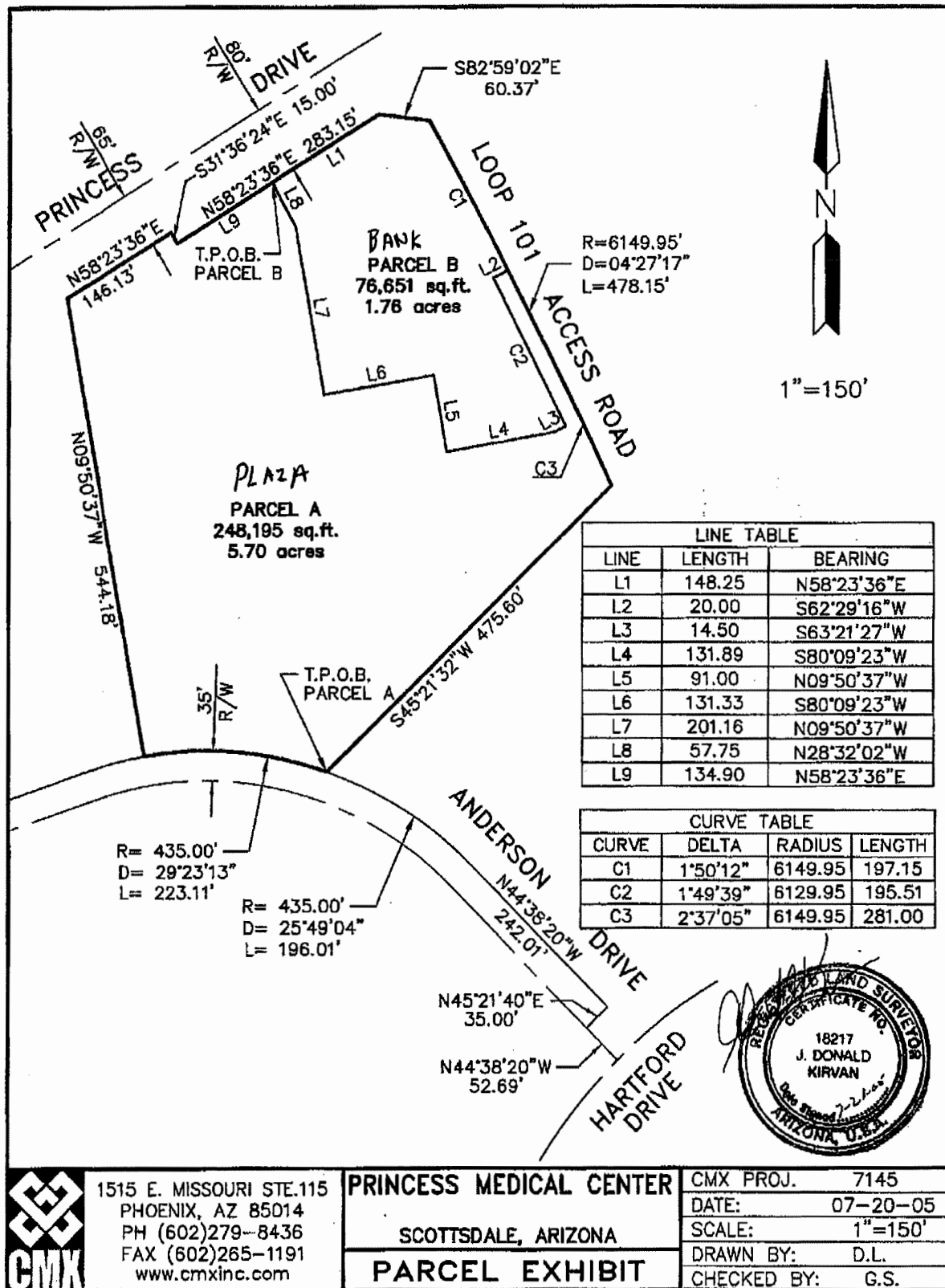


Exhibit C  
Water and Sewer Easements



## PROPERTY DESCRIPTION

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THENCE Westerly, along said right-of-way line and along the arc of said curve, through a central angle of 09 degrees 33 minutes 57 seconds for an arc distance of 72.63 feet;

THENCE South 70 degrees 35 minutes 26 seconds West, continuing along said right-of-way line, 292.65 feet to the POINT OF BEGINNING.

