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 Gary W. Ott  
 Recorder, Salt Lake County, UT  
 INTEGRATED TITLE INS. SERVICES  
 BY: eCASH, DEPUTY - EF 12 P.

WHEN RECORDED, MAIL TO:

David K. Broadbent  
 Holland & Hart LLP  
 60 East, South Temple, Suite 2000  
 Salt Lake City, Utah 84111

and to:

Guy P. Kroesche, Esq.  
 Stoel Rives LLP  
 201 South Main Street, Suite 1100  
 Salt Lake City, Utah 84111

DECLARATION OF EASEMENTS  
 AND  
 SUPPLEMENTAL AGREEMENT

This DECLARATION OF EASEMENTS AND SUPPLEMENTAL AGREEMENT (the "Agreement") is made and entered into as of the 15 day of August, 2006, by Medical Tower Plaza, L.L.C., a Missouri limited liability company ("Medical Tower") and Ninth East Investments, LLC, a Utah limited liability company ("Ninth East"), and is executed in connection with the following facts:

RECITALS:

- A. Medical Tower is the owner of that certain parcel of real property known as 1060 East 100 South, Salt Lake City, and described on the attached Exhibit A (the "1060 East Parcel"); and
- B. Ninth East is the owner of that certain parcel of real property commonly known as 1046 East 100 South, Salt Lake City, and described on the attached Exhibit B (the "1046 East Parcel").
- C. The 1060 East Parcel and the 1046 East Parcel are immediately adjacent to each other as shown on the site plan attached hereto as Exhibit C (the "Site Plan").
- D. The 1046 East Parcel and the 1060 East Parcel share a common right of way for ingress and egress running from McClelland Street to 1100 East Street and, from such common right of way, south toward 200 South Street (the "Right of Way Easement"), described as follows:

A non-exclusive right of way and easement for ingress and egress, appurtenant to Parcel 1, as created in that certain Warranty Deed, recorded November 12, 1919 as Entry No. 422717 in Book 10K of Deeds at page 300 of the Official Records, over the following described property:

Beginning at a point 132 feet South of the Northeast corner of Lot 8, Block 29, Plat "F", Salt Lake City Survey, and running thence West 18 rods; thence South 10 feet; thence East 18 rods; thence North 10 feet to the point of beginning. Also beginning at a point 142 ½ feet West of the Southeast corner of Lot 8, Block 29, Plat "F", Salt Lake City Survey, and running thence North 188 feet; thence West 22 feet; thence Southeasterly 10 feet; thence South 178 feet; thence East 12 to the place of beginning.

NOW, THEREFORE, in consideration of the foregoing, the covenants contained in this Agreement, and intending their respective parcels of real property to be burdened and benefited as set forth herein, Medical Tower and Ninth East hereby agree and declare as follows:

1. Effect of Agreement. The 1060 East Parcel and the 1046 East Parcel shall be held, sold, conveyed, encumbered, leased, used, occupied and improved subject to the covenants, conditions, and restrictions and easements set forth in this Agreement, subject to no prior liens, restrictions or encumbrances other than general property taxes and assessments not yet due and payable. The covenants, conditions, restrictions and easements contained herein are intended to and shall run with the title of the land, and be binding upon the successors, assigns, heirs, and any other person holding any ownership or possessory interest in the 1060 East Parcel and/or the 1046 East Parcel.

2. Parking and Facilities Easements; Signage.

(a) From and after the date hereof, the owner of the 1060 East Parcel, and its respective successors, assigns, lessees, customers, invitees and employees, shall have a perpetual, non-exclusive easement for the benefit of and appurtenant to the 1060 East Parcel for parking, in designated parking stalls, of passenger vehicles upon that portion of the 1046 East Parcel identified on Exhibit D attached hereto (the "1046 Parking Area"), together with pedestrian and vehicular access to and from the 1046 Parking Area; provided, however, that Ninth East, and its successors and assigns, as owner(s) from time to time of the 1046 East Parcel may reserve five (5) parking stalls located in the westernmost portion of the 1046 Parking Area for its exclusive use and the exclusive use of its employees, licensees, invitees, customers, agents, lessees, sublessees, or such of them as the owner of the 1046 East Parcel may determine from time to time.

