



207 Waiver

Title

Legal Description / Ads

Policy or Appeals

Correspondence Between Legal & Staff

Letter of Authorization

QT1418Esmt-14-1-1--
esquivela

When recorded, Return to:

Store #1418

MAINTENANCE AND EASEMENT AGREEMENT

THIS MAINTENANCE AND EASEMENT AGREEMENT (this "Agreement"), is executed to be effective as of the 23rd day of December, 2020, by and between BV MVP STORAGE SCOTTSDALE, LLC, a Delaware limited liability company ("Grantor"), and QUIKTRIP CORPORATION, an Oklahoma corporation ("QuikTrip").

WITNESSETH:

WHEREAS, Grantor is the fee owner of that certain tract of land described in Exhibit A attached hereto and incorporated herein, said property being hereinafter referred to as the "Grantor Property"; and

WHEREAS, QuikTrip is the fee owner of that certain tract of land described in Exhibit B, attached hereto and incorporated herein, said property being hereinafter referred to as the "QuikTrip Property" (the QuikTrip Property and the Grantor Property are sometimes individually referred to herein as a "Parcel"); and

WHEREAS, Grantor intends to grant to QuikTrip and the QuikTrip Property a temporary construction easement on the Grantor Property to facilitate construction of a sewer line and other related ancillary improvements (the "Utility Improvements") located or to be located on the Grantor Property, as shown and legally described on Exhibit C attached hereto and incorporated herein by this reference; and

WHEREAS, Grantor intends to grant to QuikTrip and the QuikTrip Property a utility easement over, under, across, and upon those portions of the Grantor Property as shown and legally described on Exhibit D, for the installation, use, maintenance, replacement and repair of the Utility Improvements located or to be located within the utility easement area; and

WHEREAS, QuikTrip shall be solely responsible for the construction, maintenance and operation of the Utility Improvements; and

WHEREAS, the continued use and maintenance of the utility easement and temporary construction easement granted and reserved herein will be beneficial to the QuikTrip Property.

NOW, THEREFORE, in consideration of the foregoing premises, the grants, reservations, easements and agreements herein made, and in consideration of Ten and No/100 Dollars (\$10.00) in hand paid and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto (each such party hereinafter called "Owner") intending to be legally bound do hereby agrees as follows:

1. Grant of Easements by Grantor for the benefit of QuikTrip and the QuikTrip Property. Grantor hereby grants, bargains, sells and conveys to QuikTrip the following easements for the benefit of QuikTrip, the QuikTrip Property, QuikTrip's employees and agents, and, to the extent title to the QuikTrip Property is leased, transferred or assigned by QuikTrip, to its successors and assigns:

1.2 Temporary Construction Easement. A, temporary easement of variable width (the "QuikTrip Temporary Construction Easement") on, over, upon, across, through and under those portions of the Grantor Property shown with diagonal lines and labeled as the "QuikTrip Temporary Construction Easement" on Exhibit C, for use for normal construction activities while constructing the Utility Improvements (as defined below) upon the Grantor Property and the QuikTrip Property. The QuikTrip Temporary Construction Easement herein granted shall automatically terminate, without any further action by either party, upon the earlier of: (a) completion of the construction of the Utility Improvements upon the Grantor Property and the QuikTrip Property, or (b) one (1) year following the recordation of this Agreement.

1.3 Utility Easement. A perpetual, non-exclusive easement (the "Utility Easement") over, across, upon and under the area shown with diagonal lines and labeled as the "QuikTrip Utility Easement" on Exhibit D, for the purpose of installing, using, maintaining, repairing and replacing the Utility Improvements located or to be located within the Utility Easement.

2. Cost and Expenses for Construction of Certain Improvements.

2.1 Initial Construction of Certain Improvements. QuikTrip, as part of QuikTrip's development of the QuikTrip Property and at QuikTrip's sole cost and expense, shall construct the Utility Improvements.

2.2 Responsibility for Costs and Expenses of Maintenance after Completion of the Utility Improvements. QuikTrip, at QuikTrip's sole cost and expense, shall be responsible for maintaining, repairing and replacing the Utility Improvements located within the QuikTrip Utility Easement and on the QuikTrip Property in good condition and state or repair and this obligation of QuikTrip shall include, without limitation, the maintenance, repair and replacements of any such improvements from the

connection of the new 6" BCS into the public 8" sewer line located in the alley to the private manhole on the Grantor Property and up to the QuikTrip property, as generally shown on Exhibit D attached hereto. Any alterations to the Utility Improvements requested or desired by Grantor shall require QuikTrip's prior written approval, which shall not be unreasonably withheld, conditioned or delayed. The Utility Improvements shall not be altered, changed or modified (except for routine maintenance and repair) without the prior written consent of both QuikTrip and Grantor, such consent to not be unreasonably withheld so long as the proposed modifications would not impair or impede the use of the QuikTrip Utility Easement or the Utility Improvements by either party.

