

13210700
3/5/2020 3:54:00 PM \$40.00
Book - 10906 Pg - 2174-2187
RASHELLE HOBBS
Recorder, Salt Lake County, UT
COTTONWOOD TITLE
BY: eCASH, DEPUTY - EF 14 P.

AFTER RECORDING RETURN TO:
Ria S. vanDright
Chicago Title Insurance Company-Commercial
609 Main Street, Suite 2350
Houston, Texas 77002

114272-DTF

For reference only:
Tax Parcel No. 15-01-479-022
Tax Parcel No. 15-01-479-023

TEMPORARY CONSTRUCTION EASEMENT

by

650 MAIN BUILDING, LLC, a Texas limited liability company
(Phase One Owner)

and

SINCLAIR REAL ESTATE COMPANY, a Wyoming corporation
(Phase Two Owner)

Dated as of March 5, 2020

TEMPORARY CONSTRUCTION EASEMENT

This TEMPORARY CONSTRUCTION EASEMENT (this “Agreement”) is entered into effective as of March 5, 2020 (the “Effective Date”), by 650 MAIN BUILDING, LLC, a Texas limited liability company (the “Phase One Owner”), and SINCLAIR REAL ESTATE COMPANY, a Wyoming corporation (the “Phase Two Owner”) (the Phase One Owner and the Phase Two Owner are collectively referred to herein as the “Owners” and singularly as an “Owner”).

W I T N E S S E T H

WHEREAS, Phase One Owner is the current owner of that certain tract of land situated in Salt Lake County, Utah, which is described on Exhibit A attached hereto and made a part hereof (the “Phase One Tract”) and desires to construct certain improvements on the Phase One Tract (the “Project”); and

WHEREAS, Phase Two Owner is the current owner of that certain tract of land situated in Salt Lake County, Utah, which lies adjacent to the Phase One Tract and is described on Exhibit B attached hereto and made a part hereof (the “Phase Two Tract”, and together with the Phase One Tract, the “Tracts”); and

WHEREAS, the Phase Two Owner wishes to grant to Phase One Owner a non-exclusive temporary construction easement over, upon and across that certain portion of land located on the Phase Two Tract more particularly described on Exhibit C attached hereto and made a part hereof (the “Easement Area”) during the period of Phase One Owner’s construction of the Project, a crane swing aerial easement over the Phase Two Tract and an easement for landscaping and grading a portion of the Easement Area, all as more particularly described herein; and

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the sufficiency of which is hereby acknowledged, the Phase One Owner and the Phase Two Owner hereby agree to the following:

1. Grant of Easement by Phase Two Owner. On and subject to the terms and conditions set forth herein, the Phase Two Owner hereby grants to the Phase One Owner and its agents, contractors, subcontractors, successors and assigns (i) a temporary non-exclusive easement (the “Temporary Construction Easement”) on, over and across the Easement Area for the purpose of (A) constructing portions of the Project adjacent to the Phase Two Tract, and (B) performing landscaping and grading work in the location more particularly set forth on Exhibit D attached hereto and made a part hereof (the “Landscaping and Grading Area”) as required to tie together the landscape and grade on the Project with the landscape and grade on the Phase Two Tract (the “Landscaping and Grading Work”), and (ii) a temporary non-exclusive easement over, through and across the airspace above the Phase Two Tract solely for the purpose of operation of

one or more tower cranes in connection with the construction of the Project such that the jib and/or counter jib of such tower crane(s) enters the airspace over the Phase Two Tract (the "Crane Easement", and together with the Temporary Construction Easement, the "Temporary Easements"); provided that (A) the towers of the construction cranes are completely located outside the Phase Two Tract and only the jibs and counter jibs will, from time to time during construction of the Project, swing over, through and across the Phase Two Tract, (B) in no event will the crane loads swing over the Phase Two Tract, and (C) the cranes are erected and operated by qualified, licensed, bonded and insured operators. TO HAVE AND TO HOLD the Temporary Easements, together with, all and singular, the rights and appurtenances thereto in any wise belonging, including all necessary rights to ingress, egress, and regress, unto the Phase One Owner, its successors and assigns. The Phase Two Owner does hereby bind itself and its successors and assigns to WARRANT AND FOREVER DEFEND, all and singular, the Temporary Easements and other rights described herein unto the Phase One Owner, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through, or under the Phase Two Owner, but not otherwise, subject only to the Permitted Encumbrances (as hereinafter defined).