(b) From and after the date hereof, the owner of the 1046 East Parcel, and its respective successors, assigns, lessees, customers, invitees and employees, shall have a perpetual, non-exclusive easement for the benefit of and appurtenant to the 1046 East Parcel for parking, in designated parking stalls, of passenger vehicles upon that portion of the 1060 East Parcel identified on Exhibit E attached hereto (the "1060 Parking Area"), together with pedestrian and vehicular access to and from the 1060 Parking Area; provided, however, that Medical Tower, and its successors and assigns, as owner(s) from time to time of the 1060 East Parcel may reserve five (5) parking stalls located in the easternmost portion of the 1060 Parking Area for its exclusive use and the exclusive use of its employees, licensees, invitees, customers, agents, lessees, sublessees, or such of them as the owner of the 1060 East Parcel may determine from time to time.

(c) From and after the date hereof, the owner of the 1060 East Parcel and its respective successors, assigns, and lessees shall have a perpetual, non-exclusive easement upon a portion of the 1046 East Parcel, for the benefit of and appurtenant to the 1060 East Parcel for the placement and maintenance of an enclosure for air conditioning equipment and other equipment and utilities serving the 1060 East Parcel (the "1060 East Parcel Equipment and Utilities") and, further, for the placement and maintenance of trash dumpsters serving the 1060 East Parcel (the "Dumpsters"), as identified on attached Exhibit C attached hereto (the "Facilities Easement Area"); provided that the owner of the 1046 East Parcel shall have the right to use and access, in common with the owner of the 1060 East Parcel and so long as any such use and access shall not adversely affect the 1060 East Parcel Equipment and Utilities, the Facilities Easement Area for the placement and maintenance of equipment and utilities serving the 1046 East Parcel and, further, the right to use and access the Dumpsters for the 1046 East Parcel; provided, however, that, from and after the date that the 1046 East Parcel shall open for business and following receipt of evidentiary documentation of the same, the owner of the 1046 East Parcel shall pay twenty percent (20%) and the owner of the 1060 East Parcel shall pay eighty percent (80%) of the cost and expense of the third-party maintenance of the Dumpsters. The Dumpsters shall not be used for construction debris.

(d) With the prior written consent of the owner of the 1060 East Parcel, which consent shall not be unreasonably withheld or delayed, the owner of the 1046 East Parcel may relocate the Facilities Easement Area, together with the 1060 East Parcel Equipment and Utilities, at its sole cost and expense.

(e) Each of the 1046 Parking Area and the 1060 Parking Area are sometimes referred to herein as a "Parking Area" and collectively as the "Parking Areas" and, so long as the respective rights of the parties hereunder shall not be adversely affected thereby, each owner retains the right to improve or

modify the Parking Areas on the 1046 East Parcel or the owner of the 1060 East Parcel, as the case may be.

(f) Each owner shall be entitled to such signage as may be reasonably necessary or appropriate to identify the Parking Areas and any applicable restrictions on the use thereof.

3. Maintenance of Facilities Easement Area: Maintenance of Parking and Access Easements. The owner of the 1060 East Parcel shall maintain the Facilities Easement Area and the Dumpster in good order, condition and repair, reasonably free of snow, and free of rubbish, papers, debris, filth, refuse, and other hazards to persons using the 1046 East Parcel or the 1060 East Parcel, as the case may be. Further, each owner of the 1060 East Parcel and the 1046 East Parcel shall keep the Parking Areas and the surface of the Right of Way Easement located on the 1060 East Parcel or the 1046 East Parcel, as the case may be, in good order, condition and repair, and shall clean, repaint, restripe, and replace when reasonably necessary.

4. Failure to Properly Maintain. In the event that any owner shall fail to satisfy its maintenance obligations as provided in Section 3 hereof (such owner being herein referred to as the "Defaulting Party"), the other owner (hereinafter referred to as the "Nondefaulting Party") may send written notice of such failure to the Defaulting Party. Such notice shall contain an itemized statement with evidentiary documentation of the specific deficiencies (hereinafter referred to as the "Deficiencies") in the Defaulting Party's performance of the maintenance to be performed by it. The Defaulting Party shall have fifteen (15) days after receipt of the said notice in which to correct the Deficiencies or in which to commence to correct the Deficiencies if the Deficiencies cannot reasonably be corrected within the said fifteen (15) day period, and thereafter, to proceed diligently to complete the correction of the Deficiencies. In the event that the Defaulting Party shall unreasonably fail or refuse to timely correct or to begin to correct the Deficiencies, as the case may be, the Nondefaulting Party may, at its option, correct the Deficiencies. To the extent reasonably practicable, any such maintenance or repair shall not unreasonably interfere with the other party's rights under this Agreement or the use of the 1046 East Parcel or the 1060 East Parcel, as the case may be. In the event that the Nondefaulting Party shall exercise the said option and shall correct the Deficiencies, the Defaulting Party shall, promptly upon receipt from the Nondefaulting Party of an itemized invoice for the actual out-of-pocket costs incurred by the Nondefaulting Party in correcting the Deficiencies, pay all costs to the Nondefaulting Party.