2.3 Other Construction Obligations. Any work performed pursuant to this Agreement shall be performed, and all easements created by this Agreement (unless otherwise specifically provided herein) shall be maintained (a) in a good, diligent and workmanlike manner, and (b) in compliance with all applicable laws, rules, regulations, permits and ordinances. Any damage occasioned by work performed pursuant to this Agreement shall be repaired and restored with due diligence at the sole cost and expense of the Owner causing the damage. Any Owner shall promptly pay for all work done on its behalf or at its direction (unless a bona fide dispute exists concerning payment) and cause to be discharged any lien effecting another Owner's Parcel arising from or relating to such work, provided, that, in the event that an Owner has a good faith dispute with any such lien (the "Disputing Owner"), then the Disputing Owner may in good faith contest, by proper legal actions or proceedings, any such lien or encumbrance, provided that at the time of commencement of any such action or proceeding, and during the pendency thereof (i) such contest operates to suspend collection of the contested amounts and is maintained and prosecuted with diligence; (ii) none of the Owner's Parcel would be subject to forfeiture or loss or a lien by reason of the institution or prosecution of such contest; and (iii) the Disputing Owner shall promptly pay or discharge such contested amounts and all additional charges, interest, penalties and expenses if any, and shall deliver to the other Owner evidence acceptable to the other Owner of such compliance, payment or discharge, if such contest is terminated or discontinued adversely to the Disputing Owner. No work done by an Owner on another Owner's Parcel shall give such Owner (or anyone doing work on behalf of such Owner) any lien claims or rights in and to the other Owner's Parcel.

2.4 Restoration of Easement Areas. Upon the completion of any work, the Parcel upon which such work was performed shall be restored to the condition that existed prior to such work. Upon the completion of any work by QuikTrip, QuikTrip, at its sole cost and expense, shall promptly restore, or cause to be promptly restored, the easement area and any improvements located on the Grantor Parcel that are damaged as a result

of QuikTrip's work to equal or better condition, using equal or better quality of materials.

3. Indemnity. QuikTrip shall indemnify, defend and hold harmless Grantor, and its managers, members, officers, directors, shareholders, agents and employees (collectively, the "Indemnified Parties") for, from and against any and all claims, demands, suits, liabilities, costs and expenses (including, but not limited to reasonable attorneys' fees and costs) which may be claimed or asserted against the Indemnified Parties or the Grantor Property on account of injury to any person or property, or any mechanics' or materialmen's liens or claims of lien which may be asserted against any of the Indemnified Parties or the Grantor Property arising out of or resulting from (a) any work, maintenance or repair performed by QuikTrip pursuant to this Agreement, (b) any breach of this Agreement by QuikTrip, or (c) the exercise by QuikTrip of any of the rights and easements herein granted and conveyed.

4. Time of the Essence. Time is of the essence of this Agreement.

5. Amendment. QuikTrip and Grantor hereby agree that only upon the written consent of all parties hereto may this Agreement be amended or any of the easement areas be relocated, changed, altered, diminished or expanded. QuikTrip agrees not to unreasonably withhold, condition or delay its consent to a request to relocate any of the easement areas.

6. Waiver. Each and every covenant and agreement contained herein shall be for any and all purposes hereof construed as separate and independent and the breach of any covenant by any party shall not release or discharge them from their obligations hereunder. No delay or omission by any party to exercise its rights accruing upon any noncompliance or failure of performance by any party shall impair any such right or be construed to be a waiver thereof. A waiver by any party hereto of any of the covenants, conditions or agreements to be performed by any other party shall not be construed to be a waiver of any succeeding breach or of any covenants, conditions or agreements contained herein.

7. Severability. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any then applicable law and shall be limited to the extent necessary to render the real covenants herein valid and enforceable. If any term, provision, covenant or agreement contained herein or the application thereof to any person, entity or circumstance shall be held to be invalid, illegal or unenforceable, the validity of the remaining terms, provisions, covenants or agreements or the application of such term, provision, covenant or agreement to any person, entity or circumstance other than those to which it is held invalid or unenforceable shall not be affected thereby.

