

When recorded, return to:  
 Alan Sullivan, Esq.  
 Snell & Wilmer L.L.P.  
 15 West South Temple, Suite 1200  
 Salt Lake City, Utah 84101

RECORDED

MAY 29 2009

CITY RECORDER

10716096  
 05/29/2009 02:38 PM \$0.00  
 Book - 9729 Pg - 5884-5894  
 GARY W. OTT  
 RECORDER, SALT LAKE COUNTY, UTAH  
 SL CITY RECORDER  
 451 S STATE ST RM 415  
 SALT LAKE CITY UT 84111  
 BY: ZJM, DEPUTY - WI 11 P.

PARKING RAMP EASEMENT AGREEMENT

[South Temple Street]

THIS PARKING RAMP EASEMENT AGREEMENT (“**Agreement**”) is made as of the 29<sup>th</sup> day of May, 2009, between SALT LAKE CITY CORPORATION, a municipal corporation of the State of Utah (“**City**”), whose address is 451 South State Street, Salt Lake City, Utah 84111, and CITY CREEK RESERVE, INC., a Utah non-profit corporation (“**CCRI**”), whose address is 15 East South Temple Street, 8<sup>th</sup> Floor, Salt Lake City, UT 84150. City and CCRI shall sometimes hereinafter be referred to individually as a “**Party**” or collectively as “**Parties**”.

RECITALS

A. CCRI is the developer of the City Creek Center project (the “**Project**”) which is located, in part, on Block 75 and, in part, on Block 76, in each case of the Salt Lake City Survey. It is contemplated that the Project may include multiple uses, including retail, residential, and/or office uses.

B. On February 19, 2008, City enacted Salt Lake City Ordinance No. 5 of 2008 (the “**Ordinance**”), which authorized the vacation of certain portions of 100 South Street, South Temple Street, and West Temple Street that are adjacent to the Project as described and depicted in the Ordinance. A primary purpose of the Ordinance is to allow CCRI to construct ramps within the referenced streets for purposes of facilitating parking and access to the Project.

C. CCRI, by separate transactions, has purchased fee simple title to the subsurface estate underlying portions of South Temple Street and Main Street, including the subsurface areas underlying the easement rights granted herein.

D. By agreement dated February 27, 1995 and entitled *Agreement for Exchange of Real Property Interests Related to Main Street Underground Parking and Creation of a Park* (the “**1995 Agreement**”), a predecessor-in-interest of CCRI and City agreed, among other things, that CCRI, as the owner of subsurface fee rights under South Temple Street and Main Street, is entitled to obtain an easement from City and to construct a ramp in South Temple Street for purposes of ingress and egress to CCRI’s subsurface fee estates.

E. The Parties agree that the easement granted by this Agreement satisfies City’s obligation to provide access to CCRI’s subsurface interests as required by the 1995 Agreement.

F. CCRI and City desire to enter into this Agreement for the purpose of granting an easement through South Temple Street to provide access to the Project, CCRI’s subsurface

estates, and properties owned by CCRI or affiliated entities located adjacent to South Temple Street.

## AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for good and sufficient consideration, the receipt of which is hereby acknowledged, the Parties hereto agree as follows:

1. Grant of Easement. City grants to CCRI a perpetual, non-exclusive easement through South Temple Street (the “**Easement Area**”) for purposes of constructing, operating, replacing, and maintaining parking ramps and associated improvements (the “**Facilities**”) to provide ingress and egress to the Project, the adjoining properties owned by CCRI, including CCRI’s subsurface rights and properties, and properties owned by CCRI or affiliated entities located adjacent to South Temple Street. It is understood that CCRI, without approval from the City, may permit third parties (e.g., users or operators of the retail, residential, and/or office improvements within Block 75 or Block 76) to utilize the foregoing rights in connection with their respective use or operation of portions of the Project, and CCRI may enter into agreements memorializing the same without approval from the City. CCRI shall provide notice to the City of such agreements within a reasonable time of execution.

2. Location of Easement Area. The Easement Area has a vertical location beginning at the surface of South Temple Street to a depth approximately four feet below the surface, is more particularly described on the attached Exhibit A, and is depicted on the attached Exhibit B. The rights granted herein shall be considered appurtenant to and benefitting the adjoining properties owned by CCRI and/or affiliated entities.