5. Interest on Unpaid Amounts. If the Defaulting Party fails to pay the full amount it is obligated to pay under Section 4 of this Agreement within 30 days of receipt of the invoice thereof, then the unpaid balance shall thereafter accrue interest at the rate of 12 percent per annum.

6. Building on the 1046 East Parcel. During any period in which Medical Tower continues to be the owner of the 1060 East Parcel, no building constructed on the 1046 East Parcel shall exceed 14 feet in height, measured from the 100 South Street sidewalk surface near, adjacent or contiguous to the building on the 1046 East Parcel. In the event Medical Tower ceases to be the owner of the 1060 East Parcel, this restriction shall terminate.

7. Easements Appurtenant. Each and all of the easements and rights granted or created herein:

- (a) Are made for the direct, mutual and reciprocal benefit of the owners and lessees of the respective parcels and their respective successors and assigns;
- (b) Create mutual equitable servitudes upon each parcel in favor of the other parcel;
- (c) Constitute covenants running with the land;
- (d) Shall bind every person or entity having any fee, leasehold or other interest in any portion of the 1046 East Parcel and the 1060 East Parcel at any time or from time to time to the extent that

such portion is affected or bound by the easement, covenant, restriction, or provision in question, or to the extent that such easement, covenant, restriction or provision is to be performed on such portion; and

(e) shall not be exercised in any manner which substantially interferes (i) with the purposes for which they are to be used herein or (ii) with the rights and easements of any other owner.

The acceptance of any transfer or conveyance of title from any party hereto or its respective representatives, successors or assigns of all or any part of its interest in the 1046 East Parcel or the 1060 East Parcel shall be deemed to require the prospective grantee to agree not to use, occupy or allow any lessee or occupant of its Parcel to use or occupy the Parcel in any manner which would constitute a violation or breach of any of the easements and covenants contained herein.

8. Mutual Indemnification. Each party shall indemnify the other party hereto and its respective members, managers, officers, employees and representatives and the successors and assigns of any of them from and against all claims, losses, damages, liabilities, costs and expenses, but not including consequential, punitive or special damages, based upon the gross negligence or willful misconduct of such party or any failure of such party to comply with their obligations under this Agreement. Each party shall give each other party prompt and timely notice of any claim made or suit or action commenced which, in any way, could result in indemnification hereunder.

9. Miscellaneous Provisions.

(a) No amendments or modifications of this Agreement shall be valid, unless in a written document recorded in the Office of the County Recorder of Salt Lake County, Utah, which document must be executed by all of the owners of the 1046 East Parcel and the 1060 East Parcel.

(b) If any provision of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid, the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

(c) This Agreement shall be construed in accordance with the laws of the State of Utah.

(d) Nothing contained in this Agreement shall, or shall be deemed to, constitute a gift or dedication of any portion of the 1046 East Parcel or the 1060 East Parcel to the general public or for the benefit of the general public or for any public purpose whatsoever, it being the intention of the parties that this Agreement will be strictly limited to and for the purposes expressed herein.

(e) This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors, assigns and lessees; provided that the provisions of this Agreement are not intended to create, and shall not be deemed or construed to create, a joint venture, partnership or any similar relationship between the parties.

(f) In any action to enforce the terms of this Agreement, the prevailing party shall be entitled to an award of its costs and reasonable attorneys' fees. By the execution hereof, the parties acknowledge, confirm and agree that, except as otherwise provided herein, in the event an owner fails to perform when due any act or obligation required by this Agreement to be performed by such owner, the non-defaulting owner, in addition to and not in lieu of any other remedies available at law or in equity, shall be entitled to file a suit in equity to enjoin the defaulting owner from such breach or threatened breach and/or for the specific performance of the defaulting owner's obligations under this Agreement.

(g) Each party affirms and states that such party has the requisite means, power and authority to enter into and perform this Agreement and that the same will not contravene or result in the violation of any agreement, rule or regulation to which any such party may be subject.