8. Binding Effect; Dedication; Appurtenance. This Agreement shall be binding upon and inure to the benefit of Grantor and QuikTrip and their respective successors and assigns. Notwithstanding the foregoing, each Owner shall be responsible

only for the obligations, indemnities, duties, liabilities and responsibilities set forth in this Agreement that accrue during the period of time during which such Owner holds fee simple title to a Parcel or portion thereof. Upon conveyance of a Parcel or a portion thereof, the Owner making such conveyance shall be relieved from the obligations, duties, indemnities and responsibilities hereunder arising from and after the date of such conveyance as to such Parcel, or portion thereof conveyed, and the successor Owner shall become obligated hereunder for all matters arising from and after the date of conveyance. The rights, privileges and easements granted and conveyed hereunder shall exist for the benefit of, and be a burden upon, the Grantor Property, and the QuikTrip Property and shall run with title to, and be appurtenant to, such Parcels.

9. Notices. All notices required under this Agreement shall be deemed to be properly served if reduced to writing and sent by (i) certified or registered mail; (ii) Federal Express or similar overnight courier; (iii) facsimile transmission; or (iv) personal delivery and the date of such notice will be deemed to have been the date on which such notice is delivered or attempted to be delivered as shown by the certified mail return receipt or a commercial delivery service record or in the case of facsimile on the date of receipt of the transmission as shown on a successful transmission confirmation receipt. All notices shall be addressed as follows, unless otherwise specified in writing:

GRANTOR:

BV MVP Storage Scottsdale, LLC
2502 East Camelback Road, Suite 214
Phoenix, Arizona 85016
Attention: Mark Ortman

QUIKTRIP:

QuikTrip Corporation
P.O. Box 3475, Tulsa, Oklahoma 74101
or, 4705 S. 129th E. Ave., Tulsa, Oklahoma 74134-7008
Attn: President
Fax: (918) 615-7680

with a copy to:

QuikTrip Corporation
P.O. Box 3475, Tulsa, Oklahoma 74101
or, 4705 S. 129th E. Ave., Tulsa, Oklahoma 74134-7008
Attn: General Counsel
Fax: (918) 994-3594

10. Remedies. In the event any Owner fails to perform the maintenance, repair or other work required by this Agreement or fails to perform the work in accordance with the requirements of this Agreement or otherwise breaches the terms of this Agreement, the non-defaulting Owner(s) may notify the defaulting Owner and shall specify the deficiencies in the work or the breach. If such deficiencies are not corrected, or the breach not cured, within thirty (30) days after receipt of such notice, then the non-

defaulting Owner(s) shall have the right to correct such deficiencies or perform the work (even if such work must be undertaken on the defaulting Owner's Parcel) or cure the breach, and recover all costs and expenses related thereto from the defaulting Owner. If the failure to perform or breach is regarding the maintenance of Easements and such maintenance cannot reasonably be performed within a thirty-day period, then the non-defaulting Owner(s) shall have the right to perform the maintenance (even if such work must be undertaken on the defaulting Owner's Parcel) after a reasonable amount of time has passed (not to exceed a total of sixty (60) days) after notifying the defaulting Owner, and recover all costs and expenses related thereto from the defaulting Owner. Notwithstanding the foregoing, in the event that the failure to perform the work, or failure to perform the work in the manner required in this Agreement or the breach of this Agreement, creates an imminent danger of damage to persons or properties, or jeopardizes the continuance of business operations on any Parcel, no notice shall be required prior to the non-defaulting Owner(s) commencing such work or commencing a cure. Any amounts due and payable to an Owner pursuant to this Agreement shall be paid within thirty (30) days from the date the other Owner is notified of the amounts due. Any amounts not paid when due shall bear interest at a rate equal to eighteen percent (18%) per annum. The failure to pay any amounts due pursuant to this Agreement shall not entitle any Owner to file a lien or claim of lien against the Parcel owned by the delinquent Owner.

11. Covenants Run With the Land. All the terms and provisions hereof are and shall be deemed to run with the property described herein and shall burden and benefit such property as described herein and, with respect to such property, each Owner, the holders or owners of any mortgage, indenture, deed of trust or deed to secure debt encumbering any of such property, any purchaser at a foreclosure sale, any other person or entity acquiring any right, title or interest in such property and their respective heirs, executors, administrators, representatives, successors and assigns.

