

## AGREEMENT VERIFYING LOCATION AND TERMS OF UTILITY EASEMENTS

This Agreement Verifying Location and Terms of Utility Easements ("Agreement") is entered into as of May 7, 2010, by and between Salt River Project Agricultural Improvement and Power District ("SRP"), and Venture Out at Mesa, Inc., an Arizona nonprofit corporation ("Association").

### ARTICLE 1 - INTRODUCTION

1.1 Association is the Association described in that certain Declaration of Condominium and Land Use Restrictions (which amended and restated the prior recorded declaration) dated as of February 18, 1998, and recorded March 10, 1998, in Instrument No. 980184154, records of Maricopa County, Arizona, as amended by various amendments recorded in the records of Maricopa County, Arizona (collectively, "Declaration"), which governs the real property ("Declaration Property") described in that Declaration. The Declaration Property was subdivided pursuant to the plat of record for VENTURE OUT AT MESA UNIT ONE recorded at Book 127, Page 21 ("UNIT ONE"), the plat of record for VENTURE OUT AT MESA UNIT TWO recorded at Book 186, Page 49 ("UNIT TWO"), the plat of record for VENTURE OUT AT MESA UNIT THREE recorded at Book 192, Page 35 ("UNIT THREE"), and the plat of record for VENTURE OUT AT MESA UNIT FOUR recorded at Book 204, Page 41 ("UNIT FOUR"), all as recorded in the records of Maricopa County, Arizona (collectively, "Plats").

1.2 Pursuant to the terms of the Declaration, SRP has an easement upon, across, over, and under the Common Elements and Lots (each as defined in the Declaration) of such Declaration Property for the purpose of reasonable ingress, egress, installation, replacing, repairing, operating or maintaining of utilities, including electricity. Pursuant to the terms of the Declaration, the Board of Directors of the Association is required to approve the installation of any electrical or other utility lines within that easement on the Declaration Property.

1.3 Association is the owner of certain Tracts or a portion of certain Tracts described in the Plats, such property owned of record by the Association referenced herein as "Association Property".

1.4 SRP has installed certain underground electrical conductors, conduits, pipes, cables, vaults, pads, switching equipment, enclosures, manholes and transformers and other appliances, appurtenances and fixtures (collectively "Electrical Facilities") for the transmission and distribution of electricity in, upon, over, under, across, and through the Declaration Property and the Association Property.

1.5 SRP has been granted certain specific easements to construct, install, reconstruct, replace, remove, repair, operate and maintain the Electrical Facilities for the transmission and distribution of electricity and for all other purposes connected therewith, together with the right of ingress and egress to and from the Electrical Facilities across portions of the Declaration Property and the Association Property, as reflected by grants

of easements recorded in the records of Maricopa County, Arizona, described in **Exhibit 1** hereto ("SRP Easements"). Certain SRP Easements were granted prior to the installation of the Electrical Facilities. Certain easements were granted prior to occupancy of the Declaration Property by the Lot Owners (as defined in the Declaration).

1.6 SRP and Association desire to verify the location of easements granted to SRP that are actually used for Electrical Facilities, and verify the terms governing the use of those easement areas for the benefit of SRP, the Association and the Lot Owners. SRP and Association also desire that SRP abandon certain easements across Lots within UNIT ONE for which Electrical Facilities have never been installed.

THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows.

## ARTICLE 2 - AGREEMENT

2.1 Verification of Location of Utility Easements. SRP and the Association agree that the location of the easements to construct, install, reconstruct, replace, remove, repair, operate and maintain the Electrical Facilities (herein, "Easement Areas"), are shown in the survey map referenced in **Exhibit 2** hereto, which Easement Areas are generally located as follows:

- (1) For all SRP Easements that have not been agreed to be abandoned pursuant to the terms of this Agreement, an easement of the width specified in such SRP Easement ("Continued SRP Easements").
- (2) For each of the Lots in the Declaration Property excluding the Perimeter Lots (as defined in paragraph 2.4 below), an easement five feet in width along the rear lot line of such Lot ("General Lot Easements"). For clarification, for each Lot where the rear lot line is contiguous with the rear lot line of another Lot, the General Lot Easement shall be a total of ten feet in width (five feet from each lot line), and where the rear lot line of a Lot abuts Main Street (the 0 and 900 blocks), the General Lot Easement shall be a total of five feet in width. The easement width measurement will be made from a perpendicular (right angle) line from the rear lot line of such Lot.
- (3) For each of the Perimeter Lots (as defined in paragraph 2.4 below), an easement five feet in width over Common Elements and Association Property contiguous to the rear lot line of a Perimeter Lot (or to the maximum width of Common Elements and Association Property contiguous to the rear lot line, not to exceed five feet) ("Association Lot Easements"). For clarification, for each Perimeter Lot where the rear lot line is contiguous with Common Elements or Association Property, the Association Lot Easement shall be the maximum width of Common Elements and Association Property contiguous to the rear lot line of such Perimeter Lot, not to

exceed five feet. The easement width measurement will be made from a perpendicular (right angle) line from the rear lot line of such Perimeter Lot.

- (4) For each of the Lots in the Declaration Property for which existing Electrical Facilities are located outside of the General Lot Easement, an easement as wide as such existing Electrical Facilities and such additional width as required for the reasonable operation and maintenance of the specific Electrical Facilities located outside of the General Lot Easement (including, without limitation, Electrical Facilities installed adjacent to side lot lines), provided, however, that if existing Electrical Facilities consist only of underground power lines, such easement shall not be used for the construction or installation of any other Electrical Facilities, unless such additional Electrical Facilities are provided to serve the Declaration Property and are approved by the Association ("Limited Lot Easements"). For any transformer that is located in a Limited Lot Easement, the easement shall be the width specified in **Exhibit 3** attached hereto, except for transformers that otherwise satisfy the set-back requirements described in **Exhibit 4** attached hereto ("Association Transformer Easements").
- (5) For all Tracts in the Plats consisting of private roadways, an easement over such private roadways for existing Electrical Facilities, provided, however, that if existing Electrical Facilities consist only of underground power lines, such easement shall not be used for the construction or installation of any other Electrical Facilities unless otherwise specified in Continuing SRP Easements or unless such additional Electrical Facilities are provided to serve the Declaration Property and are approved by the Association ("Roadway Easements").
- (6) For any transformer shown in the survey map referenced in **Exhibit 2** hereto which is located in Common Elements or Association Property and not otherwise covered by the Continued SRP Easements, Association Lot Easements, or the Roadway Easements, an easement of the width specified in **Exhibit 3** attached hereto, except for transformers that otherwise satisfy the set-back requirements described in **Exhibit 4** attached hereto ("Association Transformer Easements").
- (7) For any Association Property not covered by the Continued SRP Easements, Association Lot Easements, the Roadway Easements, or the Association Transformer Easements, an easement as wide as such existing Electrical Facilities and such additional width as required for the reasonable operation and maintenance of the specific existing Electrical Facilities, provided, however, that if existing Electrical Facilities consist only of underground power lines, such easement shall not be used for the construction or installation of any other Electrical Facilities unless otherwise specified in Continuing SRP Easements, or unless such facilities are provided to serve the Declaration Property and are approved by the Association ("Other Association Property Easements").

