

When recorded mail to:
City of Goodyear
City Clerk/lrb
190 N. Litchfield Road
P.O. Box 5100
Goodyear, Arizona 85338

EXEMPT UNDER A.R.S. § 11-1134(A) (2)

**PERMANENT DRAINAGE EASEMENT AND RESTRICTIVE COVENANT
AGREEMENT
(LAKIN PARK - PHASE 1)**

This Permanent Drainage Easement and Restrictive Covenant Agreement (Lakin Park – Phase 1) is entered into as of _____, 2021, by and between W/C LAKIN 1B VIII, LLC, a Delaware limited liability company (“Lakin-1B” or “Grantor”) and the City of Goodyear, an Arizona municipal corporation (“City”).

RECITALS

A. W/C LAKIN 1B VIII, LLC, a Delaware limited liability company, is the owner of the real property described as Lot 1 of the Minor Land Division for Lakin Park – Phase 1 as recorded in Book 1588, Page 30 of the records of the Maricopa County Recorder (the “Property”).

B. Lakin-1B is in the process of developing the Property and constructing improvements for Lakin Park – Phase 1.

C. Pursuant to requirements in the City of Goodyear’s Engineering Standards and Design Policies and Goodyear City Code, property owners are required to construct and maintain drainage improvements needed to manage storm water on their properties generated on-site and off-site, including storm water flows from adjacent roadways.

D. Lakin-1B submitted or caused to be submitted plans titled Grading, Drainage, & Paving Plan for Lakin Industrial Park Parcel 1 (City HTE number 20-6276) identifying improvements to be constructed within the portion of the Lot 1 Property described in Exhibit “A,” a copy of which is attached hereto and incorporated herein by this reference (the “Easement Area”) to manage storm water flows generated within and on the Property and storm water flows generated outside the boundaries of the Property, including but not limited to storm water flows from Tracts A and B of the Minor Land Division for Lakin Park – Phase 1 as recorded in Book 1588, Page 30 of the records of Maricopa County Recorder and from roadways adjacent to the Property, including, but not limited to Cotton Lane.

E. The Grading, Drainage, & Paving Plan for Lakin Industrial Park Parcel 1 (City HTE number 20-6276) were approved by the City Engineer or his designee on 4/29/2021, a copy of which is on file with the City of Goodyear.

F. This Permanent Drainage Easement Agreement (Lakin Park – Phase 1) is being entered to provide for the use of the Easement Area for the receipt retention, conveyance and disposal of storm water flows as reflected in the Approved Plans, as defined below, and for the construction, maintenance, repair and replacement of drainage improvements that are to be constructed pursuant to the Approved Plans, as defined below.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lakin 1B and the City agree as follows:

1. DEFINITIONS. Terms not defined elsewhere in this Permanent Drainage Easement Agreement (Lakin Park – Phase 1) shall have the following meanings:

a. Agreement means this Permanent Drainage Easement and Restrictive Covenant Agreement (Lakin Park – Phase 1) by and between W/C LAKIN 1B VIII, LLC, a Delaware limited liability company and the City of Goodyear, an Arizona municipal corporation as may be amended in a writing executed by the Parties.

b. Approved Plans means the Grading, Drainage, & Paving Plan for Lakin Industrial Park Parcel 1 (City HTE number 20-6276), which were approved by the City Engineer or his designee on 4/29/2021 as may be amended and approved by the City Engineer or his designee, a copy of which is on file with the City of Goodyear.

c. Lakin Park – Phase 1 Drainage Improvements means the improvements identified in the Approved Plans that are to be constructed within the Easement Area, including but not limited to, retention/detention areas, catch basins, scuppers, drainage pipes, headwalls and all other drainage facilities identified in the Approved Plans that, upon construction, will accept, convey and dispose of storm water flows identified in the Approved Plans.

d. Grantor means W/C LAKIN 1B VIII, LLC, a Delaware limited liability company.

e. Grantor's Maintenance Obligations means all of the obligations set forth in section 5.

f. Grantor's Successors and Assigns means all future owners of all or a part of the Property and Easement Area, except as provided herein. The owners of any lot within the Property that has been fully subdivided pursuant to a recorded final plat and for which a Certificate of Occupancy or Certificate of Completion for a single-family residence has been and the City of Goodyear shall not be considered a successor and/or assign of the Property for purposes of this Agreement.

g. Parties means the City of Goodyear, an Arizona municipal corporation and W/C LAKIN 1B VIII, LLC, a Delaware limited liability company.