3. Utilities and Other Uses. City, as the governmental authority controlling South Temple Street, maintains the right to control the installation of utility and other services in said street; provided, however, that no such utility or other use shall materially interfere with CCRI’s perpetual use of the Easement Area for the purposes described herein. CCRI shall use reasonable efforts not to disturb any existing sewer, water, or other utility lines within the Easement Area. In the event that any such existing sewer, water, or other utility lines are disturbed in connection with or as a result of the installation or maintenance of the Facilities, CCRI shall repair or replace such lines as soon as reasonably possible.

4. Satisfaction of 1995 Agreement. CCRI accepts the Easement Area as a replacement for, and full and complete satisfaction of, City’s obligation to grant an access easement in the 1995 Agreement.

5. Compliance with Law. CCRI will comply with all applicable City ordinances and Federal, State, and County laws in the installation, maintenance, or removal of the Facilities. CCRI will submit a complete set of as constructed plans and specifications to the City Engineer upon completion of the Facilities.

6. Indemnity. No supervision or advisory control, if any, exercised by City or in its behalf, shall relieve CCRI of any duty or responsibility to the general public nor relieve CCRI

from any liability for loss, damage, or injury to persons or property sustained by reason of the installation, maintenance, removal, or use of the Facilities, and CCRI agrees to indemnify and save harmless City, its agents, and employees from any and all claims, loss, or expense, including attorney's fees, arising out of or in connection with the construction, maintenance, removal, or use of the Facilities and the Easement Area by CCRI; **provided, however**, that this indemnification obligation shall not extend to areas or improvements controlled or maintained by City (by way of example, but not limitation, sidewalks or crosswalks located over the Easement Area and Facilities).

7. **Abandonment.** In the event CCRI abandons and ceases to use the Easement Area, or portion thereof, for the purposes herein described for a period of more than two (2) calendar years, then the City may provide CCRI written notice of its intent to terminate the easement herein granted as to the portion abandoned. If CCRI does not recommence use of the Easement Area, or portion thereof, for the purposes herein described within one hundred eighty (180) days of receipt of such notice, unless a longer time period shall be agreed to by the City, the easement herein granted shall cease and terminate as to the portion of the Easement Area where the abandonment may have occurred, and CCRI will, upon the City's written request and within a reasonable time, remove the Facilities from such abandoned area at CCRI's sole expense.

8. **Insurance.** CCRI shall maintain, and/or cause to be maintained, at its sole expense and at no cost to the City, liability insurance against claims for personal injury, bodily injury, death, and property damage occurring on or about the Easement Area, with a "Combined Single Limit" (covering personal injury liability, bodily injury liability, and property damage liability) of not less than \$2,000,000 per occurrence and \$3,000,000 aggregate. The insurance limits in this Paragraph shall be subject to increase from time to time by such amounts as the City and CCRI may reasonably agree is necessary or desirable, as may be evidenced by the practice of similarly situated properties or amendment to the Utah Governmental Immunity Act (or similar provision). The City shall be a named additional insured on each such policy maintained by CCRI. To the extent permitted by applicable law, CCRI may, at its option, satisfy its insurance obligations hereunder through its self-insurance and risk management program; **provided, however**, in no event shall any such self-insurance election be deemed or constitute an obligation by CCRI to provide insurance coverage beyond the scope of that required hereunder. In the event that CCRI wishes to self-insure pursuant to this provision, CCRI will provide City with sufficient written evidence that its self-insurance program meets the minimum requirements of this Agreement.

9. **Notices.** All notices, requests, demands, and other communications hereunder shall be in writing and shall be given by (a) established express delivery service which maintains delivery records, (b) hand delivery, or (c) certified or registered mail, postage prepaid, return receipt requested, to the Parties at the following addresses, or at such other address as a Party may designate by written notice in the above manner:

If to CCRI:	President City Creek Reserve, Inc. 15 East South Temple, 8th Floor Salt Lake City, UT 84150
-------------	--

With a copy to: Snell & Wilmer  
15 West South Temple Street, Suite 1200  
Salt Lake City, UT 84101

If to the City: Office of the Mayor  
Salt Lake City  
PO Box 145474  
Salt Lake City UT 84114-5474

With a copy to: Salt Lake City Attorney  
City & County Building, Suite 505  
PO Box 145478  
Salt Lake City, UT 84114-5478

10. Miscellaneous.

(a) Nothing herein shall be deemed to create the relationship of principal and agent, partnership or joint venture, or any association between City and CCRRI other than the relationship of grantor and grantee of the easement described herein.