2.2 Verification of Agreements for Use of Easement Areas. Restrictions on the use of easement areas by the Association and Lot Owners are important for ensuring that SRP

can access the Electrical Facilities and construct, install, reconstruct, replace, remove, repair, operate and maintain the Electrical Facilities. However, some Electrical Facilities were installed in locations that were not within clearly delineated easements, and in locations for which it is impractical to include all standard SRP requirements for restrictions on use of utility easements. SRP and Association agree that the use of Easement Areas (excluding the Continuing SRP Easements) by Lot Owners, Association, and SRP shall be subject to the terms described in **Exhibit 5** hereto. The Continuing SRP Easements shall continue to be governed by the terms of the Continued SRP Easements.

2.3 Abandonment of Unused UNIT ONE Lot Easements. VENTURE OUT IN AMERICA, INC., a Delaware corporation executed an Easement in favor of SRP on December 22, 1969, which Easement is recorded at Docket 7969, page 791, in the records of Maricopa County, Arizona ("Unit One Easement"). The Unit One Easement includes an easement 10 feet in width along each lot line of the Lots in UNIT ONE. SRP has not installed Electrical Facilities along all lot lines in UNIT ONE, and does not intend to install Electrical Facilities along all lot lines in UNIT ONE, and SRP and Association desire for SRP to formally abandon unused lot line easements that are not verified Easement Areas under this Agreement. SRP agrees that SRP has abandoned all easements described in the Unit One Easement over the Lots in UNIT ONE except for the Easement Areas in which Electrical Facilities are actually installed on the date of this Agreement. Additionally, with regard to easements in the Unit One Easement that are not being abandoned, SRP agrees that the use of only the five feet clear area adjacent to the applicable Lot Line shall be subject to the terms described in **Exhibit 5** hereto.

2.4 Agreements Regarding Perimeter Lots. For the purposes of this Agreement, "Perimeter Lots" shall mean any Lot sixty (60) feet or less in length: (1) where the rear lot line of such Lot is not contiguous with the rear lot line of another Lot; and (2) where the rear lot line of such Lot is contiguous with any Common Elements or Association Property at least five feet in width (or any lesser width that SRP deems sufficient for re-location of lines) without disturbing any existing structures. For clarification, where the rear lot line of a Lot abuts Main Street (the 0 and 900 blocks), such Lots are not Perimeter Lots. SRP and Association agree that if SRP is required to move any existing underground electric lines located on the "Rear Portion" (as defined below) of a Perimeter Lot in order to repair (but not replace) such existing underground electric lines, then Association will pay any Additional Perimeter Lot Cost (as defined below) required to move such existing underground electric lines onto the Association Lot Easement contiguous to the rear lot line of such Perimeter Lot. For the purposes of this paragraph, "Rear Portion" means the portion of the Perimeter Lot along the rear lot line of such Perimeter Lot measured as the greater of: (1) an area five feet in width contiguous to the rear lot line of a Perimeter Lot (measured from a perpendicular (right angle) line from the rear lot line), or (2) an area fifteen feet in width from any fence located on Common Elements or Association Property behind such Perimeter Lot (measured from a perpendicular (right angle) line from such fence). For the purposes of this paragraph, "Additional Perimeter Lot Cost" shall mean only the cost only for re-routing the existing underground electric lines requiring repair onto the Association Lot Easement, and not any costs for actually repairing the fault that would have been incurred without requiring a re-routing of the existing underground electric lines

onto the Association Lot Easement.

2.5 Agreements Regarding All Lots. For each of the Lots in the Declaration Property, SRP and Association agree that if there is a fault in any existing underground electric lines located within the General Lot Easements or Association Lot Easements, and SRP cannot access such existing underground electric lines because of any existing structures or obstructions within the General Lot Easements or Association Lot Easements, then SRP shall provide written notice to Association of such condition and SRP and Association agree to make a joint effort to identify the least costly option to make such repair, either through removing any existing structures or obstructions or re-routing the electrical line. Association agrees to pay any "Additional Encroachment Lot Cost" (as defined below) provided that Association reserves all rights to seek payment from the Lot Owner if the encroachment over the General Lot Easements was created by the Lot Owner without actual written notice to the Association or if the encroachment was created by the Lot Owner on the Association Lot Easements. For the purposes of this paragraph, "Additional Encroachment Lot Cost" shall mean only the cost only for the least costly option (removing any existing structures or obstructions or re-routing the existing underground electric lines), and not any costs for actually repairing the fault that would have been incurred without an encroachment. Association shall have no obligation to pay any amounts for repairs in the General Lot Easements or Association Lot Easements if they are not physically obstructed. Association's agreement to pay the Additional Encroachment Lot Cost shall not limit SRP and the Lot Owner from reaching an agreement on clearing any existing structures or obstructions or re-routing any underground electrical lines on any Lot through a more costly option, at the sole cost of SRP and/or the Lot Owner, so long as Association's obligations do not exceed the Additional Encroachment Lot Cost. SRP will be responsible for the cost of re-locating any portions of existing underground electric lines that run through the middle (external to the General Lot Easements) of any existing Lots due to faults that cannot be repaired without re-location of such existing electrical lines.