2. GRANT OF EASEMENT. W/C LAKIN 1B VIII, LLC, a Delaware limited liability company, as the fee owner of the Lot 1 Property and Easement Area grants and conveys

to the City of Goodyear, an Arizona municipal corporation a permanent non-exclusive easement on, over, across and under the Easement Area for the uses described in this Agreement and subject to the terms of this Agreement.

3. EASEMENT USES. The easement granted herein is granted for the following uses: (i) the receipt, acceptance, retention, diversion, conveyance and disposal of storm water flows generated on and within the Property, and storm water flows generated outside the boundaries of the Property, including but not limited to storm water flows from Tracts A and B of the Minor Land Division for Lakin Park – Phase 1 as recorded in Book 1588, Page 30 of the records of Maricopa County Recorder and from roadways adjacent to the Property, including, but not limited to Cotton Lane as reflected in the Approved Plans; and (ii) for the entry upon, construction, installation, maintenance, repair, replacement and operation of the Lakin Park – Phase 1 Drainage Improvements by the City and its Permittees. The City shall have all rights and privileges necessary or convenient for the full use and enjoyment of the easement, servitude and privileges for the purposes herein described.

4. RESERVATION AND LIMITATIONS ON GRANTOR'S USE. Grantor hereby agrees that the Easement Area shall be reserved for the receipt, acceptance, retention, diversion, conveyance and disposal of storm water flows as described in Section 3 above and for the construction, installation, maintenance, repair, replacement and operation of the Lakin Park – Phase 1 Drainage Improvements. Unless approved by the City Engineer or his/her designee in writing, no building, structure or other above ground improvements other than the Lakin Park – Phase 1 Drainage Improvements shall be constructed within the Easement Area, and no other improvements, including landscaping, shall be constructed within the Easement Area if such improvements would impede the flow of water over, under, or through the Easement Area or materially reduce the retention capacity of the Easement Area. Following the completion of the Lakin Park – Phase 1 Drainage Improvements, Grantor shall not obstruct or alter any of the Lakin Park – Phase 1 Drainage Improvements without the City's prior written consent. Grantor further agrees to the comply with Grantor's Maintenance Obligations set forth in section 5 below.

5. GRANTOR'S MAINTENANCE OBLIGATIONS. Grantor shall be responsible for the installation, maintenance, repair and replacement of all Lakin Park – Phase 1 Drainage Improvements, including keeping underground pipes free of all obstruction and debris. Grantor shall maintain the Lakin Park – Phase 1 Drainage Improvements in good condition and in accordance with the Approved Plans. Grantor shall maintain, inspect, repair and replace the Lakin Park – Phase 1 Drainage Improvements as necessary to: maintain their storm-water carrying and storage capacity; prevent erosion; and prevent any refuse, debris, sediment, vegetation, or other obstruction from accumulating in the Lakin Park – Phase 1 Drainage Improvements, including underground pipes.

6. CITY'S MAINTENANCE RIGHTS. The City is not obligated to perform any of Grantor's Maintenance Obligations, but, if in the opinion of the City Engineer, the City's Director of Public Works, and/or their respective designees, Grantor has failed to adequately perform any or all of Grantor's Maintenance Obligations, the City may undertake all or part of Grantor's Maintenance Obligations at Grantor's expense. If the City undertakes all or part of Grantor's Maintenance Obligations, Grantor shall reimburse the City for the costs the City

incurred in doing so within thirty days of Grantor's receipt of an invoice from the City. Grantor shall indemnify, defend and hold the City harmless against Grantor's failure to perform Grantor's Maintenance Obligations under this Agreement.