(b) The agreements and rights described herein shall run with and be considered appurtenant to the land and shall be binding upon on and shall inure to the benefit of all successors hereto. City's obligations and rights hereunder may not be assigned, but CCRRI may assign its rights and obligations hereunder after written notice to City.

(c) This Agreement shall be governed by the laws of the State of Utah.

(d) Any provision of this Agreement determined to be in violation of any law shall be void, but shall not affect the validity and enforceability and all other provisions hereof.

11. REPRESENTATION REGARDING ETHICAL STANDARDS FOR CITY OFFICERS AND EMPLOYEES AND FORMER CITY OFFICERS AND EMPLOYEES:

CCRRI represents that it has not: (1) provided an illegal gift or payoff to a City officer or employee or former City officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in the Salt Lake City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, a City officer or employee or former City officer or employee to breach any of the ethical standards set forth in Salt Lake City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code.

**[signatures begin next page]**



CCRI:

CITY CREEK RESERVE, INC., a Utah-non profit corporation

By: Michael S. Marks  
Michael S. Marks, Vice President

By: Michael W. Johnson  
Michael W. Johnson, Secretary

STATE OF UTAH )  
 : SS  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this 27 day of May, 2009 by Michael S. Marks, Vice President of City Creek Reserve, Inc., a Utah non-profit corporation, on behalf of the corporation.

My Commission Expires:  
4/22/2012

Sarahi D. Soperanez  
NOTARY PUBLIC  
Residing at Salt Lake City

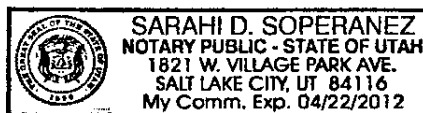
STATE OF UTAH )  
 : SS  
COUNTY OF SALT LAKE )



The foregoing instrument was acknowledged before me this 27 day of May, 2009 by Michael W. Johnson, Secretary of City Creek Reserve, Inc., a Utah non-profit corporation, on behalf of the corporation.