2. Term. The Phase One Owner acknowledges and agrees that the Temporary Easements are temporary in nature and shall automatically terminate upon the earlier of: a) final completion of the Project and the completion of the initial installation of the Landscaping and Grading Work, or b) five (5) years from the Effective Date. Upon termination of the Temporary Easements, Phase One Owner shall remove any and all spoils and debris located on the Easement Area and shall restore the Easement Area to substantially the same condition existing prior to commencement of the Project, except that the Landscaping and Grading Area shall remain in the condition set forth in the Plans approved or deemed approved pursuant to Section 3(a) below.

3. Landscaping and Grading Work.

(a) Prior to commencing the Landscaping and Grading Work, the Phase One Owner will submit to the Phase Two Owner a copy of the plans showing the general design of the Landscaping and Grading Area (the "Plans") for the approval of the Phase Two Owner. So long as such Plans meet the minimum standards required by Salt Lake City, such approval shall not be unreasonably withheld. The Phase Two Owner shall have twenty-five (25) days following receipt of the Plans to provide approval thereof or disapproval (including the reason(s) for such disapproval in reasonable detail). If the Phase Two Owner fails to provide such approval or disapproval of the Plans within such twenty-five (25) day period, the Phase One Owner will notify the Phase Two Owner of such failure. In the event the Phase Two Owner thereafter fails to provide such approval or disapproval within five (5) days after receipt of such second notice, the Phase Two Owner will be deemed to have approved such Plans. No approvals provided by the Phase Two Owner under this Agreement impose on the Phase Two Owner any obligations whatsoever relating to the design or construction thereunder, including compliance of such Plans with any applicable codes, ordinances, design criteria and standards.

(b) The Phase One Owner shall not perform the Landscaping and Grading Work outside the Landscaping and Grading Area. The Phase One Owner shall perform all Landscaping and Grading Work in a good and workmanlike manner in accordance

with the approved (or deemed approved) Plans and in compliance with all applicable laws, rules, regulations, ordinances and other requirements of governmental authorities. All such work shall be diligently pursued to completion.

(c) Upon completion of construction of the Landscaping and Grading Work within the Landscaping and Grading Area and the termination of the Temporary Easements, the Phase Two Owner shall have the full use and enjoyment of the Landscaping and Grading Area.

(d) During all times that the Phase One Owner or its contractors are using the Temporary Easements, the Phase One Owner shall keep in full force and effect a commercial general liability insurance, including primary and excess policies, totaling not less than \$5,000,000.00 for bodily injury to or death of any person and consequential damages arising therefrom and for property damage, and any contractors using the Temporary Easements shall keep a commercial general liability insurance, including primary and excess policies, totaling not less than \$3,000,000.00 for bodily injury to or death of any person and consequential damages arising therefrom and for property damage. The Phase One Owner shall cause the Phase Two Owner to be named as an additional insured on such policies. Such insurance shall be procured from a company licensed in the State of Utah and rated by Best's Insurance Reports not less than A-, or, if Best Insurance Reports no longer issues such ratings, then a reasonably equivalent rating determined by the Owner responsible for ensuring such insurance is obtained.

4. Notices. Any notice, request, demand or other communication required or permitted under this Agreement (collectively, "Notices") shall be in writing and shall be addressed to the Owner to whom the Notice is being sent at the address listed in the Salt Lake County Assessor's records for delivery of real property tax statements for such Owner's Tract. Any such Notice shall be deemed given and received (i) when hand delivered to the intended recipient; (ii) three days after the same is deposited in the United States mail, with adequate postage prepaid, and sent by certified mail, return receipt requested; or (iii) one business day after the same is deposited with an overnight courier service of national or international reputation.

