

**Control No. 2007-031**

<p><b>Recording Requested by and when Recorded, return to:</b></p> <p>CITY OF MILPITAS 455 E. CALAVERAS BOULEVARD MILPITAS, CA 95035-5479 Attn: City Clerk</p> <p>EXEMPT FROM RECORDING FEES PER GOVERNMENT CODE §§6103, 27383</p>
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(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

Document Transfer Tax is \$0.00

Computed on full value of property conveyed

Computed on full value less value of liens and encumbrances remaining

City transfer tax is \$0.00

APN:

**ACCESS AND UTILITY EASEMENT AGREEMENT**

THIS ACCESS AND UTILITY EASEMENT AGREEMENT ("**Agreement**") is entered into effective as of this \_\_\_\_ day of \_\_\_\_\_, 2007, by and between the City of Milpitas, a municipal corporation, located in the County of Santa Clara, State of California ("**City**") and the Parc Place Condominium Home Owners Association ("**Owner**"). City and Owner are hereinafter referred to collectively as the "**Parties.**"

**RECITALS**

A. WHEREAS, Owner is the fee owner of that certain real property located on Parc Place Drive, City of Milpitas, Santa Clara County, California, and more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "**Property**"); and,

B. WHEREAS, detector check vaults were installed in parking stalls at Parc Place Drive, the locations of which denied the City's meter readers access to the meters; and,

C. WHEREAS, electronic meters have since been installed, which also require the installation of "repeaters" to transmit a signal from the electronic meters to the City's receiver on the street light located on the corner of Parc Place Drive and Hammond Way; and,

D. WHEREAS, Section 3.4.2. of that certain Declaration of Covenants, Conditions and Restrictions of Parc Place, executed on July 15, 2004, grants easements for the “maintenance, repair, and replacement of Utility Facilities;” and,

E. WHEREAS, the HOA has verbally granted the City permission to enter the property for purposes of installing the repeaters; and,

F. WHEREAS, in order to provide for the installation and maintenance of utilities that will serve the Property, Owner has agreed to provide a permanent nonexclusive easement to City in the area described and depicted in Exhibit B attached hereto and incorporated herein by reference (the “**Utility Easement Area**”) for the purpose of installing, maintaining, repairing, upgrading, and replacing utilities that will serve the Property, including the repeaters.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Effective as of the date that this Agreement is recorded in the Official Records of Santa Clara County, California, Owner hereby grants an irrevocable perpetual nonexclusive utility easement (the “**Utility Easement**”) for the purpose of installing, maintaining, repairing, upgrading, and replacing meters and repeaters in the Utility Easement Area.

1.1. Owner further grants City the right of ingress to and egress from the Utility Easement Area for such construction, use, installation, maintenance, repair, operation, alteration, addition, replacement and removal as may be reasonably necessary.

1.2 This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors, and assigns, as applicable, of each of the Parties. Whenever a reference in this Agreement is made to City or Owner, such reference shall be deemed to also mean a reference to the successors in interest of each such Party (or Parties), as applicable, as if in every case so expressed.

2. Indemnification. Owner shall indemnify, defend with counsel acceptable to the City, and hold harmless City and its respective elected and appointed officials, employees, agents, contractors, and volunteers (collectively, “**Indemnitees**”) from and against any and all liability, loss, damage, claims, expenses and costs (including, without limitation, attorney's fees and costs and fees of litigation) (collectively, “**Liability**”), arising from or related to the Utility Easement.

3. Severability. If any term, provision, covenant or condition contained in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of this Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Access and Utility Easement Agreement as of the date first written above.

