

RESOLUTION NO. 2018-22

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF FOUNTAIN HILLS, MARICOPA COUNTY, ARIZONA, GRANTING A PUBLIC UTILITY EASEMENT.

WHEREAS, the Mayor and Town Council of the Town of Fountain Hills (the "Town") desire to grant a public utility easement in the vicinity of the Adero Canyon Trailhead to the qualified public utilities operating in the Town;

BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF FOUNTAIN HILLS as follows:

SECTION 1. A public utility easement is hereby granted to the qualified public utilities operating in the Town through, over, upon, in, across and along Town owned real property in the vicinity of the Adero Canyon Trailhead as further described in, and in the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to cause the execution of the easement and to take all steps necessary to carry out the purpose and intent of this Resolution.

[Signatures on following page]

PASSED AND ADOPTED by the Mayor and Council of the Town of Fountain Hills, Maricopa County, Arizona, this 5th day of June, 2018.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:


Linda M. Kavanagh, Mayor


Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:


Grady E. Miller, Town Manager


Mitesh V. Patel, Interim Town Attorney
Dickinson Wright, PLLC

EXHIBIT A
TO
RESOLUTION NO. 2018-22
[PUBLIC UTILITY EASEMENT]

See following pages.

When Recorded Mail To:

Town Clerk
Town of Fountain Hills
16705 East Avenue of the Fountains
Fountain Hills, Arizona 85268

PUBLIC UTILITY EASEMENT

GRANTOR: Town of Fountain Hills, an Arizona municipal corporation (the "Town")

GRANTEES: The public utilities qualified to do business in the Town, including without limitation utilities for water, sewer, electricity, telecommunications, and natural gas.

THIS PUBLIC UTILITY EASEMENT (this "Easement") is entered into on June 5, 2018, by and between the Town and Grantees for the purposes set forth below.

RECITALS

A. The Town is the record owner of certain real property at the location described and depicted on Exhibit A, attached hereto and incorporated herein by this reference (the "Easement Area").

B. The Town desires to grant to the Grantee a non-exclusive, continuous and perpetual easement (the "Easement") upon, over, across, in, through and under the Easement Area, for purposes of installing new underground utility infrastructure as more particularly described herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference and the mutual covenants set forth below, the Town does hereby grant to Grantees, their successors and assigns, this Easement through, over, under, upon, in, across and along the Easement Area on the following terms and conditions:

1. Grant of Easement. The Town hereby grants and conveys to Grantees a public utility easement for the purpose of installing, inspecting, repairing, maintaining, replacing and removing the underground utility infrastructure within such Easement.

2. Maintenance of the Easement. The Town shall not maintain the Easement Area in a manner that impairs the ability or capacity of the Grantees to utilize the Easement. The Town shall not construct, install or place, or permit to be constructed, installed or placed upon the Easement Area any fence, wall, structure or other improvement

which shall interfere with or impede the Grantees' access to the Easement or the Grantees' right to maintain the utility infrastructure in the Easement Area.

3. Running of Benefits and Burdens. All provisions of this Easement, including the benefits and burdens, run with the land and are binding upon and inure to the assigns and successors and tenants of the parties hereto.

4. Attorneys' Fees. Either party may enforce this instrument by appropriate legal action, or the prevailing party in such litigation may recover as part of its costs in such action reasonable attorneys' fees and court costs.

5. Additional Easements. Nothing contained in this Easement shall prohibit Town from conveying additional easements for access, utility or other purposes through, over, under, upon, in, across and along the Easement Area; provided however, that no such additional rights or easements shall impair the use of the Easement herein granted.

6. Entire Agreement. This instrument contains the entire agreement between the parties relating to Grantees' use of the Easement Area for public utility purposes. Any oral representations or modifications concerning this instrument shall be of no force or effect, excepting a subsequent modification in writing, signed by the parties.

7. Cancellation by Town. This Agreement may be cancelled by the Town pursuant to ARIZ. REV. STA. § 38-511.

8. Further Definition. Upon request, the Town will further define the utility companies permitted to use the Easement Area pursuant to this Easement.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date and year first set forth above.