5. Remedies. No breach of any of the provisions of this Agreement will entitle an Owner to cancel, rescind or otherwise terminate the Temporary Easements. Each Owner shall be entitled to all other remedies at law or in equity for any breach of this Agreement, including, without limitation, actions for specific performance or injunctive relief. All rights and remedies of the Owners are cumulative and the exercise by an Owner of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies.

6. Attorneys' Fees. In any action brought to enforce any provision of this Agreement, or to obtain a declaration of the rights or responsibilities of any party hereunder, the prevailing party shall be awarded all costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by such party in connection therewith.

7. Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance is determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

8. No Partnership or Joint Venture. None of the terms or provisions of this Agreement shall be deemed to create a partnership between the parties in their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise.

9. No Public Grant. No person or entity other than the Owners shall have any right, benefit or obligation under this Agreement as a third party beneficiary or otherwise. Without limiting the foregoing, nothing contained herein shall be construed or interpreted to mean a grant to any public agency or governmental authority.

10. Successors. The rights and obligations contained herein shall run with the titles to the Phase One Tract and the Phase Two Tract, and shall bind and inure to the benefit of the respective successors and assigns of the parties hereto for so long as this Agreement remains in effect. If the Phase One Tract and/or the Phase Two Tract have been or are subsequently subdivided into other parcels of record, the rights and obligations herein shall continue to apply to the real property encumbered hereby regardless of its parcel designation, in accordance with the specific terms and provisions hereof.

11. Headings. The headings of the paragraphs contained herein are intended for reference purposes only and shall not be used to interpret the agreements contained herein or the rights granted hereby.

12. Entire Agreement. This document contains the entire agreement between Phase One Owner and Phase Two Owner with respect to the subject matter hereof, and there are no other terms, conditions, promises, undertakings, statements or representations, express or implied, concerning the matters contemplated by this document.

13. Limitation on Liability. Notwithstanding the foregoing, any Person acquiring fee title to a Tract, shall be bound by this Agreement only as to the Tract or portion of the Tract acquired or possessed by such Person. In addition, such Person shall be bound by this Agreement only during the period such Person is the owner of fee title to such Tract; and, upon conveyance or transfer of such Person's interest in the Tract, such Person shall be released from liability hereunder, except as to the obligations, liabilities or responsibilities that accrue prior to such conveyance or transfer. The easements contained in this Agreement shall continue to be benefits to and servitudes upon said Tracts running with the land for so long as this Agreement remains in effect. As used herein, the term "Person" shall mean a natural person, firm, corporation, partnership, limited partnership, limited liability company or any other legal entity, public or private.

14. **DISPUTES**. **THE OWNERS SHALL USE ALL REASONABLE EFFORTS TO RESOLVE ANY DISPUTE ARISING OUT OF OR RELATED TO THIS**

AGREEMENT BY NON-BINDING MEDIATION WITH A MEDIATOR MUTUALLY ACCEPTABLE TO THE OWNERS. IF THE OWNERS CANNOT AGREE ON THE SELECTION OF A MEDIATOR, IT IS AGREED THAT A MEDIATOR SHALL BE APPOINTED BY THE DISTRICT JUDGE OF SALT LAKE COUNTY, UTAH. IN THE EVENT MEDIATION IS UNSUCCESSFUL, ANY DISPUTE BETWEEN THE OWNERS SHALL BE RESOLVED IN ACCORDANCE WITH SECTION 15 BELOW.

15. Governing Law. This Agreement is made in and shall be governed by the laws of the state in which the Tracts are located. The parties agree that any rule of construction to the effect that ambiguities are to be resolved in favor of either party shall not be employed in the interpretation of this Agreement.