12. Reservation of Rights. Grantor reserves the right to use and enjoy the easement areas so long as Grantor's use does not unreasonably interfere with the rights granted in this Agreement. Grantor shall have the right to convey additional easements for access, utilities or other purposes through, over, under, upon, in, across and along the easement areas to the owners of properties located in the vicinity of the Grantor Property or to government or quasi-governmental entities and utility service providers; provided however, that no such additional easements shall unreasonably interfere with the easements granted herein.

13. Grantor's Fees and Costs. QuikTrip agrees to reimburse Grantor for the out of pocket fees and expenses that Grantor incurs in connection with this Agreement concurrently with the execution of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed under seal and delivered by their respective authorized representatives on the day and year first above written.

GRANTOR:

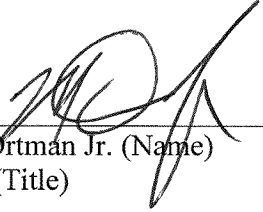
BV MVP STORAGE SCOTTSDALE, LLC, a Delaware limited liability company

By: BV MVP STORAGE, LLC, a Delaware limited liability company
Its: Sole Member

By: MVP STORAGE, LLC, an Arizona limited liability company
Its: Operating Member

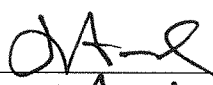
By: VINTAGE STORAGE, LLC, an Arizona limited liability company
Its: Administrative Member

By: Vintage Partners 2.0, LLC, an Arizona limited liability company
Its: Manager

By: 
Mark E. Ortman Jr. (Name)
Manager (Title)

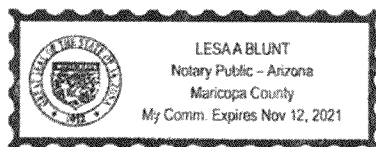
QUIKTRIP:

QUIKTRIP CORPORATION

By: 
Jason Acord (Name)
Director of Real Estate Division Manager

STATE OF Arizona)
)
 COUNTY OF Maricopa) SS.

This instrument was acknowledged before me on this 23 day of December, 2020, by Mark E. Ortman, Jr., the Manager of Vintage Partners 2.0, LLC, an Arizona limited liability company, the Manager of VINTAGE STORAGE, LLC, an Arizona limited liability company, the Administrative Member of MVP STORAGE, LLC, an Arizona limited liability company, the Operating Member of BV MVP STORAGE, LLC, a Delaware limited liability company, the sole Member of BV MVP STORAGE SCOTTSDALE, LLC, a Delaware limited liability company, for and on behalf of such entities.



Lesa A. Blunt
 Notary Public

My commission expires:
November 12, 2021

STATE OF Kansas)
)
 COUNTY OF Johnson) SS.

On this 24 day of November, 2020, before me, the undersigned, a Notary Public, appeared Jason Acord, to me personally known, who being by me duly sworn, did say that he is the Director of Real Estate of QuikTrip Corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors and Division Manager acknowledged said instrument to be the free act and deed of said corporation.

In testimony whereof I have hereunto set my hand and affixed my official seal at my office in said county and state the day and year last above written.