2.6 Notice of Estimate for Additional Costs and Resolution of Objections. If SRP determines that any repairs are required that would obligate Association to pay any Additional Perimeter Lot Cost or Additional Encroachment Lot Cost, then SRP shall provide written notice to Association of such required repair and SRP's estimate of the applicable cost for such repair. If Association objects to SRP's cost estimate, by written notice to SRP within five (5) days, then SRP and Association agree to make a joint effort to identify the least costly option to make such repair. If Association objects to Association's obligation to pay for any additional cost for such repair under the terms of this Agreement, then SRP and Association agree to make a joint effort to resolve such objection in a timely manner. For emergency repairs, SRP and Association may agree, in writing, to Association's payment obligations related to such emergency repairs, without waiving the Association's right to object to other non-emergency repairs. Association acknowledges that SRP's standard rates that apply to all SRP customers will apply to determining the amount of such costs for all re-locations of underground electrical lines.

2.7 Future Abandonment by SRP of Easement Areas. If SRP formally abandons any of the Easement Areas by written notice to the Association, all of SRP's rights

hereunder as to the abandoned Easement Areas shall cease, except the right to remove any and all property placed upon such abandoned Easement Area within a reasonable time subsequent to such abandonment.

2.8 Transformer Replacement and Related Operational Issues. This Agreement is being executed in connection with SRP's agreement to replace existing designated transformers located on the Declaration Property with low flammable oil transformers, at SRP's cost, to minimize clear area transformer setback requirements for Lots, and the Association's agreement to clear General Lot Easements in accordance with the terms of this Agreement. In connection with that transformer replacement, SRP will position transformers, as appropriate, away from existing permanent structures on Lots to minimize the impact of the 12 foot clear area setback requirement in front of the transformer door. SRP is working with the Association on a proposal for addressing specific existing transformer issues on the Declaration Property, as most recently revised as of April 26, 2010, which is attached as **Exhibit 6** hereto ("Transformer Resolution Plan"). The location of the transformers in the Transformer Resolution Plan are also identified, by Pad Number in the survey identified in Exhibit 2 hereto. SRP and Association agree that additional changes to the Transformer Resolution Plan will occur, subject to the mutual agreement of SRP and Association, as SRP implements the Transformer Resolution Plan. Specifically, SRP and Association agree that Association's financial obligations for relocating any replaced transformers shall not exceed the amount stated in Exhibit 6, without the written consent of Association. SRP further agrees that Association may pay Association's financial obligations for relocating any replaced transformers, one-third on July 1, 2011, and two-thirds on July 1, 2012. Association's financial obligations will be paid based on the design estimates identified in the Transformer Resolution Plan (as such amount may be increased with the written agreement of Association), provided that if SRP's actual costs for relocating any transformer are less than the design estimate, then SRP shall credit Association with that difference, either through a reduction of the second payment to be made by Association, or a reimbursement from SRP to Association to be paid no later than six months after the Transformer Resolution Plan is completed. No interest shall accrue on Association's payment obligations. SRP and Association further agree that upon completion of the Transformer Resolution Plan, SRP will not pursue any further operational issues for the Declaration Property, and SRP consents to the current location of pedestals on Lots in the Declaration Property, provided that: (1) this shall not prevent SRP from enforcing pedestal safety issues that arise after the date of this Agreement due to changes that occur after the date of this Agreement; (2) this shall not prevent SRP from enforcing the terms of this Agreement; and (3) this shall not prevent SRP from enforcing SRP's Rules and Regulations and Electrical Service Specifications to the extent that they do not conflict with the terms of this Agreement.

2.9 Non-Waiver; Conflicting Terms. By entering into this Agreement, SRP is not intending to waive SRP's Rules and Regulations and Electrical Service Specifications that apply generally to SRP customers and Association is not intending to waive any existing rights of Association in connection with SRP's Rules and Regulations; provided, however, that SRP and Association agree that if there is any conflict or inconsistency between any terms in this Agreement and any terms of SRP's Rules and Regulations and Electrical

Service Specifications, then the terms of this Agreement shall control.

2.10 Running With Land. The rights and obligations imposed by this Agreement shall run with the land. The acceptance by any person or entity of any interest in the Declaration Property or Association Property, or any portion of any of them, constitutes an agreement by such person or entity to perform all obligations imposed hereby and to not use, occupy or allow any use or occupancy of its property in any manner which would constitute a violation or breach of any of the provisions of this Agreement.

2.11 No Public Dedication. Nothing contained in this Agreement shall constitute a gift or dedication of any portion of the Declaration Property or the Association Property to the general public or for the benefit of the general public for any public purpose, whatsoever, it being the intention of the parties that this Agreement be strictly limited to and for the purposes expressed herein.

2.12 Recordation of Notice of Agreement. SRP and Association agree to execute and record in the records of Maricopa County, Arizona, a Notice of Agreement Verifying Location and Terms of Utility Easements in the form of **Exhibit 7** hereto. Upon full execution of such Notice, Association agrees to record such Notice and provide a copy of such recorded Notice to SRP.

2.13 Incorporation of Recitals and Exhibits. The recitals to this Agreement and all Exhibits referred to in this Agreement are hereby incorporated into and made a part of this Agreement.

2.14 Successors and Assigns. This Agreement and all of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the parties and their respective successors and assigns as owners of any portion of the Declaration Property and Association Property, and no third party shall be entitled to enforce any term, covenant or condition of this Agreement, or have any rights hereunder.

2.15 Limitation on Amendment and Cancellation. This Agreement may only be terminated or amended by a recorded document executed by all of the parties to this Agreement or their successors of record. No breach hereof shall entitle any party to cancel, rescind, or otherwise terminate this Agreement, but such limitations shall not affect, in any manner, any other rights or remedies which any party may have by reason of any breach of this Agreement.

2.16 Severability. If any term or provision of this Agreement shall, to any extent, be invalid or unenforceable under applicable law, then the remaining terms and provisions of this Agreement shall not be affected thereby, and each such remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

2.17 Relationship of Parties. No provision hereof shall be deemed to constitute the parties partners of one another or joint venturers of one another or in any way to obligate any party for the performance of any obligation of any other party not expressly assumed

herein.