16. Further Assurances. Each Owner agrees to execute, acknowledge, deliver, file, record and publish such further instruments and documents, and do all such other acts and things (a) as may be required by law or (b) as may be required to carry out the purposes and intent of this Agreement; provided, however with respect to subclause (b) neither Owner shall be obligated to take any action that would increase its obligations hereunder or decrease its rights hereunder unless expressly required pursuant to the terms of this Agreement. Each Owner shall act reasonably and in good faith in determining whether an action would increase its obligations hereunder or decrease its rights hereunder.

17. Matters of Record. Notwithstanding anything set forth in this Agreement, the rights set forth herein are granted subject to all matters of record existing as of the Effective Date (except for matters of record that have been expressly subordinated to such this Agreement) and any matters existing as of the Effective Date that might be disclosed by an inspection of the Easement Area (collectively, the "Permitted Encumbrances").

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the dates set forth in the respective acknowledgments hereto to be effective as of the Effective Date.

Phase One Owner:

650 MAIN BUILDING, LLC,
a Texas limited liability company

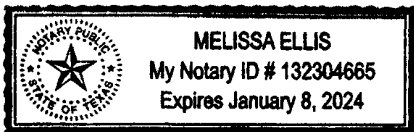
By: PREF 650 Main, LLC,
a Texas limited liability company,
its managing member

By: 
C. Dean Patrinely, President

STATE OF TEXAS)
) ss.
COUNTY OF HARRIS)

This instrument was acknowledged before me this 2nd day of March, 2020, by C. Dean Patrinely, President of PREF 650 Main, LLC, a Texas limited liability company, managing member of 650 MAIN BUILDING, LLC, a Texas limited liability company, on behalf of said limited liability companies.

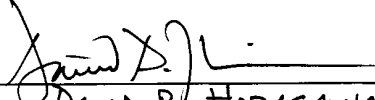
[SEAL]



Melissa Ellis
Notary Public in and for the State of Texas

Phase Two Owner:

SINCLAIR REAL ESTATE COMPANY,
a Wyoming corporation

By: 
Name: DAVID P. HIRASAWA
Title: VICE PRESIDENT

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

On the 4th day of March, 2020, personally appeared before me David Hirasawa, who, being duly sworn, did say that he/she is the Vice President of SINCLAIR REAL ESTATE COMPANY, and that the foregoing instrument was signed on behalf of said corporation by authority of a resolution of its Board of Directors or its Bylaws, and said David Hirasawa acknowledged to me that said corporation duly executed the same.



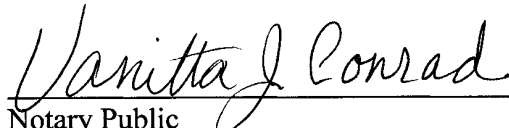

Notary Public

Exhibit A

Legal Description of the Phase One Tract

The North 165 feet of Lot 1, the North 85.5 feet of Lot 2, and All of Lots 7 and 8, Block 22, Plat A, Salt Lake City Survey.

Also known as:

A parcel of land located in Block 22, Plat A, Salt Lake City Survey, more particularly described as follows:

The North 165 feet of Lot 1, the North 85.5 feet of Lot 2, and All of Lots 7 and 8, Block 22, Plat A, Salt Lake City Survey, more particularly described as follows:

Beginning at a point on the west right-of-way line of Main Street, said point being South 00°03'32" East 65.58 feet and South 89°56'28" West 30.22 feet from the offset monument located at the intersection of Main Street and 600 South Street, said point also being the Northeast corner of Lot 8, Block 22, Plat A, Salt Lake City Survey and running;

Thence South 0°02'29" East 495.12 feet along said west right-of-way line;

Thence South 89°56'54" West 165.10 feet to the west line of Lot 1, Block 22, Plat A, Salt Lake City Survey;

Thence North 0°02'09" West 79.50 feet along said west line of Lot 1, Block 22, Plat A, Salt Lake City Survey;

Thence South 89°56'54" West 165.09 feet to the west line of Lot 2, Block 22, Plat A, Salt Lake City Survey;

Thence North 0°01'50" West 415.61 feet along said west line, and the west line of Lot 7, Block 22, Plat A, Salt Lake City Survey, to south right-of-way line of 600 South Street;

Thence North 89°56'45" East 330.11 feet along said south right-of-way line to the point of beginning.