Maria I. Carrillo
 Notary Public in and for said County and

State

My Commission Expires:
5/31/2023

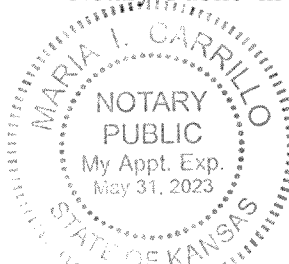
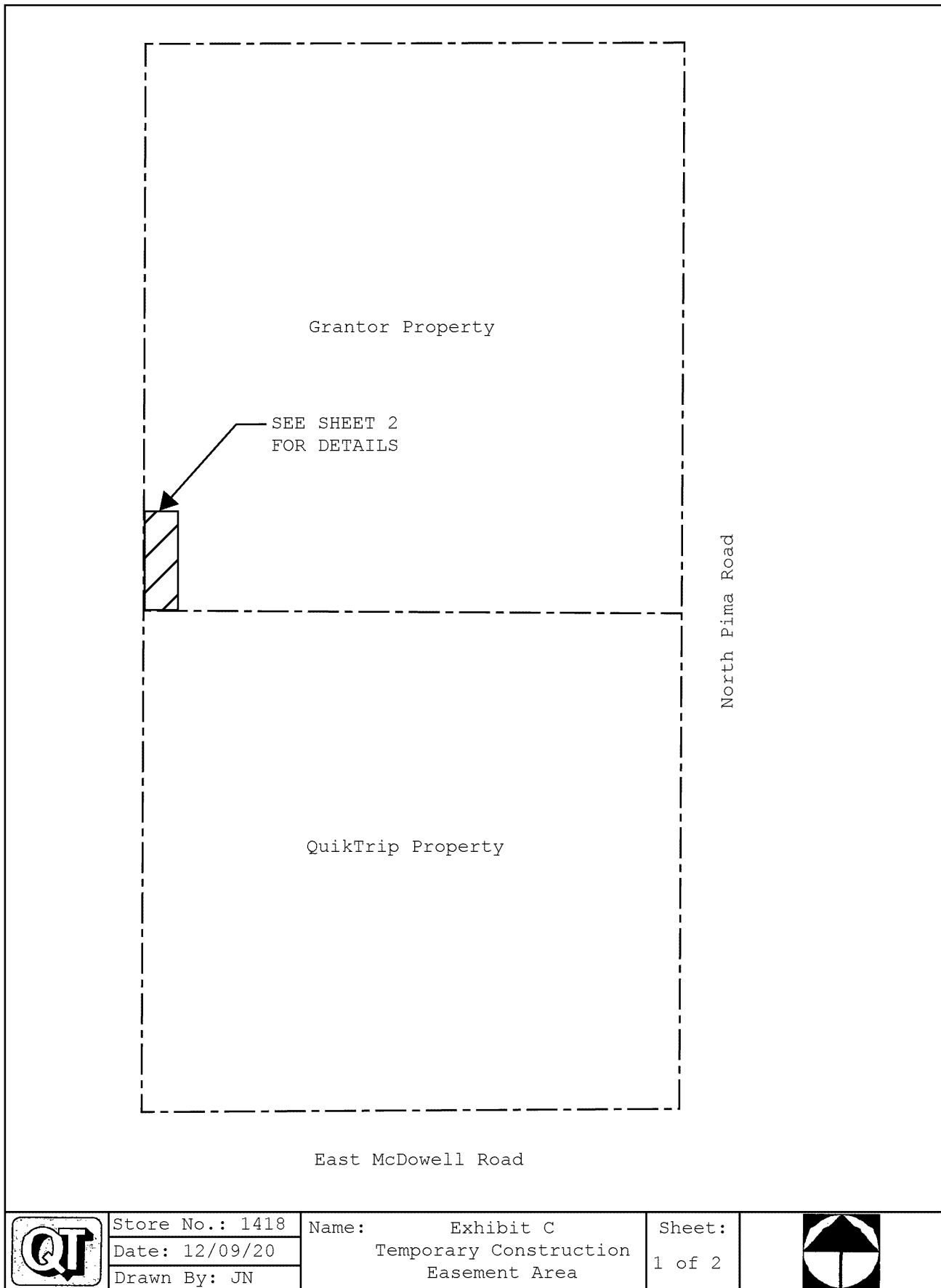


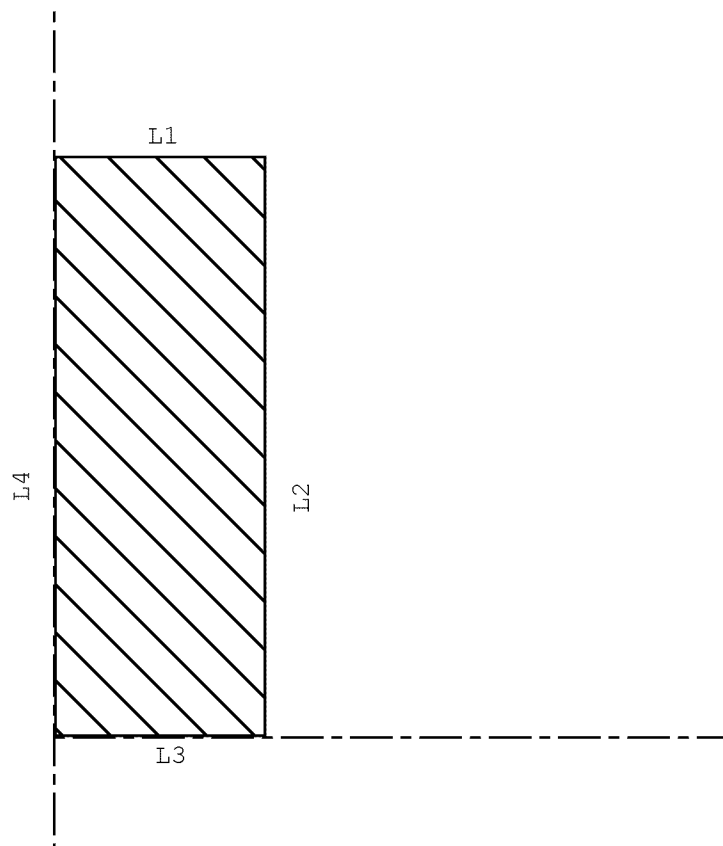
Exhibit A
“Grantor Property”