2.18 Waiver. No waiver of, acquiescence in, or consent to any breach of any term, covenant, or condition hereof shall be construed as, or constitute, a waiver of, acquiescence in, or consent to any other, further, or succeeding breach of the same or any other term, covenant or condition.

2.19 Attorneys Fees. In the event of any litigation (including any appeal) concerning the interpretation or enforcement of this Agreement, the prevailing party in such litigation shall be entitled to reimbursement and/or an award of its attorneys' fees, taxable costs and any other non-taxable costs and expenses incurred in connection therewith.

2.20 Miscellaneous. This Agreement shall be construed and enforced in accordance with the laws of the State of Arizona. This Agreement shall not be binding upon any party until it has been executed by each party. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute but one and the same instrument.

2.21 Notices. Any notice to be provided under this Agreement shall be in writing, and shall be effective on the earlier of (i) the date when personally delivered; (ii) the date which is three (3) days after mailing (postage prepaid) by certified or registered mail, return receipt requested; or (iii) the date sent by facsimile or e-mail provided that such notice shall not be deemed effective unless it is confirmed within 24 hours by hand delivery or mailing of a copy of such notice in accordance with the requirements set forth above. Such notices shall be given to the parties hereto at the following address, facsimile or e-mail, or to such address, facsimile or e-mail as either party may designate, from time to time, in writing, pursuant to these notice provisions:

If to SRP:                    Salt River Project  
                                     1521 N Project Drive  
                                     Tempe, Arizona 85281  
                                     Attn: Legal Services, Mail Stop PAB207  
                                     Facsimile: (602) 236-5397  
                                     E-mail: [leo.miller@srpnet.com](mailto:leo.miller@srpnet.com)

If to Association:        General Manager  
                                     Venture Out at Mesa, Inc.  
                                     5001 East Main  
                                     Mesa, Arizona 85205-8008  
                                     Facsimile: (480) 832-2360  
                                     E-mail: [ventureoutgm@qwestoffice.net](mailto:ventureoutgm@qwestoffice.net)

This Agreement is executed as of the date set forth above.



Venture Out at Mesa, Inc.,  
an Arizona nonprofit corporation

By *Henry E. Rull*  
Its *President*

Salt River Project Agricultural Improvement and Power District

By \_\_\_\_\_  
Its \_\_\_\_\_

Exhibits:

- Exhibit 1 - SRP Easements
- Exhibit 2 - Incorporated Survey Map
- Exhibit 3 - Clearances
- Exhibit 4 - Venture Out Non-Combustible Structure With (LFO) Transformer illustration dated 04-20-09
- Exhibit 5 - Terms of Use of Easements
- Exhibit 6 - Transformer Resolution Plan
- Exhibit 7 - Notice of Agreement Verifying Location and Terms of Utility Easements

Venture Out at Mesa, Inc.,  
an Arizona nonprofit corporation

By \_\_\_\_\_  
Its \_\_\_\_\_

Salt River Project Agricultural Improvement and Power District

By David M. Orghum  
Its SRP Agric. Engr. Mgr.

Reviewed by SRP Legal Services Dept.

Leo Miller  
(Signed Name)

Leo Miller  
(Printed Name)

Date: 5/10/2010

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Exhibit 1 to Agreement Verifying Location and Terms of Utility Easements

**SPECIFIC RECORDED SRP EASEMENTS**

<b>Date</b>	<b>Easement Document - Recording Info</b>	<b>General Description of Utility Easement</b>
12/1969	Easement - Docket 7969, page 791	Utility easement over UNIT ONE: (1) 10 feet in width along each lot line and (2) over tracts (and roadways) for providing electrical service to developer and assigns (subject to abandonment of unused easements)
3/18/1970	Easement – Docket 8046, page 790	Easement for underground power over Lots 693A, 1753 and 1764 of UNIT ONE (not to exceed 7 feet in width)
3/15/1971	Easement - Docket 8579, page 44	Easement for underground power, centerline generally running 23 feet east of centerline of Fairchild Avenue (not to exceed 7 feet in width)
6/16/1975	Easement – Docket 11203, page 1060	Utility easement over part of Tract D-4, UNIT ONE
10/11/1978	Easement – Docket 13208, page 27	Easement for underground power over part of Tract E-1, UNIT ONE
9/28/1992	Underground Power Easement, Doc No. 92-0540074	Utility easement over part of Tract D-4, UNIT ONE
10/17/2001	Power Distribution Easement - Doc No. 2001- 1008075	8 foot wide easements over portion of Tracts A and B-9, UNIT TWO and portion of Tract E-6, UNIT THREE
5/27/2005	Resolution - Doc No. 2005-0709945	Venture Out Board resolution authorizing SRP installation of utility lines near recreation center
6/29/2007	Power Distribution Easement - Doc No. 2007- 0750039	Easement over west 5 feet of Lot 1727 granted by Lot Owner
6/29/2007	Power Distribution Easement - Doc No. 2007- 0750040	Easement over west 5 feet of Lot 1727 granted by Lot Owner
6/29/2007	Power Distribution Easement - Doc No. 2007- 0750041	Easement over east 5 feet of Lot 1324 granted by Lot Owner
6/29/2007	Power Distribution Easement - Doc No. 2007- 0750042	Easement over southern 5 feet of Lot 1735 granted by Lot Owner
3/11/2010	Power Distribution Easement - Doc No. 2010- 0208084	Easement over 5 feet adjacent to the northeast line of Lot 1752 granted by Lot Owner

Exhibit 2 to Agreement Verifying Location and Terms of Utility Easements

**INCORPORATED SURVEY MAP**

In connection with the Transformer Resolution Plan (as described in Exhibit 6), SRP has prepared certain easement delineations for the Declaration Property, which are available at the following Internet addresses:

[http://www.surveyorresourcepage.com/VO/Venture\\_Out\\_West.pdf](http://www.surveyorresourcepage.com/VO/Venture_Out_West.pdf)