Parcel contains 150,339 Sq. Ft. or 3.451 Acres.

Exhibit B

Legal Description of the Phase Two Tract

The North 82.5 feet of Lots 3 and 4, and All of Lots 5 and 6, Block 22, Plat A, Salt Lake City Survey.

Also known as:

A parcel of land located in Block 22, Plat A, Salt Lake City Survey, more particularly described as follows;

The North 82.5 feet of Lots 3 and 4, and All of Lots 5 and 6, Block 22, Plat A, Salt Lake City Survey more particularly described as follows:

Beginning at a point on the south right-of-way line of 600 South Street, said point being South 00°03'32" East 65.58 feet and South 89°56'28" West 30.22 feet and South 89°56'45" West 330.11 feet from the monument located at the intersection of Main Street and 600 South Street, said point also being the Northeast corner of Lot 6, Block 22, Plat A, Salt Lake City Survey and running;

Thence South 0°01'50" East 412.61 feet along the east line of said Lot 6 and east line of Lot 3, Block 22, Plat A, Salt Lake City Survey;

Thence South 89°56'54" West 330.19 feet to the East right-of-way line of West Temple Street;

Thence North 0°01'10" West 412.59 feet along said east right-of-way to the South right-of-way line of 600 South Street;

Thence North 89°56'45" East 330.11 feet along said south right-of-way line to the point of beginning.

Parcel contains 136,218 Sq. Ft. 3.127 Acres.

Exhibit C

Easement Area

An easement located in Block 22, Plat A, Salt Lake City Survey, more particularly described as follows:

Beginning at a point on the south right-of-way line of 600 South Street, said point being South 00°03'32" East 65.58 feet and South 89°56'28" West 30.22 feet and South 89°56'45" West 330.11 feet from the monument located at the intersection of Main Street and 600 South Street, said point also being the Northeast corner of Lot 6, Block 22, Plat A, Salt Lake City Survey and running;

Thence South 0°01'50" East 412.72 feet along the east line of said Lot 6 and Lot 3, Block 22, Plat A, salt Lake City Survey;

Thence South 89°57'03" West 40.94 feet;

Thence North 372.13 feet;

Thence West 19.74 feet;