20060231197

Exhibit D  
Utility Easements

## PROPERTY DESCRIPTION

A portion of the Southeast quarter of Section 36, Township 4 North, Range 4 East; Gila and Salt river Meridian, Maricopa County, Arizona, being more particularly described as follows:

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THENCE North easterly, along said Southerly right-of-way line and along the arc of said curve, through a central angle of 03 degrees 53 minutes 11 seconds for an arc distance of 187.55 feet;

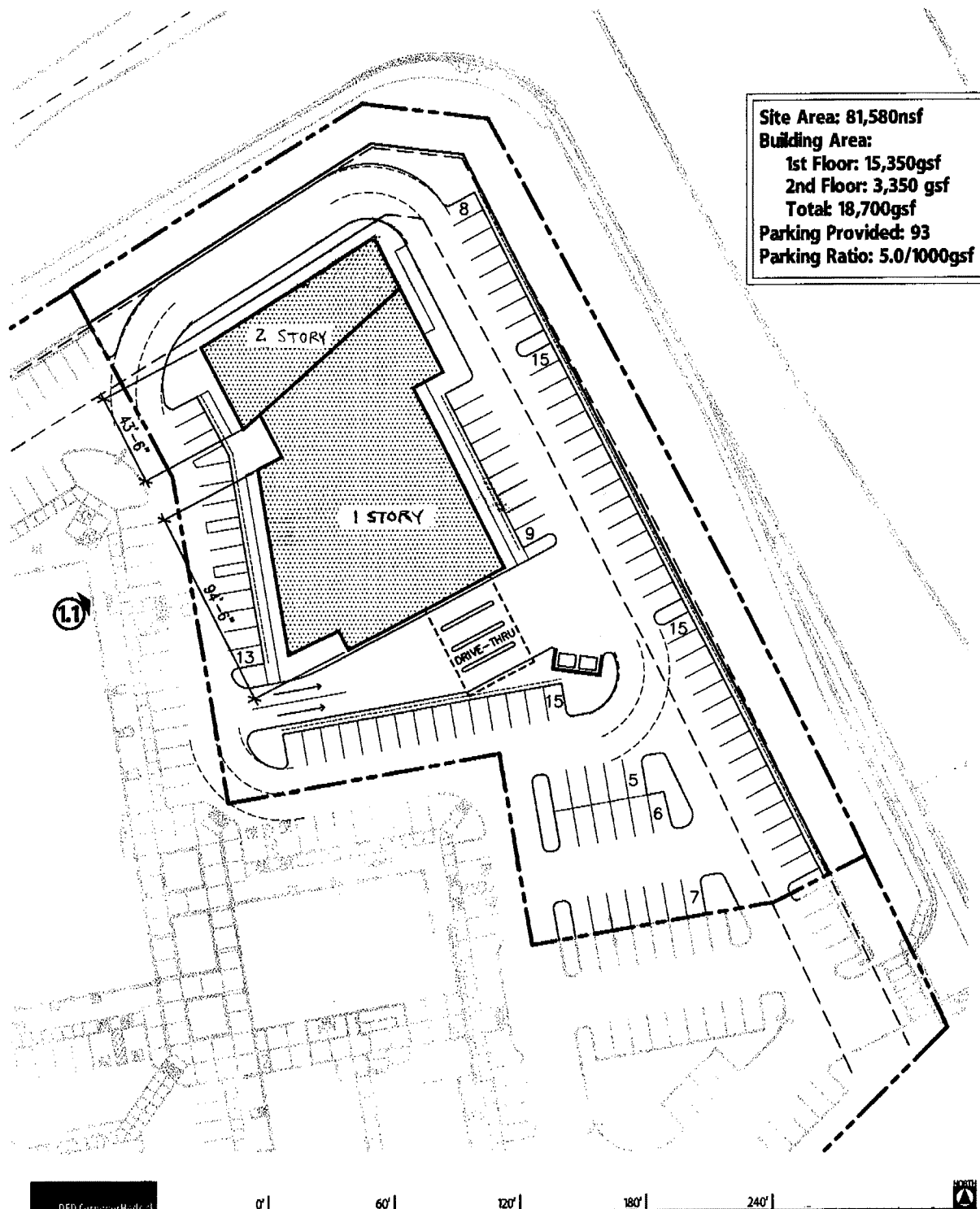
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THENCE South 09 degrees 50 minutes 37 seconds East, 544.18 feet to a point on a curve on the aforementioned Northerly right-of-way line of Anderson Drive from which the center of said curve bears South 09 degrees 50 minutes 37 seconds East, 435.00 feet;

THENCE Westerly, along said right-of-way line and along the arc of said curve, through a central angle of 09 degrees 33 minutes 57 seconds for an arc distance of 72.63 feet;

THENCE South 70 degrees 35 minutes 26 seconds West, continuing along said right-of-way line, 292.65 feet to the POINT OF BEGINNING.

Exhibit E  
View Corridor Study



DFD CornerHedlock

0' | 60' | 120' | 180' | 240'

**MIDFIRST BANK: PERIMETER CENTER**  
Scottsdale, Arizona

05363

09.February.06

## SITE/KEY PLAN