[SIGNATURES ON FOLLOWING PAGE]

"Town"

TOWN OF FOUNTAIN HILLS,
an Arizona municipal corporation

By: *Linda M. Kavanagh*
Linda M. Kavanagh, Mayor

ATTEST:

Its: *Bevelyn J. Bender*
Bevelyn J. Bender, Town Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on June 5, 2018, by Linda M. Kavanagh, the Mayor of the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation, on behalf of the Town of Fountain Hills.



Notary Public in and for the State of Arizona

Patricia Jo Toal

(affix notary seal here)

EXHIBIT A

LEGAL DESCRIPTION OF A PUBLIC UTILITY EASEMENT AT THE ADERO CANYON TRAILHEAD

A Public Utility Easement lying within a portion of the north half of Section 7 of Township 3 North, Range 6 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, and described as follows:

Said Easement lies 25.00' northwesterly and 45.00' southeasterly of the following centerline (except for areas lying within the Eagle Ridge Drive right-of-way);

Beginning at the cul-de-sac radius point at the northerly end of Eagle Ridge Drive, as shown on the Final Plat for Adero Canyon, Fountain Hills Arizona, Book 1220, Page 28, Records of Maricopa County Arizona;

Thence departing said Eagle Ridge Drive centerline and following the centerline of the Adero Canyon Trailhead control line access roadway North 36 degrees 14 minutes 41 seconds East, a distance of 40.00 feet to the beginning tangent curve concave westerly and having a radius of 91.66 feet, said point also being on the northerly Right-of-Way line of said Eagle Ridge Drive;

Thence northerly along the arc of said curve through a central angle of 54 degrees 32 minutes 20 seconds, an arc length of 87.25 feet to the point of reverse curvature for a curve concave easterly and having a radius of 80.00 feet;

Thence northerly along the arc of said curve through a central angle of 84 degrees 11 minutes 26 seconds, an arc length of 117.55 feet;

Thence north 65 degrees 53 minutes 48 seconds east, a distance of 189.58 feet to the beginning of a tangent curve concave northwesterly and having a radius of 130.00 feet;