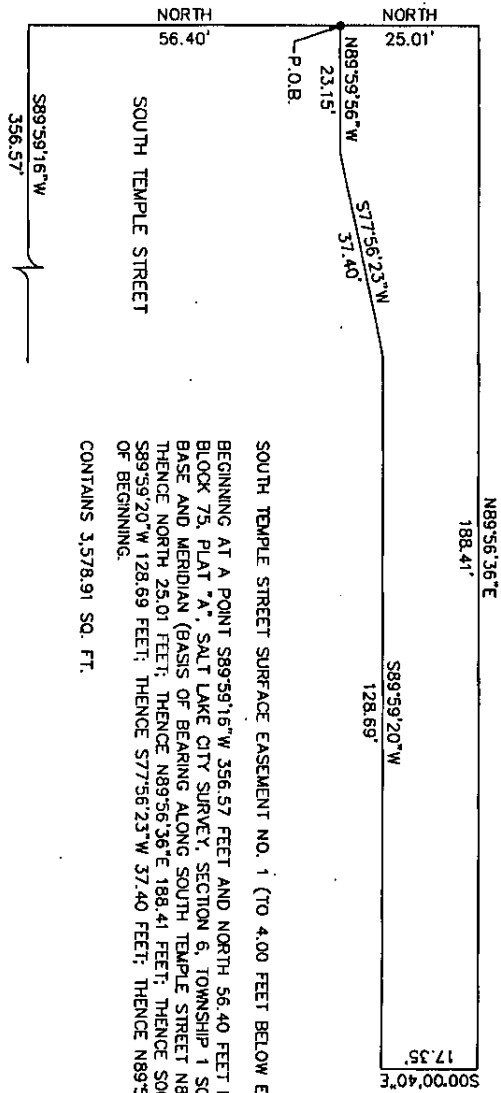
My Commission Expires:  
4/22/2012

Sarahi D. Soperanez  
NOTARY PUBLIC  
Residing at Salt Lake City



**EXHIBIT A**  
**[Legal Description, Easement Area]**

# EXHIBIT A, 1 OF 2

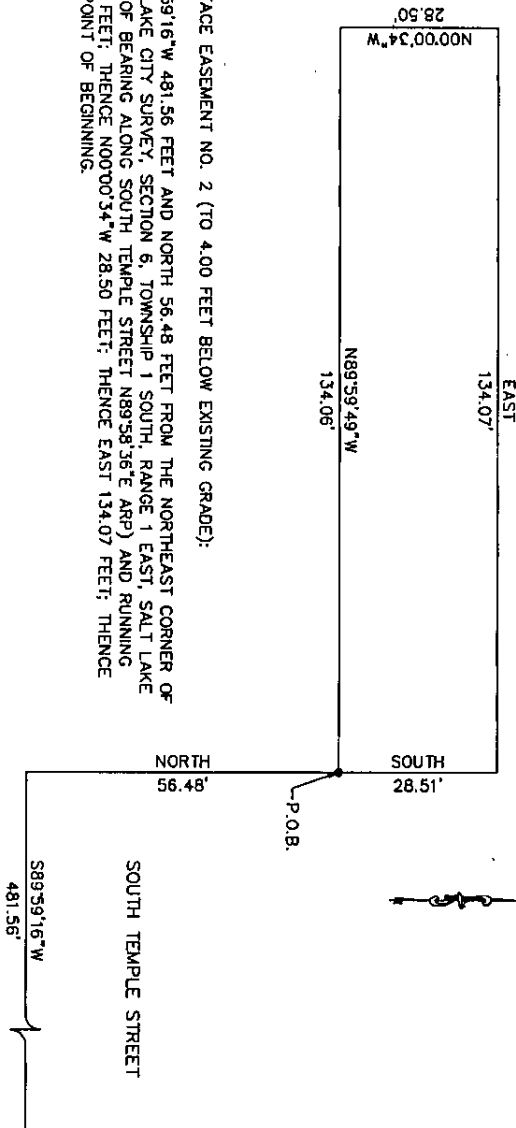


SOUTH TEMPLE STREET SURFACE EASEMENT NO. 1 (TO 4.00 FEET BELOW EXISTING GRADE):  
 BEGINNING AT A POINT S89°59'16"W 356.57 FEET AND NORTH 56.40 FEET FROM THE NORTHEAST CORNER OF BLOCK 75, PLAT "A", SALT LAKE CITY SURVEY, SECTION 6, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN (BASIS OF BEARING ALONG SOUTH TEMPLE STREET N89°58'36"E ARP) AND RUNNING THENCE NORTH 25.01 FEET; THENCE N89°56'36"E 188.41 FEET; THENCE S00°00'40"E 17.35 FEET; THENCE S89°59'20"W 128.69 FEET; THENCE S77°56'23"W 37.40 FEET; THENCE N89°59'56"W 23.15 FEET TO THE POINT OF BEGINNING.  
 CONTAINS 3,578.91 SQ. FT.



# EXHIBIT A, 2 OF 2

SOUTH TEMPLE STREET SURFACE EASEMENT NO. 2 (TO 4.00 FEET BELOW EXISTING GRADE):  
 BEGINNING AT A POINT  $889^{\circ}59'16''$ W 481.56 FEET AND NORTH 56.48 FEET FROM THE NORTHEAST CORNER OF  
 BLOCK 75, PLAT "A", SALT LAKE CITY SURVEY, SECTION 6, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE  
 BASE AND MERIDIAN (BASIS OF BEARING ALONG SOUTH TEMPLE STREET  $889^{\circ}58'56''$ E ARP) AND RUNNING  
 THENCE  $889^{\circ}59'49''$ W 134.06 FEET; THENCE  $000^{\circ}00'34''$ W 28.50 FEET; THENCE EAST 134.07 FEET; THENCE  
 SOUTH 28.51 FEET TO THE POINT OF BEGINNING.  
 CONTAINS 3,821.41 SQ. FT.



**EXHIBIT B**  
**[Depiction of Easement Area]**

SOUTH TEMPLE EASEMENT NO. 1

FOUND S.L.C.  
BRASS CAP  
RING & LID

N89°58'36"E 794.39' (MEASURED)  
N89°58'36"E 791.86' (A.R.P.)

68.90'

62.87'

STATE STREET  
1'28"E 791.83' (MEASURED)  
1'01'43"E 791.59' (A.R.P.)

100°08'53"W 680.2485'

SOUTH TEMPLE EASEMENT NO. 2

MONUMENT  
NOT FOUND

N89°59'16"E 660.3616'

68.79'

68.27'

SOUTH TEMPLE STREET

6

7

5

4

BLOCK 75

VACATED 8-29-59 AS  
ORDINANCE NO. 65

MAIN ST.

S00°02'20"E 792.11' (MEASURED)  
S00°02'13"E 791.84' (A.R.P.)

N00°08'35"E 680.4752'

S00°01'48"E 680.47'