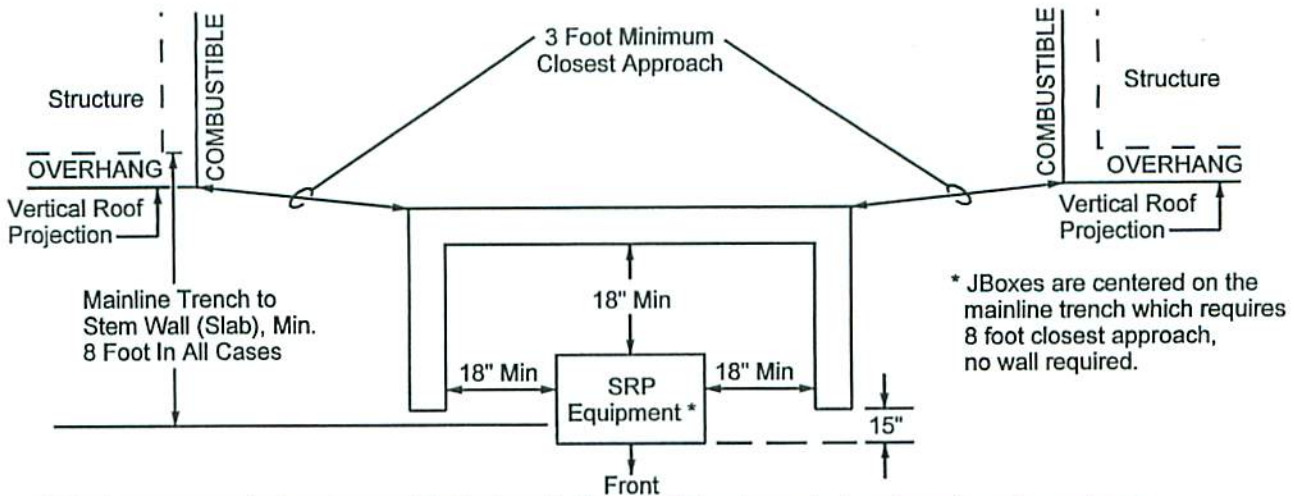
[http://www.surveyorresourcepage.com/VO/Venture\\_Out\\_East.pdf](http://www.surveyorresourcepage.com/VO/Venture_Out_East.pdf)

The foregoing easement delineations shall be revised by SRP as the Transformer Resolution Plan progresses, and shall apply to the Agreement, as such easement delineations are revised.

Upon completion of the Transformer Resolution Plan, which is anticipated to occur within 18 to 24 months of the date of the Agreement, SRP will prepare a final survey of easement locations for the Declaration Property, and upon written consent of SRP and Association to that final survey, that final survey shall be attached to this Exhibit 2, and shall thereafter apply to the Agreement.

Exhibit 3 to Agreement Verifying Location and Terms of Utility Easements

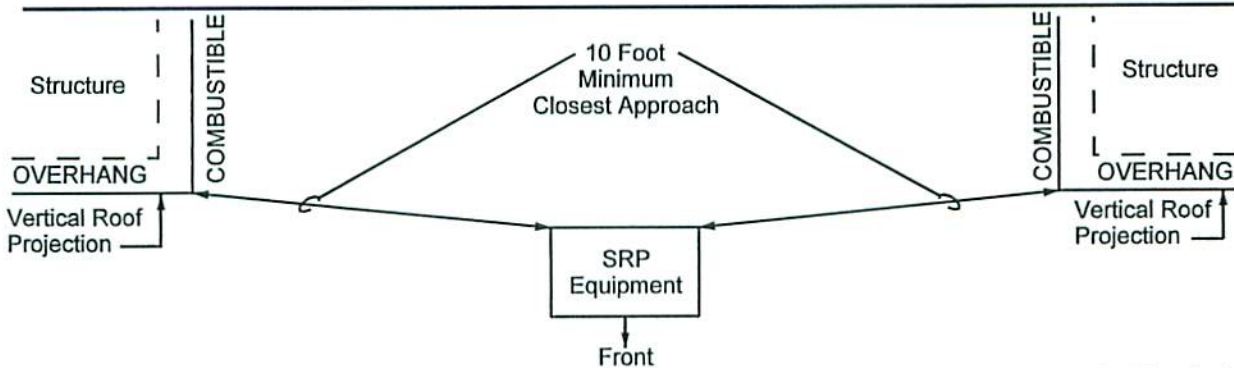
See attached



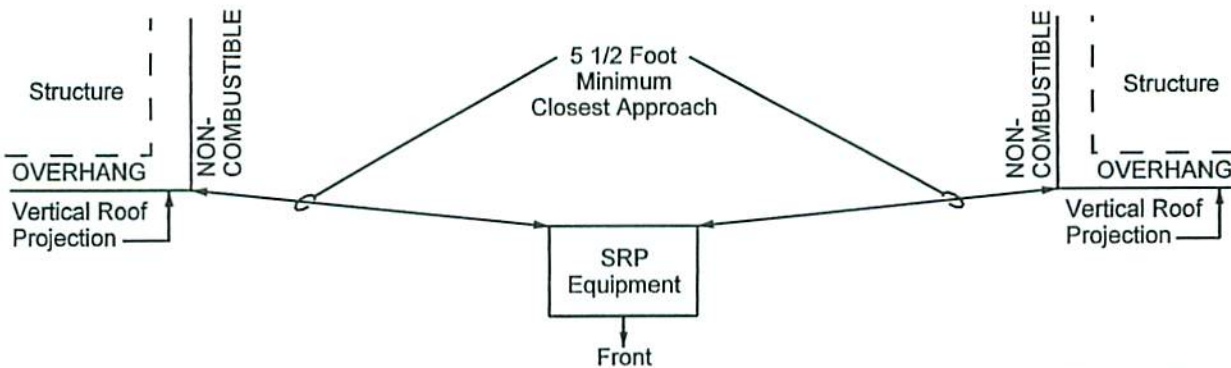
A block masonry wall placed around the back and sides of SRP pad mounted equipment as shown above. Wall height required:

- 1) Single phase pad mount equipment - one foot over device height, generally 45 inches above grade (see Underground Distribution Line Construction Standards for device height)
- 2) Three phase pad mounted equipment - one foot over device height (see Underground Distribution Line Construction Standards for device height)

Exterior walls of Type V construction, per IBC Chapter 6, are considered combustible.