(h) The recitals stated above and the exhibits attached to this Agreement shall be and hereby are incorporated in and an integral part of this Agreement by this reference.

(i) Nothing in this Agreement is intended to or shall create an enforceable right, claim or cause of action by any third party against any party to this Agreement.

DATED as of the day and year first written above.

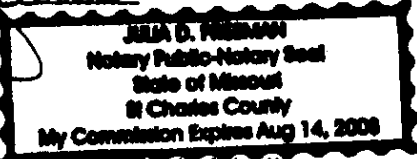
Medical Tower Plaza, L.L.C., a Missouri limited liability company

By: Donald L. Ferguson  
Its: Manager

STATE OF Missouri )  
COUNTY OF St. Louis ) : ss.

The foregoing instrument was acknowledged before me this 15 day of August, 2006, by Donald L. Ferguson, manager of Medical Tower Plaza, L.L.C., a Missouri limited liability company.

Julia D. Friedman  
NOTARY PUBLIC  
Residing at:



My Commission Expires: 8.14.2008

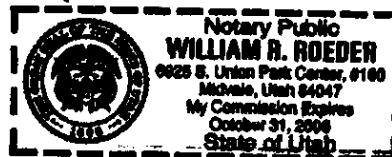
Ninth East Investments LLC, a Utah limited liability company

By: [Signature]  
Its: Manager

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

The foregoing instrument was acknowledged before me this 16 day of August 2006, by B. David Hansen, as Manager of Ninth East Investments LLC, a Utah limited liability company.

William R. Roeder  
NOTARY PUBLIC  
Residing at:



My Commission Expires: 10/31/06

**Lender's Consent**

(Southwest Bank, formerly known as Missouri State Bank & Trust Co.)

Southwest Bank, formerly known as Missouri State Bank & Trust Co., as the beneficiary under the following three deeds of trust which encumber the 1060 East Parcel (the "Deeds of Trust"):

- (1) that certain Real Estate Deed of Trust (With Future Advance Clause) dated August 28, 2002, recorded August 28, 2002 as Entry No. 8335664 in Book 8639 at Page 4737 of Official Records in the Salt Lake County Recorder's office,
- (2) that certain Real Estate Deed of Trust (With Future Advance Clause) dated January 05, 2005, recorded January 06, 2005 as Entry No. 9268470 in Book 9081 at Page 6289 of Official Records in the Salt Lake County Recorder's office, and
- (3) that certain Real Estate Deed of Trust (With Future Advance Clause) dated April 29, 2005, recorded May 23, 2005 as Entry No. 9384522 in Book 9134 at Page 5568 of Official Records in the Salt Lake County Recorder's office,

hereby consents to the DECLARATION OF EASEMENTS AND SUPPLEMENTAL AGREEMENT to which this Lender's Consent is attached and subordinates the lien and indebtedness evidenced by the Deeds of Trust to the interests evidenced by and under the DECLARATION OF EASEMENTS AND SUPPLEMENTAL AGREEMENT.

Southwest Bank, formerly known as  
Missouri State Bank & Trust Co.

By: *[Signature]*  
Its *Senior Vice President*

STATE OF Missouri )  
 )  
 ) :ss.  
COUNTY OF St. Louis )

The foregoing instrument was acknowledged before me this 15th day of August, 2006, by Kurt Kientzle, as Senior Vice President of Southwest Bank.

*Mary K Barnes*  
NOTARY PUBLIC *(Mary K Barnes)*  
Residing in *St. Louis, Missouri*

My Commission Expires:



MARY K. BARNES  
St. Louis County  
My Commission Expires  
January 28, 2007

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**EXHIBIT LIST**

- Exhibit A    Legal Description of 1060 East Parcel**
- Exhibit B    Legal Description of 1046 East Parcel**
- Exhibit C    Site Plan**
- Exhibit D    Legal Description of 1046 Parking and Facilities Easement Area**
- Exhibit E    Legal Description of 1060 Parking Area**

**EXHIBIT A**  
**[Legal Description of 1060 East Parcel]**

**Parcel 1:**

Beginning at the Northeast corner of Lot 8, Block 29, Plat "F", Salt Lake City Survey; and running thence West 246.25 feet; thence South 132.00 feet; thence East 246.25 feet; thence North 132.00 feet to the point of beginning.