Lot 2, A MINOR SUBDIVISION OF “QUIKTRIP #1418”, according to Book 1172 of Maps, page 22, records of Maricopa County, Arizona.

Exhibit B
“QuikTrip Property”

Lot 1, A MINOR SUBDIVISION OF “QUIKTRIP #1418”, according to Book 1172 of Maps, page 22, records of Maricopa County, Arizona.





Line Table	
Line No.	Length
L1	20'-0"
L2	70'-0"
L3	20'-0"
L4	70'-0"



Store No.: 1418

Date: 12/09/20

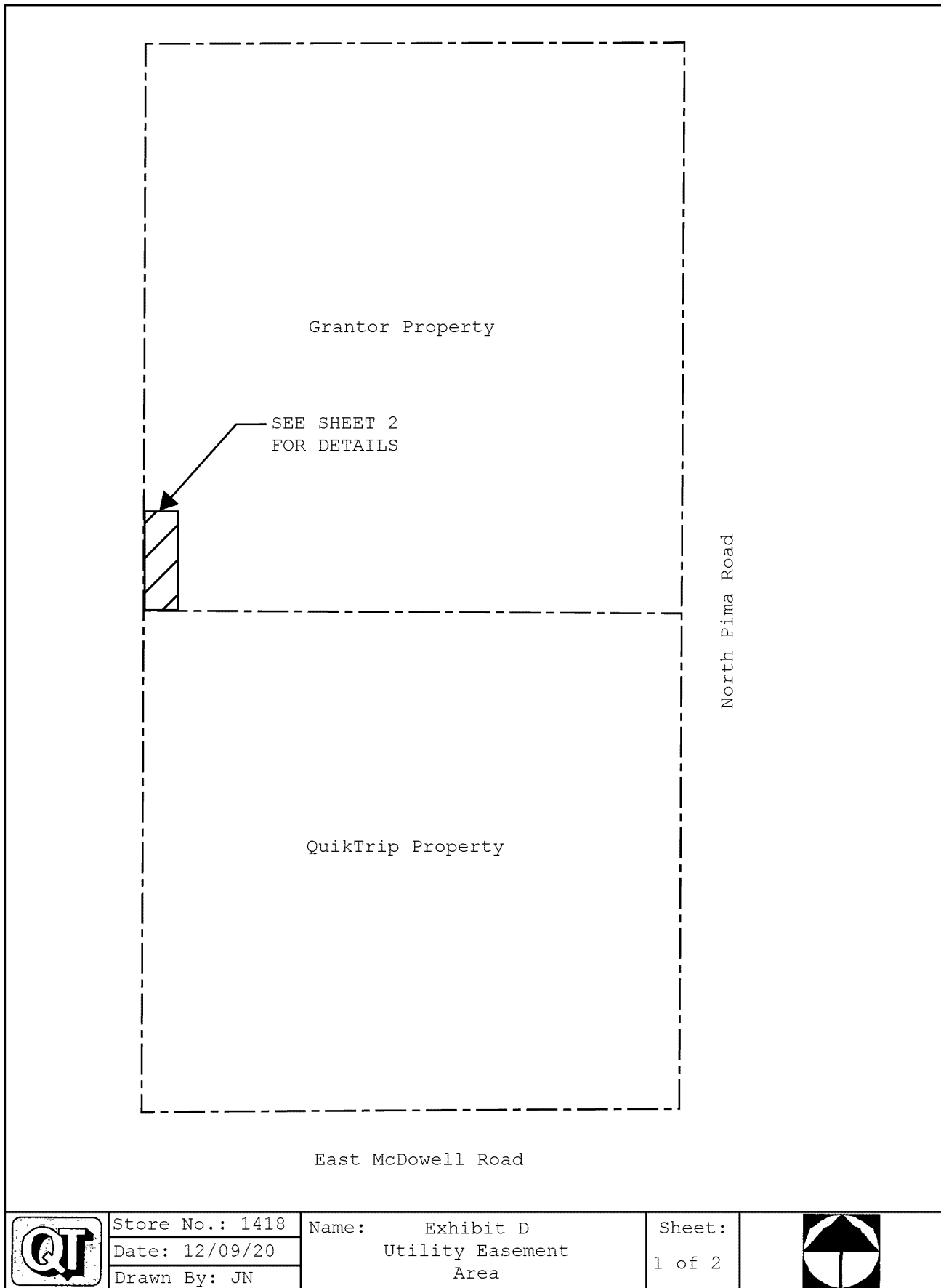
Drawn By: JN

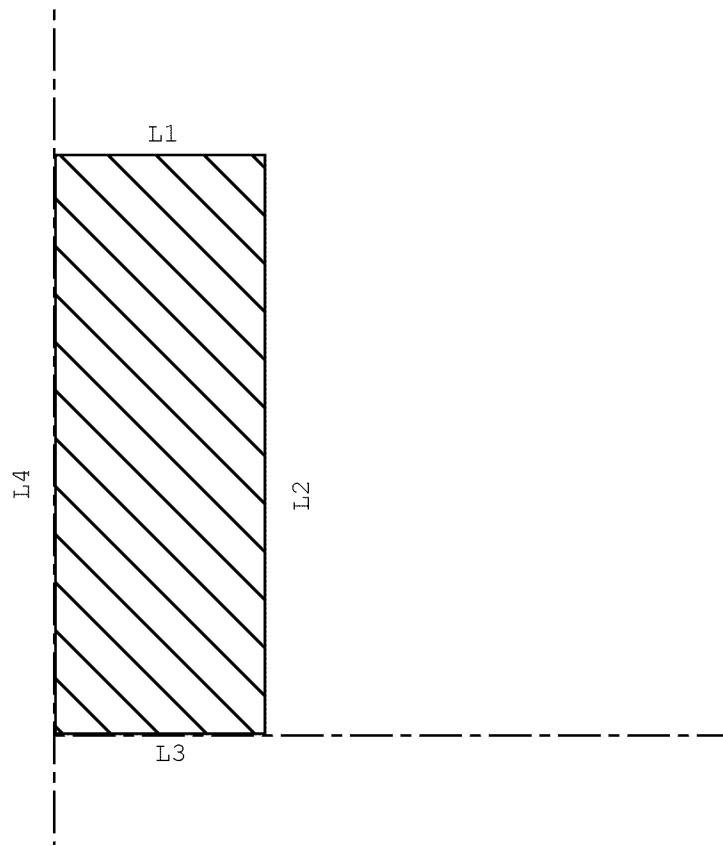
Name: Exhibit C
Temporary Construction
Easement Area

Sheet:

2 of 2







Line Table	
Line No.	Length
L1	20'-0"
L2	70'-0"
L3	20'-0"
L4	70'-0"



Store No.: 1418

Date: 12/09/20

Drawn By: JN

Name:

Exhibit D
Utility Easement
Area

Sheet:

2 of 2



Affidavit of Authorization to Act for Property Owner



1. This affidavit concerns the following parcel of land:

- a. Street Address: 8780 E. McDowell Rd., Scottsdale, AZ 85257
- b. County Tax Assessor's Parcel Number: 131-49-160
- c. General Location: NWC of McDowell Road & Pima Road
- d. Parcel Size: 2.37 acres
- e. Legal Description: Lot 1, 'QuikTrip #1418', #20140031947 01/16/14

(If the land is a platted lot, then write the lot number, subdivision name, and the plat's recording number and date. Otherwise, write "see attached legal description" and attach a legal description.)