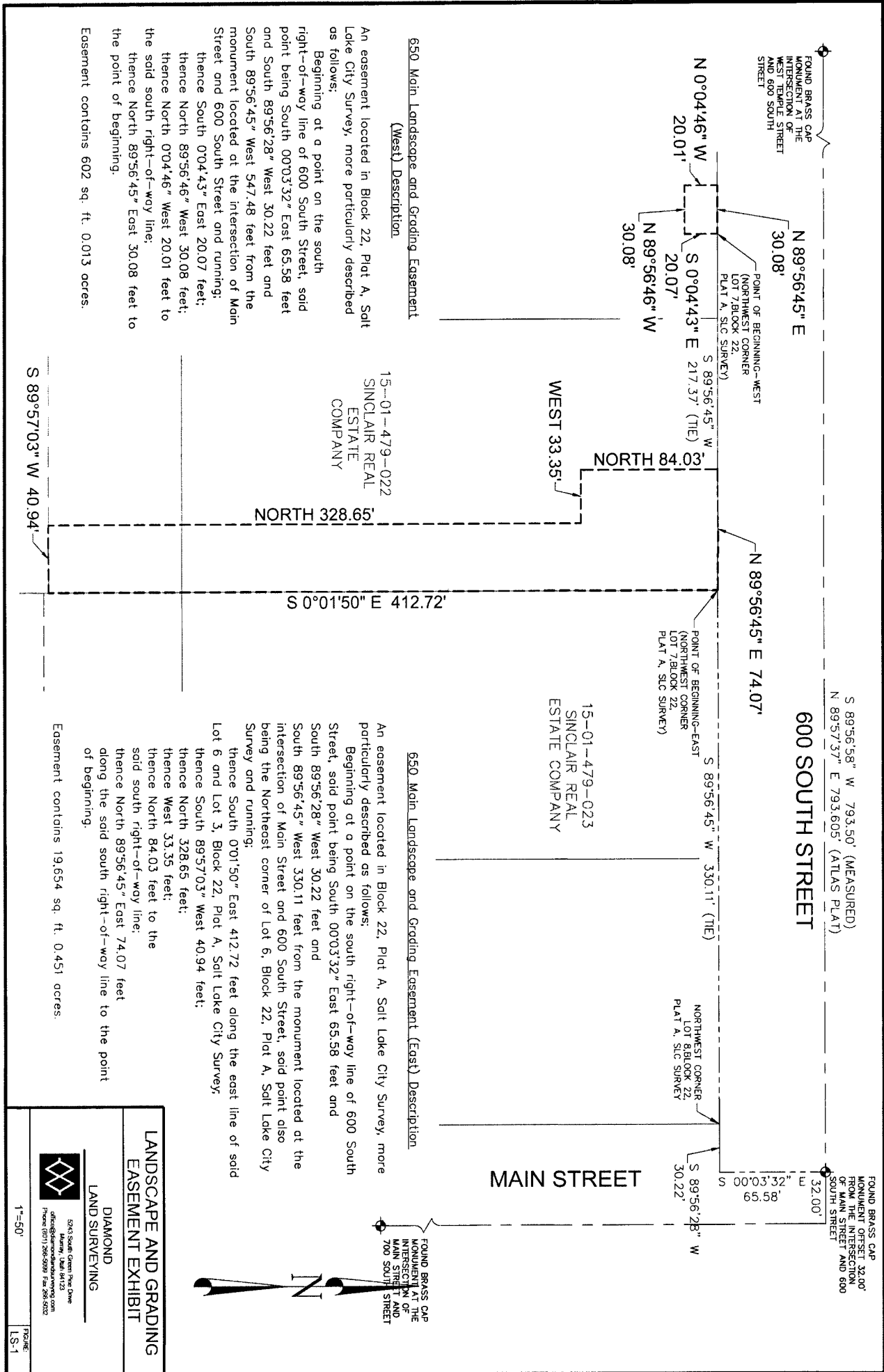
Thence North 24.94 feet;

Thence East 32.80 feet to a point of curvature;

Thence 24.24 feet along the arc of a 15.00 foot radius curve to the left through a central angle of 92°34'31" (Long Chord Bears North 43°44'01" East 21.68 feet) to the said south right-of-way line;

Thence North 89°56'45" East 12.67 feet along said south right-of-way line to the point of beginning.

Easement contains 16,952 sq. ft. 0.389 acres.



650 Main Landscape and Grading Easement (West) Description

An easement located in Block 22, Plat A, Salt Lake City Survey, more particularly described as follows:
 Beginning at a point on the south right-of-way line of 600 South Street, said point being South 00°03'32" East 65.58 feet and South 89°56'28" West 30.22 feet and South 89°56'45" West 547.48 feet from the monument located at the intersection of Main Street and 600 South Street and running:
 thence South 0°04'43" East 20.07 feet;
 thence North 89°56'46" West 30.08 feet;
 thence North 0°04'46" West 20.01 feet to the said south right-of-way line;
 thence North 89°56'45" East 30.08 feet to the point of beginning.
 Easement contains 602 sq. ft. 0.013 acres.

650 Main Landscape and Grading Easement (East) Description

An easement located in Block 22, Plat A, Salt Lake City Survey, more particularly described as follows:
 Beginning at a point on the south right-of-way line of 600 South Street, said point being South 00°03'32" East 65.58 feet and South 89°56'28" West 30.22 feet and South 89°56'45" West 330.11 feet from the monument located at the intersection of Main Street and 600 South Street, said point also being the Northeast corner of Lot 6, Block 22, Plat A, Salt Lake City Survey and running:
 thence South 0°01'50" East 412.72 feet along the east line of said Lot 6 and Lot 3, Block 22, Plat A, Salt Lake City Survey;
 thence South 89°57'03" West 40.94 feet;
 thence North 33°35' feet;
 thence North 84°03' feet to the said south right-of-way line;
 thence North 89°56'45" East 74.07 feet along the said south right-of-way line to the point of beginning.
 Easement contains 19,654 sq. ft. 0.451 acres.