A minimum 10 foot to closest approach between the pad and structure's vertical roof projection is required for single and three phase pad mounted equipment. Exception: 3 foot for a transformer filled with a less flammable fluid. Exterior walls of Type V construction, per IBC Chapter 6, are considered combustible.



The structure's wall and overhang is block, concrete or approved non-combustible material (Contact Policies, Procedures & Standards) and the structure's wall has no windows, vents, stairs, doors or other wall openings or a combustible overhang within a ten foot minimum closest approach to the pad.

Exterior walls of Type I, II, III and IV construction, per IBC Chapter 6, are considered non-combustible.

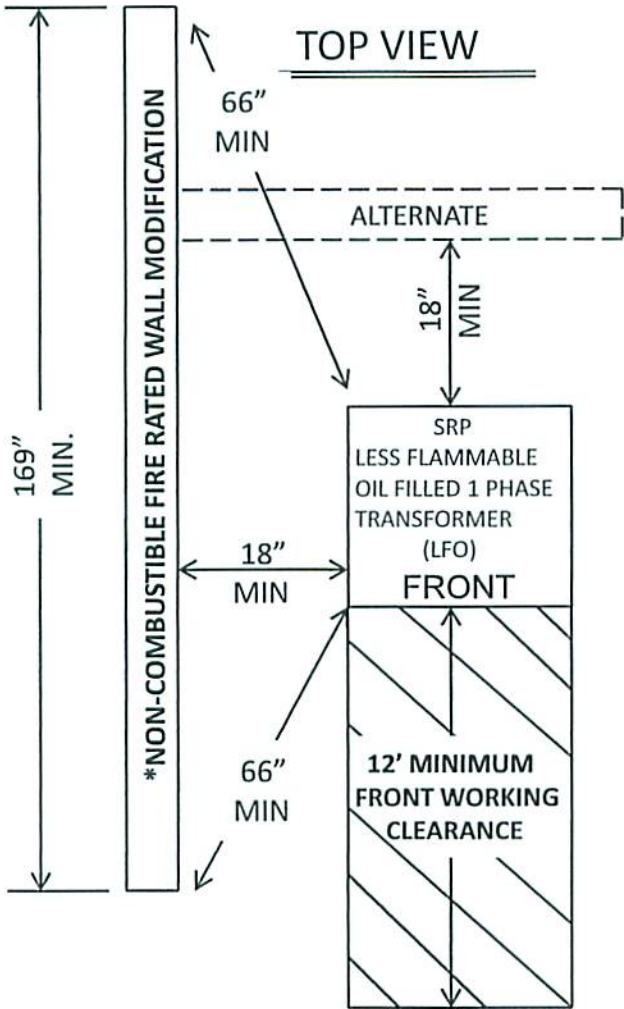
	<b>VENTURE OUT EXHIBIT 3</b>	ISSUE DATE: 05/05/10 REV. DATE: APPROVAL: M. MILLIES
		8509E315.DGN

Exhibit 4 to Agreement Verifying Location and Terms of Utility Easements

**Venture Out Non-Combustible Structure With (LFO) Transformer illustration  
dated 04-20-09**

See attached

**VENTURE OUT  
NON-COMBUSTIBLE STRUCTURE  
WITH (LFO) TRANSFORMER  
FIGURE C**



**NO WINDOWS, DOORS OR OPENINGS WITHIN 10 FT. OF TRANSFORMER.**

**AREA SURROUNDING TRANSFORMER SHALL SLOPE AWAY FROM BUILDING/STRUCTURE.**

**\*MODIFICATIONS TO STRUCTURE COMPLYING WITH THE CITY OF MESA FIRE MARSHALL'S REQUIRED FIRE RATING.**

**-THE ALTERNATE REPLACES THE PARALLEL MODIFICATION PORTION BEHIND THE TRANSFORMER.  
-18" SEPARATION FROM TRANSFORMER OIL TANK.**

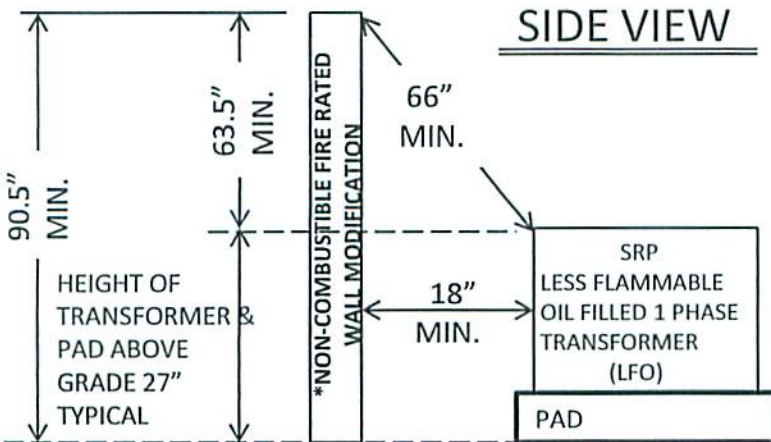




Exhibit 5 to Agreement Verifying Location and Terms of Utility Easements

**TERMS OF USE**

Terms of Use of the Easement Areas by Lot Owners and Association

Livable Structure Definition: For the purpose of this Exhibit, a “Livable Structure” is defined as an air conditioned/heated Park Model, Modular Home or Travel Trailer with a kitchen, bathroom and bedroom. An air conditioned/heated “Arizona Room”/Room Addition attached with a common wall to the Park Model, Modular Home or Travel Trailer will also be considered as part of the Livable Structure. A Livable Structure shall not include covered patios, roof overhangs, or stand alone storage sheds.

Schedule for Compliance. SRP and Association have set a schedule for Lot Owners’ removal of existing items located within the General Lot Easements and Association Lot Easements as described in a document identified as “Clearing of Obstacles From Easements in Venture Out” attached as Exhibit 5(A) hereto. The requirements below shall be subject to that agreed-to schedule. On July 1 of each calendar year through July, 2040 (or such earlier year as all Livable Structures are in compliance), Association will provide a list to SRP of Lots that have come into compliance pursuant to that agreed-to schedule.