- 2. I am the owner of the land or I am the duly and lawfully appointed agent of the owner of the land and have authority from the owner to sign this affidavit on the owner's behalf. If the land has more than one owner, then I am the agent for all of the owners, and the word "owner" in this affidavit refers to all of them.
- 3. I have authority from the owner to act for the owner before the City of Scottsdale with regard to any and all reviews, zoning map amendments, general plan amendments, development variances, abandonments, plats, lot splits, lot ties, use permits, building permits and other land use regulatory or related matters of every description involving the land, or involving adjacent or nearby lands in which the owner has (or may acquire) an interest, and all applications, dedications, payments, assurances, decisions, agreements, legal documents, commitments, waivers and other matters relating to any of them.
- 4. The City of Scottsdale is authorized to rely on my authority as described in this affidavit until three work days after the day the owner delivers to the Director of the Scottsdale Planning & Development Services Department a written statement revoking my authority.
- 5. I will immediately deliver to the Director of the City of Scottsdale Planning & Development Services Department written notice of any change in the ownership of the land or in my authority to act for the owner.
- 6. If more than one person signs this affidavit, each of them, acting alone, shall have the authority described in this affidavit, and each of them warrant to the City of Scottsdale the authority of the others.
- 7. Under penalty of perjury, I warrant and represent to the City of Scottsdale that this affidavit is true and complete. I understand that any error or incomplete information in this affidavit or any applications may invalidate approvals or other actions taken by the City of Scottsdale, may otherwise delay or prevent development of the land, and may expose me and the owner to other liability. I understand that people who have not signed this form may be prohibited from speaking for the owner at public meetings or in other city processes.

Name (printed)

Jonathan Naut

Date

07/09, 2019

Signature

[Signature]

_____, 20____
_____, 20____
_____, 20____

Planning and Development Services

7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 ♦ www.ScottsdaleAZ.gov

Appeals of Dedication, Exactions or Zoning Regulations



Rights of Property Owner

In addition to the other rights granted to you by the U.S. and Arizona Constitution, federal and state law and city ordinances or regulations, you are hereby notified of your right to appeal the following City actions relating to your property:

- 1) Any dedication of exaction which is required of you by an administrative agency or official of the city as a condition of granting approval of your request to use, improve or develop your real property. This appeal right does not apply to a dedication or exaction required as part of a city legislative act (for example a zoning ordinance) when an administrative agency or official has no discretion to determine the dedication or exaction.
- 2) The adoption or amendment of a zoning regulation that creates a taking of property in violations of Arizona and federal court decision.

Appeal Procedure

The appeal must be in writing and specify the City action appealed and the date final action was taken, and must be filed with or mailed to the hearing officer designated by the city within 30 days after the final action is taken

- No fee will be charged for filing
- The city Attorney's Office will review the appeal for compliance with the above requirements, and will notify you if your appeal does not comply
- Eligible appeals will be forwarded to the hearing officer, and a hearing will be scheduled within 30 days of receipt by the hearing officer of your request. Ten days notice will be given to you of the date, time and place of the hearing unless you indicate that less notice is acceptable to you.
- The City will submit a takings impact report to the hearing officer.
- In an appeal from a dedication or exaction, the City will bear the burden of proving that the dedication or exaction to be imposed on your property bears an essential nexus between the requirement and a legitimate governmental interest and that the proposed dedication or exaction is roughly proportional to the impact of the use, improvement or development you proposed.
- In an appeal from the adoption or amendment of a zoning regulation, the City will bear the burden of proving that any dedication of exaction requirement in the zoning regulation is roughly proportional to the impact of the proposed use, improvement, or development, and that the zoning regulation does not create a taking of property in violation of Arizona and federal court cases.
- The hearing officer must render his decision within five working days after the appeal is heard.
- The hearing officer can modify or delete a dedication or exaction or, in the case of an appeal from a zoning regulation, transmit a recommendation to the City Council.
- If you are dissatisfied with the decision of the hearing officer, you may file a complaint for a trial *nevo* with the Superior Court within 30 days of the hearing officer's decision.

For questions, you may contact:

City's Attorney's Office
3939 Drinkwater Blvd.
Scottsdale, AZ 85251
480-312-2405

Address your appeal to:
Hearing Officer, C/O City Clerk
3939 Drinkwater Blvd
Scottsdale, AZ 85251

Please be aware that City Staff cannot give you legal advice. You may wish, but are not required, to hire an attorney to represent you in an appeal.

Planning and Development Services

7447 E. Indian School Road, Suite 105, Scottsdale, AZ 85251 ♦ www.ScottsdaleAZ.gov


Owner Certification
Acknowledging Receipt
Of
Notice Of Right To Appeal
Exactions And Dedications

I hereby certify that I am the owner of property located at:

8780 E. McDowell Rd., Scottsdale, AZ 85257

(address where development approval, building permits, or city required improvements and dedications are being required)

and hereby certify that I have received a notice that explains my right to appeal all exactions and/or dedications required by the City of Scottsdale as part of my property development on the parcel listed in the above address.



Signature of Property Owner

7/31/2019
Date