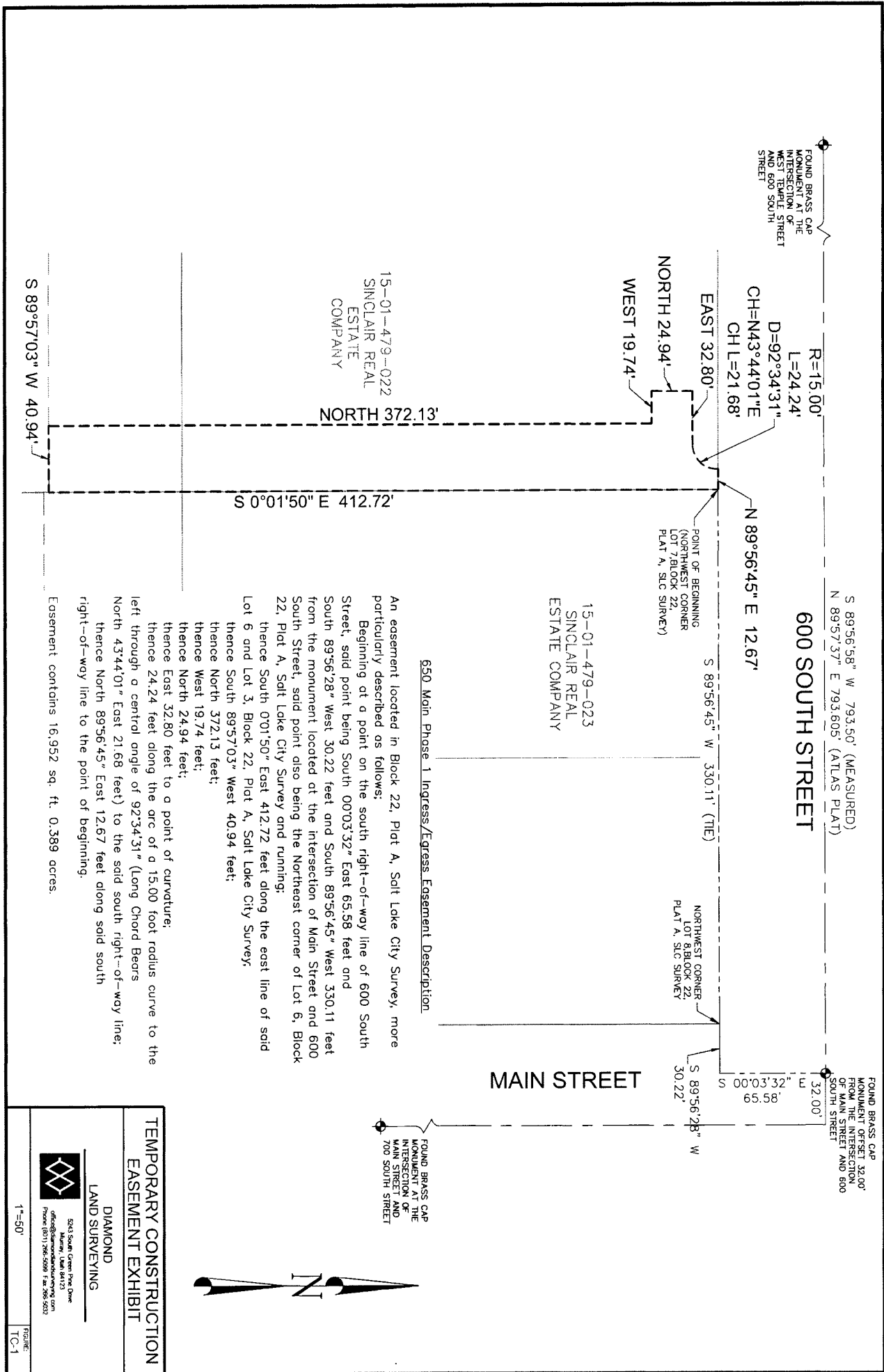
LANDSCAPE AND GRADING EASEMENT AND EXHIBIT