**Parcel 1A:**

A non-exclusive right of way described as follows:

Beginning 132.0 feet South of the Northeast corner of said Lot 8; and running thence South 10 feet; thence West 142.5 feet; thence South 188.00 feet; thence West 12.0 feet; thence North 178 feet; thence Northwesterly 14.0 feet more or less; thence West 135.0 feet; thence North 10.0 feet; thence East 18 rods to the point of beginning.

**Parcel 2:**

Beginning 142.0 feet South of the Northeast corner of Lot 8, Block 29, Plat "F", Salt Lake City Survey; and running thence South 33.0 feet; thence West 142.5 feet; thence North 33.0 feet; thence East 142.5 feet to the point of beginning.

Tax Id. No. 16-05-206-024-0000



EXHIBIT B

[Legal Description of 1046 East Parcel]

Parcel 1:

Beginning 2 rods East of the Northwest corner of Lot 7, Block 29, Plat "F", Salt Lake City Survey, and running thence East 50 ¾ feet; thence South 8 rods thence West 50 ¾ feet; thence North 8 rods to the place of beginning.

Parcel 2:

A non-exclusive right of way and easement for ingress and egress, appurtenant to Parcel 1, as created in that certain Warranty Deed, recorded November 12, 1919 as Entry No. 422717 in Book 10K of Deeds at page 300 of the Official Records, over the following described property:

Beginning at a point 132 feet South of the Northeast corner of Lot 8, Block 29, Plat "F", Salt Lake City Survey, and running thence West 18 rods; thence South 10 feet; thence East 18 rods; thence North 10 feet to the point of beginning. Also beginning at a point 142 ½ feet West of the Southeast corner of Lot 8, Block 29, Plat "F", Salt Lake City Survey, and running thence North 188 feet; thence West 22 feet; thence Southeasterly 10 feet; thence South 178 feet; thence East 12 to the place of beginning.

Parcel 3:

Beginning 33 feet East and 8 rods 10 feet South of the Northwest corner of Lot 7, Block 29, Plat "F", Salt Lake City Survey, and running thence South 33 feet; thence East 142.5 feet; thence North 26 feet; then North 45° West 10 feet, more or less, to a point due East of beginning; thence West 136 feet, more or less, to the place of beginning.

Parcel 4:

A non-exclusive right of way and easement for ingress and egress appurtenant to Parcel 3, as created in that certain Quit Claim Deed recorded December 5, 1902 as Entry No. 164230 in Book 61 at page 233 of the Official Records, over the following described property:

Beginning 2 rods East and 8 rods South from the Northwest corner of said Lot 7, and running thence South 10 feet; thence East 136 feet; thence South 45° East 10 feet; thence South 26 feet; thence East 12 feet; thence North 43 feet; thence West 154 ½ feet to the place of beginning.