Transformers: For any transformers located in Easement Areas, Lot Owners (as to their respective Lot) and Association (as to all other Easement Areas) shall maintain a clear area of the width” identified in Exhibit 3 to the Agreement, except for transformers that otherwise satisfy the set-back requirements of Exhibit 4 to the Agreement from and around all edges of all transformers, and a clear operational area that extends 12.00 feet immediately in front of all transformer and other equipment openings. No obstruction, trees, shrubs, fixtures or structures shall be placed within said areas. No new permits will be issued by Association for any new Livable Structures unless the location of such Livable Structures complies with the standard transformer clear area requirements.

Maintaining Clearance of General Lot Easements and Association Lot Easements. Except as described below, for General Lot Easements and Association Lot Easements, Lot Owners and Association shall not construct, install or place, or permit to be constructed, installed or placed any building or other structure, plant any trees, drill any well, store materials of any kind, or alter ground level by cut or fill, within the Easement Areas. Notwithstanding the foregoing:

- (1) Lot Owners may maintain a Livable Structure (as defined below) existing as of the date of the Agreement within a General Lot Easement until the earlier of (a) the date such Livable Structure is moved in connection with the repair of a fault in the existing underground electric lines (pursuant to the Agreement or as otherwise agreed by a Lot Owner), (b) the date any Livable Structure is removed or upgraded so that an Association and City of Mesa Building Permit is required, or (c) April 30, 2040.

- (2) Lot Owners may maintain an air conditioner/evaporative cooler/heat pump. If any air conditioner/evaporative cooler/heat pump impedes SRP's access to Electrical Facilities to make a necessary SRP repair, the Lot Owner shall be required to pay all costs for removing and replacing such air conditioner/evaporative cooler/heat pump back in the General Lot Easement. Due to the costs imposed on Lot Owners, Lot Owners will be encouraged to remove any air conditioner/evaporative cooler/heat pump from the General Lot Easement if feasible to do so.
- (3) Association may maintain other utilities in the Association Lot Easements so long as such utilities do not interfere with the operation of SRP's Electrical Facilities.

Lot Owners (as to their respective Lot) and Association (as to all other applicable Easement Areas) shall remove any fence (excluding the perimeter wall around the Declaration Property) that blocks reasonable access to any of the General Lot Easements or Association Lot Easements, and Lot Owners and Association shall not construct or install any fence that blocks reasonable access to any of the Easement Areas.

Roadway Easements. Association will continue to use roadways for roadways, and Association may maintain other utilities in the Roadway Easements so long as such utilities do not interfere with the operation of SRP's Electrical Facilities.

Other Association Property Easements. Association may maintain other utilities in the Other Association Property Easements so long as such utilities do not interfere with the operation of SRP's Electrical Facilities.

Terms of Use of the Easement Areas by SRP

SRP shall have the right (but not the obligation) to trim, cut and clear away trees, brush or other vegetation on, the Easement Areas whenever in its judgment the same shall be necessary for the convenient and safe exercise of SRP's easement rights.

Due to prior encroachments onto General Lot Easements, SRP has no obligation to restore any property or improvements of any Lot Owner within General Lot Easements, and SRP shall have the right (but not the obligation) to remove any property or improvements as required to perform excavation activities within the General Lot Easements. SRP is obligated to restore any excavated areas to ground level within a reasonable time.

If any air conditioner/evaporative cooler/heat pump impedes SRP's access to Electrical Facilities to make a necessary SRP repair, the Lot Owner shall be required to pay all costs for removing and replacing such air conditioner/evaporative cooler/heat pump in the General Lot Easement. SRP will be provided clear and reasonable access to Easement Areas across Declaration Property, including Lots. SRP has no obligation to restore any property or improvements of any Lot Owner not providing reasonable

access. For the purpose of maintaining and repairing existing SRP Electrical Facilities within the Limited Lot Easements, SRP reserves the right to access and/or require Lot Owners to provide access.

If SRP finds it necessary to perform excavation activities in any Roadway Easements, SRP shall repair any damage to the roadways in accordance with SRP's standard practice.

## CLEARING OF OBSTACLES FROM EASEMENTS IN VENTURE OUT

The following guidelines are for the clearing of obstacles from the easement areas within the park.

Venture Out will assume immediate (following acceptance of the "Plan of Operations) responsibility to (this section satisfies Item 3 under Immediate Action Plan of SRP letter to VO dated September 24, 2009):

- i) Inform all owners through personal contact, verified in writing, of their responsibility with respect to the clearing of the easement adjoining their property in accordance with the guidelines outlined below, and
- ii) Maintain personal contact with impacted residents to ensure that the guidelines are met in a timely manner, and
- iii) Inform owners that any future transfer of their property ownership will trigger all easement clearance requirements pertaining to non-livable structures.
  - a. A Livable Structure is defined as an air conditioned/heated Park Model, Modular Home or Travel Trailer with a kitchen, bathroom and bedroom. An air conditioned/heated "Arizona Room"/Room Addition attached with a common wall to the Park Model, Modular Home or Travel Trailer will also be considered as part of the Livable Structure. Covered Patios, Roof Overhangs, stand alone Storage Sheds etc. will be considered as Non-Livable Structures.

## GUIDELINES

### Structures

- i) Main Unit (Livable Structure) – owners will be informed in writing by Venture Out whether their main building unit meets all easement requirements. If the main building does not meet all requirements, the owner will be informed that compliance must be achieved prior to the initiation of any construction which requires a City of Mesa Building Permit .
- ii) Stand Alone Storage/non attached Sheds and Temporary Storage Sheds – owners will be notified that any shed, located on their property must be fully removed/relocated from the easement area. They will be encouraged to remove/relocate sheds not in compliance with the easements as soon as possible in that the shed will be removed at the owner's expense if it in anyway impedes work within the easement area. Encroaching stand alone sheds on lots adjoining transformers must be removed/relocated from the easement area prior to the scheduled start of the prioritize SRP transformer relocations (see schedule). All other encroaching stand alone sheds must be fully removed/relocated from the easement area by no later than December 31, 2011.
- iii) Fences and/or similar obstructions – owners will be notified that any fence, vegetation, or similar easement obstruction must be completely removed at owner's expense. by December 31, 2010.
- iv) Air Conditioner/Evaporative Coolers/Heat Pumps – owners will be informed that any cooling/heating unit infringing the easement will be temporarily removed and replaced at owner's expense in the event of a necessary SRP repair. They will be encouraged to remove/relocate cooling/heating units not in compliance with the easements as soon as possible in that the unit will

be removed and replaced at the owner's expense if it in anyway impedes work within the easement area.