DIAMOND LAND SURVEYING

5243 South Green Pine Drive
 Murray, Utah 84113
 office@diamondsurveying.com
 Phone (801) 296-9288 Fax 296-9282

Scale: 1"=50'

Title: LS-1



650 Main Phase 1 Ingress/Egress Easement Description

An easement located in Block 22, Plat A, Salt Lake City Survey, more particularly described as follows:

Beginning at a point on the south right-of-way line of 600 South Street, said point being South 00°03'32" East 65.58 feet and South 89°56'28" West 30.22 feet and South 89°56'45" West 330.11 feet from the monument located at the intersection of Main Street and 600 South Street, said point also being the Northeast corner of Lot 6, Block 22, Plat A, Salt Lake City Survey and running:

thence South 0°01'50" East 412.72 feet along the east line of said Lot 6 and Lot 3, Block 22, Plat A, Salt Lake City Survey;

thence South 89°57'03" West 40.94 feet;

thence North 372.13 feet;

thence North 24.94 feet;

thence East 32.80 feet to a point of curvature;

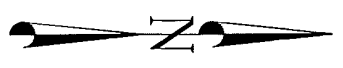
thence 24.24 feet along the arc of a 15.00 foot radius curve to the left through a central angle of 92°34'31" (Long Chord Bears North 43°44'01" East 21.68 feet) to the said south right-of-way line;

thence North 89°56'45" East 12.67 feet along said south right-of-way line to the point of beginning.

Easement contains 16,952 sq. ft. 0.389 acres.

15-01-479-022
SINCLAIR REAL ESTATE COMPANY

15-01-479-023
SINCLAIR REAL ESTATE COMPANY



TEMPORARY CONSTRUCTION EASEMENT EXHIBIT

DIAMOND LAND SURVEYING

5243 South Green Pine Drive
Murray, Utah 84113
office@diamondsurveying.com
Phone (801) 766-5299 Fax 801-523-5231

1"=50'

FIGURE: TC-1

Exhibit D

Landscaping and Grading Area

Landscaping and Grading Area (East) Description:

An easement located in Block 22, Plat A, Salt Lake City Survey, more particularly described as follows:

Beginning at a point on the south right-of-way line of 600 South Street, said point being South 00°03'32" East 65.58 feet and South 89°56'28" West 30.22 feet and South 89°56'45" West 330.11 feet from the monument located at the intersection of Main Street and 600 South Street, said point also being the Northeast corner of Lot 6, Block 22, Plat A, Salt Lake City Survey and running;

Thence South 0°01'50" East 412.72 feet along the east line of said Lot 6 and Lot 3, Block 22, Plat A, salt Lake City Survey;

Thence South 89°57'03" West 40.94 feet;

Thence North 328.65 feet;

Thence West 33.35 feet;

Thence North 84.03 feet to the said south right-of-way line;

Thence North 89°56'45" East 74.07 feet along the said south right-of-way line to the point of beginning.

Easement contains 19,654 sq. ft. 0.451 acres.

Landscaping and Grading Area (West) Description:

An easement located in Block 22, Plat A, Salt Lake City Survey, more particularly described as follows:

Beginning at a point on the south right-of-way line of 600 South Street, said point being South 00°03'32" East 65.58 feet and South 89°56'28" West 30.22 feet and South 89°56'45" West 547.48 feet from the monument located at the intersection of Main Street and 600 South Street and running;

Thence South 0°04'43" East 20.07 feet;

Thence North 89°56'46" West 30.08 feet;

Thence North 0°04'46" West 20.01 feet to the said south right-of-way line;

Thence North 89°56'45" East 30.08 feet to the point of beginning.

Easement contains 602 sq. ft. 0.013 acres.