**CITY:**

CITY OF MILPITAS,  
a public body, corporate and politic

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

**OWNER:**

Parc Place Condominium  
Home Owners Association

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

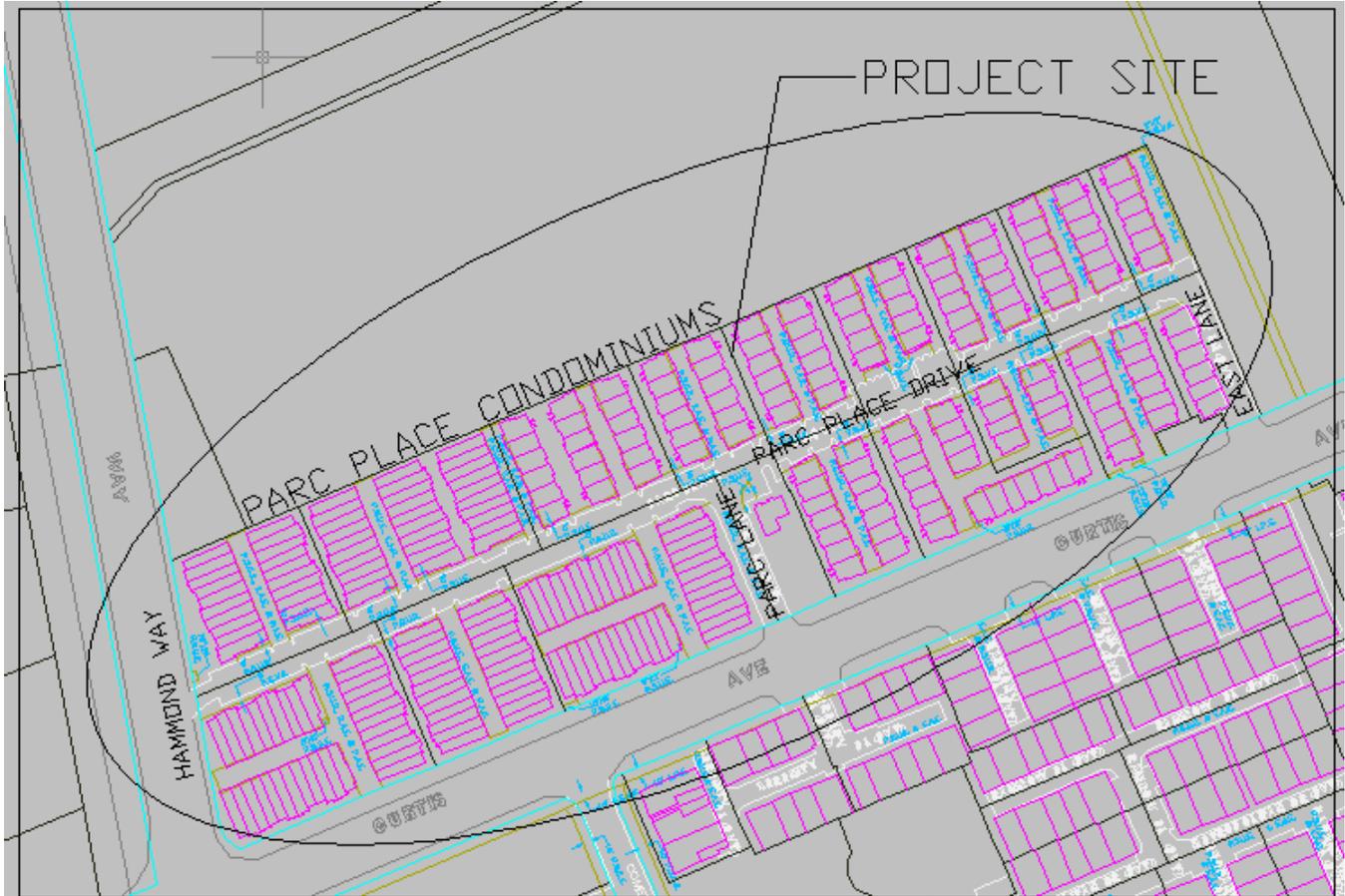
**SIGNATURES MUST BE NOTARIZED.**



**Exhibit A**

**PROPERTY DESCRIPTION**

That certain real property in the City of Milpitas, County of Santa Clara, State of California, recorded on September 14, 2004 in Book 775 of Maps at Pages 14 through 22 of County Recorder's Office.



**EXHIBIT "B"**  
**UTILITY EASEMENT AREA**

## Exhibit "B" UTILITY EASEMENT AREA

### ***Specific Repeater (Tropos Unit) Details/Locations:***

Repeater Physical Location	Transmitter SN	Transmitter Location
Building #9 246-A	71111113	258-A Parc Place Drive
	71111062	263-A Parc Place Drive
	71111099	246-A Parc Place Drive
	71126059	251-A Parc Place Drive
Building #7 224-A	71111058	239-A Parc Place Drive
	71126058	227-A Parc Place Drive
	71111100	232-A Parc Place Drive
	71111093	224-A Parc Place Drive
Building #5 208-A	71120775	216-A Parc Place Drive
	71111059	215-A Parc Place Drive
	71111092	205-A Parc Place Drive
	71111080	208-A Parc Place Drive
Building #2 180-A	71111055	195-A Parc Place Drive
	71111105	211-A Curtis Ave
	71111114	194-A Parc Place Drive
	71123748	183-A Parc Place Drive
	71111115	180-A Parc Place Drive
Building #1 166-A	71082357	171-A Parc Place Drive
	71111082	166-A Parc Place Drive
	71111081	159-A Parc Place Drive
	71111101	160-A Parc Place Drive
Building #37 775-A	71111108	147-A Parc Place Drive
	71111079	775-A Parc Lane
	71111090	125-A Curtis Ave
	71111121	135-A Parc Place Drive
Building #37 775-A Second repeater on building	71111107	124-A Parc Place Drive
	71111109	111-A Parc Lane