Tax Id. No. 16-05-206-001-0000

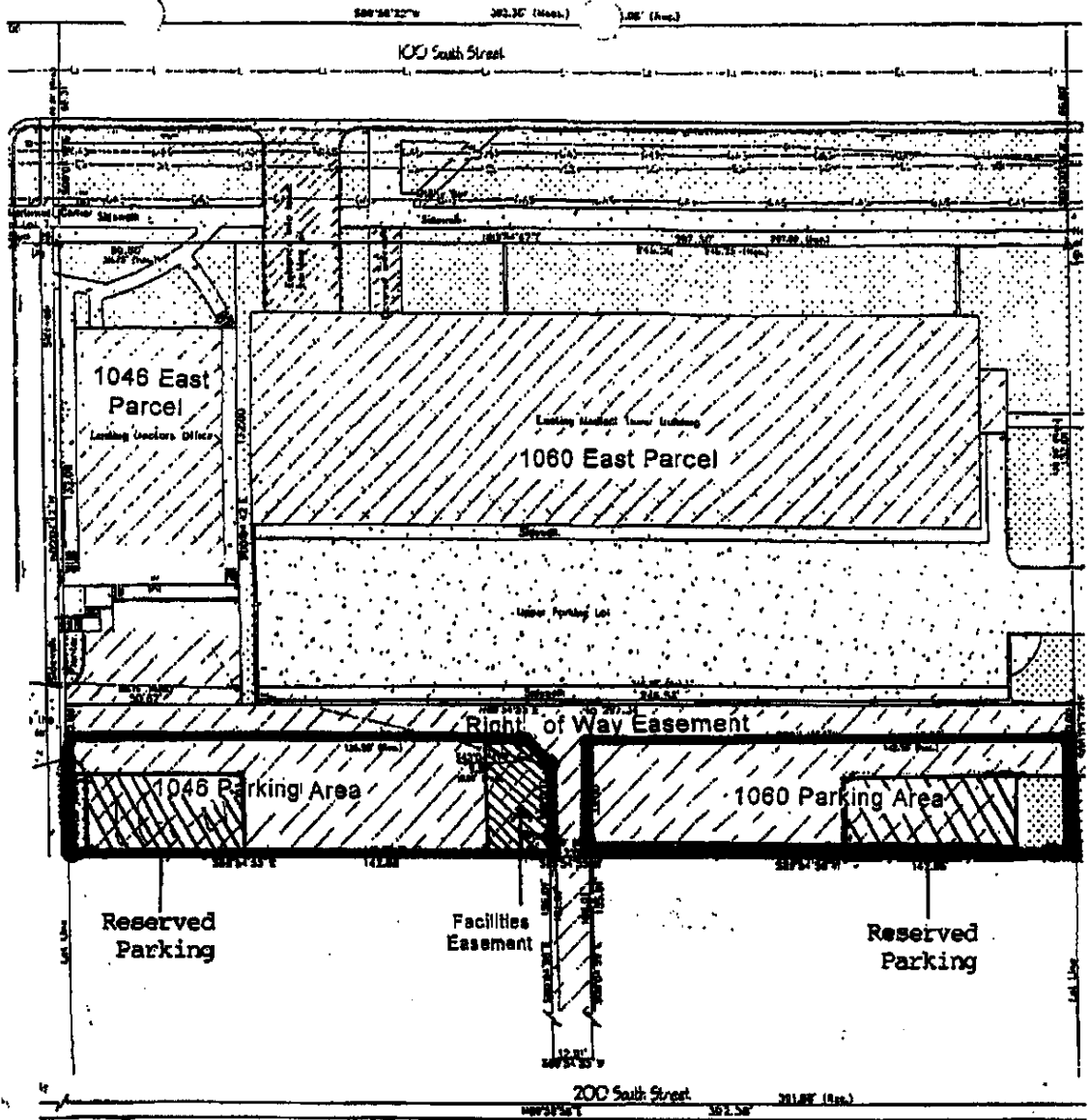


Exhibit C – Site Plan

EXHIBIT D

[Legal Description of 1046 Parking Area and Facilities Easement Area]

Historical Deed Description:

Beginning 33 feet East and 8 rods 10 feet South of the Northwest corner of Lot 7, Block 29, Plat "F", Salt Lake City Survey, and running thence South 33 feet; thence East 142.5 feet; thence North 26 feet; then North 45° West 10 feet, more or less, to a point due East of beginning; thence West 136 feet, more or less, to the place of beginning.

The foregoing property was surveyed by Terry D. Flint per survey dated February 7, 2003, which provided the following, as surveyed, description:

Beginning at a point 142.00 feet South 0°41'12" West from the Northwest corner of Lot 7, Block 29, Plat "F", Salt Lake City Survey, which point is also 33.00 feet North 89°58'22" East, and 198.31 feet South 0°04'12" East from a monument in the intersection of McClelland and 100 South Streets; and running thence North 89°54'55" East 136.15 feet; thence South 43°04'41" East 9.57 feet; thence South 0°04'56" East 26.00 feet; thence South 89°54'55" West 142.68 feet to the West line of lot 7; thence North 0°04'12" West along said lot line 33.00 feet to the point of beginning.

EXHIBIT E

[Legal Description of 1060 Parking Area]

Historic Deed Description:

Beginning 142.0 feet South of the Northeast corner of Lot 8, Block 29, Plat "F", Salt Lake City Survey; and running thence South 33.0 feet; thence West 142.5 feet; thence North 33.0 feet; thence East 142.5 feet to the point of beginning.

The foregoing property was surveyed by Terry D. Flint per survey dated February 7, 2003, which provided the following, as surveyed, description:

Beginning at a point which is 142.01 feet South 0°05'27" East along the block line from the Northeast Corner of Lot 8, Block 29, Plat "F", Salt Lake City Survey, which point is also 62.98 feet South 89°58'22" West, 66.00 feet South 0°00'04" West, and 142.01 feet South 0°05'27" East from a monument in the intersection of 1100 East and 100 South Streets; and running thence South 0°05'27" East along said lot line 33.00 feet; thence South 89°54'55" West 142.66 feet; thence North 0°04'59" West 33.00 feet; thence North 89°54'55" East 142.66 feet to the point of beginning.

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