#### Vegetation

- i) While vegetation within the easement area may have to be immediately removed if the vegetation impedes access to necessary service repairs, the gradual removal of vegetation from within the easement area will occur as follows:
  - Vegetation of less than twelve (12) inches in height is acceptable. SRP will not be responsible for restoring any landscape removed or damaged during the maintenance and/or emergency restoration of SRP facilities. [SRP reserves the right to require the permanent removal of vegetation within the easement that impedes the installation and/or relocation of SRP above ground facilities (i.e. Transformers, Junction Boxes, etc)].
  - Existing "Venture Out Icon" Palm trees, in excess of 25' tall, are acceptable. [SRP reserves the right to require the removal of existing Palm Trees within the easement that impede the maintenance or restoration of SRP Facilities. Palm tree removal will be at Venture Out expense. Once removed, the Palm Tree cannot be replaced.]
  - All citrus trees on lots adjoining transformers must be removed from the easement area prior to the scheduled start of the prioritize SRP transformer relocations (see schedule). All other encroaching citrus trees must be fully removed from the easement area by no later than December 31, 2010 or earlier if necessary to make accommodations with utilities.
  - All other vegetation taller than 12 inches must be removed prior to December 31, 2010

NOTE: Owners are encouraged to contact "Blue Stake" prior to the removal of vegetation so that damage to existing utilities will be avoided. This service ("Blue Stake") does not cost the lot owner.

#### Ground Covering

- i) Removable Paving Materials – owners will be informed that paving stones, paving blocks, paving bricks, crushed gravel etc. may be removed at owner's expense if they impede utility work within the easement area. Owners may replace stones, bricks or gravel when the work has been completed. [SRP reserves the right to require the permanent removal of existing paving materials within the easement that impede the installation and/or relocation of SRP above ground facilities (i.e. Transformers, Junction Boxes, etc)].
- ii) Solid Concrete/Grouted Material – owners will be informed that solid concrete and concrete grouted material within the easement area will be permanently removed at owner's expense. They will be encouraged to remove the Solid Concrete/Grouted Material from the easement area as soon as possible in that the material will be removed at the owner's expense if it in anyway impedes work within the easement area. Encroaching Solid Concrete/Grouted Material on lots adjoining transformers must be permanently removed from the easement area prior to the scheduled start of the prioritize SRP transformer relocations (see schedule).

### Three Foot Set-backs & Dedicated SRP Side Lot Easements

- i. Owners will be notified that by December 31 2010, the three foot set-back area between structures on adjacent lots must be free of all obstructions, including a minimum of four feet of clear access from both the street side and the rear side of the buildings. Owners may be asked to provide the temporary removal of other additional obstructions to help facilitate access by SRP personnel.
- ii. Owners will be notified that the full length and width (from front property line to rear property line) of a dedicated SRP Side Lot easement must be clear of all structures and obstructions as described in the above guidelines when utilities are located within the set-back area.

### SRP Action on Non-Compliance

If any Lot Owner has not complied with the clearing of obstacles from the easement areas as described above, then SRP, as it conducts its normal operations in the park, will continue to communicate and coordinate enforcement of easement compliance with the Lot Owner, including sending out a notice of non-compliance to any Lot Owner who has not complied.

Exhibit 6 to Agreement Verifying Location and Terms of Utility Easements

**Transformer Resolution Plan**

See attached







Exhibit 7 to Agreement Verifying Location and Terms of Utility Easements

After recordation please return to:

Sara J. Vance, Esq.  
DeCONCINI McDONALD  
YETWIN & LACY, P.C.  
6909 East Main Street  
Scottsdale, Arizona 85251

NOTICE OF AGREEMENT VERIFYING LOCATION  
AND TERMS OF UTILITY EASEMENTS

This Notice of Agreement Verifying Location and Terms of Utility Easements ("Agreement") is entered into as of May \_\_\_\_, 2010, is made by Salt River Project Agricultural Improvement and Power District ("SRP"), and Venture Out at Mesa, Inc., an Arizona nonprofit corporation ("Association").

SRP and Association hereby provide notice that they have entered into an Agreement Verifying Location and Terms of Utility Easements, verifying the location of utility easements in favor of SRP located on the real property described in the plat of record for VENTURE OUT AT MESA UNIT ONE recorded at Book 127, Page 21 ("UNIT ONE"), the plat of record for VENTURE OUT AT MESA UNIT TWO recorded at Book 186, Page 49 ("UNIT TWO"), the plat of record for VENTURE OUT AT MESA UNIT THREE recorded at Book 192, Page 35 ("UNIT THREE"), and the plat of record for VENTURE OUT AT MESA UNIT FOUR recorded at Book 204, Page 41 ("UNIT FOUR"), all as recorded in the records of Maricopa County, Arizona (collectively, "Plats").

Further information regarding the terms of the Agreement Verifying Location and Terms of Utility Easements may be obtained from:

Salt River Project Agricultural Improvement and Power District  
1521 N Project Drive  
Tempe, Arizona 85281  
Attn: Legal Services, Mail Stop PAB207

Or

General Manager  
Venture Out at Mesa, Inc.  
5001 East Main  
Mesa, Arizona 85205-8008

This Notice may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute but one and the same instrument.

This Notice is executed as of the date set forth above.

Salt River Project Agricultural Improvement and Power District

By \_\_\_\_\_  
Its \_\_\_\_\_

Venture Out at Mesa, Inc.,  
an Arizona nonprofit corporation

By \_\_\_\_\_  
Its \_\_\_\_\_

STATE OF ARIZONA        )  
  ) ss.  
County of Maricopa        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_May, 2010, by \_\_\_\_\_, the \_\_\_\_\_ of Salt River Project Agricultural Improvement and Power District, for and on behalf of such District.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My commission expires:  
  
\_\_\_\_\_