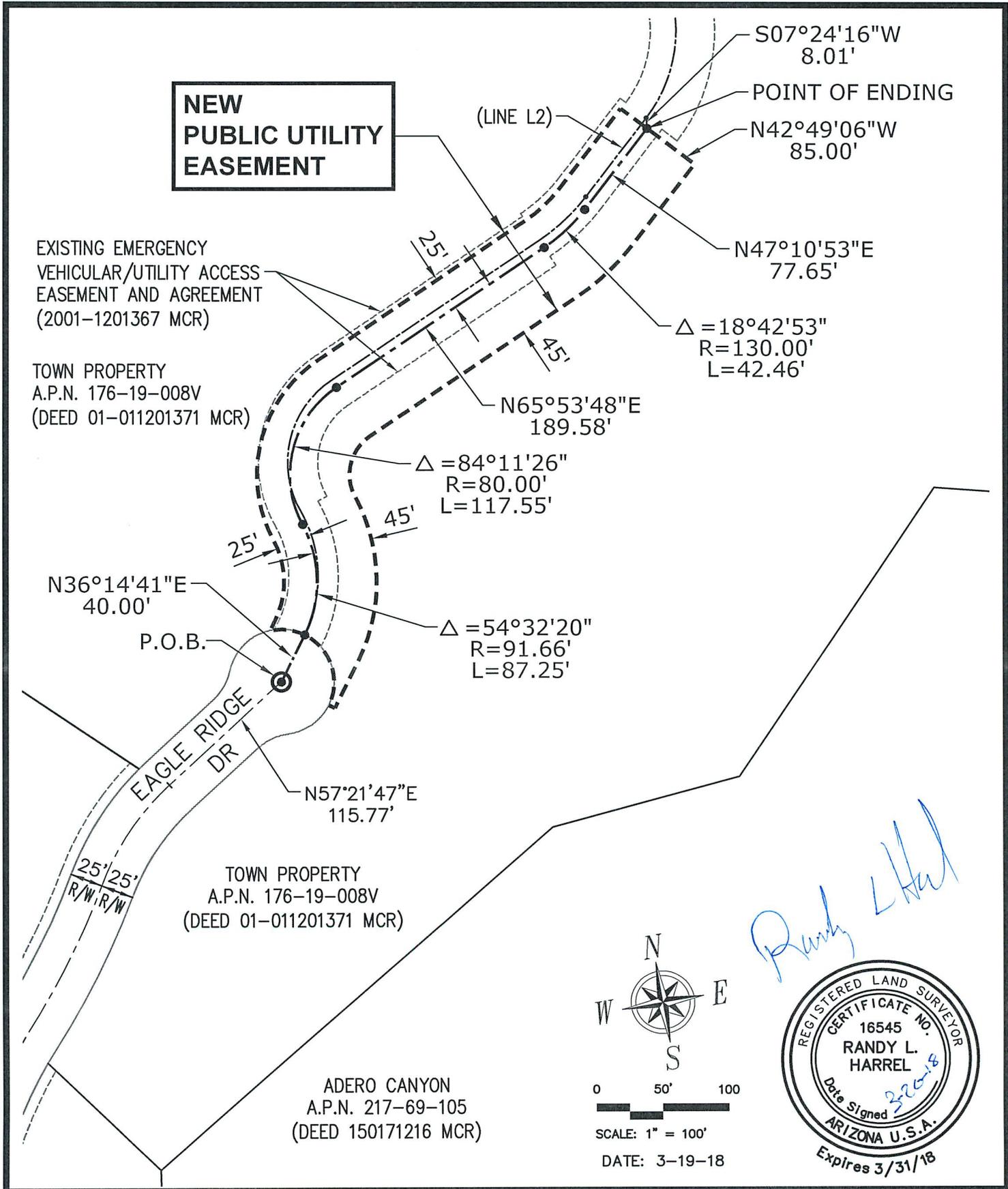
Thence northeasterly along the arc of said curve through a central angle of 18 degrees 42 minutes 53 seconds, an arc length of 42.46 feet;

Thence north 47 degrees 10 minute 53 seconds east, a distance of 77.65 feet to the POINT OF ENDING, from which point the north easterly end point of line L2, (the center line in the existing Emergency/Utility Access Easement and Agreement, MCR 2001-1201367, bears north 07 degrees 24 minutes 16 seconds west, a distance of 8.01 feet from the POINT OF ENDING.

The above easement description contains 36,495 square feet or 0.84 acres more or less.



TOWN OF FOUNTAIN HILLS
 EASEMENT ACQUISITION
 EXHIBIT B
 TOWN OF FOUNTAIN HILLS, A.P.N. 176-19-008V



**NEW
PUBLIC UTILITY
EASEMENT**

EXISTING EMERGENCY
VEHICULAR/UTILITY ACCESS
EASEMENT AND AGREEMENT
(2001-1201367 MCR)

TOWN PROPERTY
A.P.N. 176-19-008V
(DEED 01-011201371 MCR)

N36°14'41"E
40.00'

P.O.B.

EAGLE RIDGE
DR

25' 25'
R/W R/W

TOWN PROPERTY
A.P.N. 176-19-008V
(DEED 01-011201371 MCR)

ADERO CANYON
A.P.N. 217-69-105
(DEED 150171216 MCR)

(LINE L2)

S07°24'16"W
8.01'

POINT OF ENDING

N42°49'06"W
85.00'

N47°10'53"E
77.65'

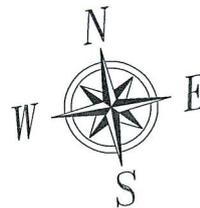
Δ = 18°42'53"
R=130.00'
L=42.46'

N65°53'48"E
189.58'

Δ = 84°11'26"
R=80.00'
L=117.55'

Δ = 54°32'20"
R=91.66'
L=87.25'

N57°21'47"E
115.77'



SCALE: 1" = 100'

DATE: 3-19-18

Randy L Harrel