7. INDEMNIFICATION. Grantor shall, to the fullest extent permitted by law, indemnify, defend, save, and hold harmless the City of Goodyear and its elected officials, directors, officers, employees, agents and representatives (hereinafter referred to as "Indemnitees") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation, and litigation hereinafter referred to as "Claims") for bodily injury, personal injury (including death), and loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by Grantor's failure to perform Grantor's Maintenance Obligations and by the negligent or willful acts or omissions of Grantor and its owners, officers, directors, agents, employees, agents, representatives, contractors or subcontractors in the construction of the Lakin Park – Phase 1 Drainage Improvements and the performance of Grantor's Maintenance Obligations. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of Grantor to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnites, be indemnified by Grantor from and against any and all claims. It is agreed that Grantor will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. Grantor agrees, to the fullest extent permitted by law, to waive all rights of subrogation against the Indemnites for Claims subject to indemnification hereunder

8. EASEMENT EFFECTIVE DATE. The easement granted herein shall commence on the date this Agreement is recorded in the official records of Maricopa County, Arizona and shall continue in effect until it is terminated as provided in Section 9 of this Agreement.

9. TERMINATION. This Agreement and the easement granted herein shall remain in effect unless terminated by a separate instrument approved by the City Attorney or his designee, executed by the City Manager of the City of Goodyear and recorded in the official records of the Maricopa County Recorder. The termination of this Agreement shall not take effect until the separate instrument described herein has been recorded in the official records of the Maricopa County Recorder.

10. COVENANT RUNS WITH THE LAND. This Agreement constitutes a covenant that runs with land for the benefit of the City and its successors and assigns and is binding upon Grantor and Grantor's Successors and Assigns.

Signatures, Acknowledgements and Exhibits on Following Pages

IN WITNESS WHEREOF, each of the Parties has caused this instrument to be executed in the manner appropriate for each.

GRANTOR:

**W/C LAKIN 1B VIII, LLC,
a Delaware limited liability company**

By: W/C Lakin JV VIII, L.L.C.,
a Delaware limited liability company,
Its sole member

By: W Lakin Investors VIII, L.L.C.,
a Delaware limited liability company,
Its Authorized Member

By: Walton Acquisition Holdings VIII, L.L.C.,
a Delaware limited liability company,
Its sole Member

By: Walton Street Real Estate Fund VIII, L.P.,
a Delaware limited partnership,
Its Managing Member

By: Walton Street Managers, VIII, L.P.,
a Delaware limited partnership,
Its General Partner

By: WSC Managers VIII, Inc.,
a Delaware corporation,
Its General Partner

By: 

Name: JAMES HOLMES

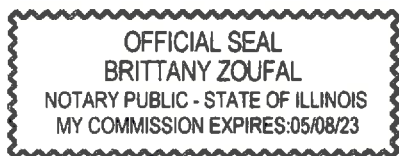
Title: VICE PRESIDENT

State of Illinois)
) ss.
County of Cook)

I, Brittany Zoufal, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY THAT Andrew J. Fleck, the Vice President of WSC MANAGERS, VIII, INC., a Delaware corporation, which is the General Partner of WALTON STREET MANAGERS, VIII, LP., a Delaware limited partnership, which is the General Partner of WALTON STREET REAL ESTATE FUND VIII, L.P., a Delaware limited partnership, which is the Managing Member of WALTON ACQUISITION HOLDINGS VIII, L.L.C., a

Delaware limited liability company, which is the Sole Member OF W LAKIN INVESTORS VIII, L.L.C., a Delaware limited liability company, which is an Authorized Member of W/C LAKIN JV VIII, L.L.C., a Delaware limited liability company, which is the Sole Member of W/C LAKIN 1B VIII, LLC,, a Delaware limited liability company, personally known to me, or proved to me on the basis of satisfactory evidence, to be the same person whose name is subscribed to the foregoing instrument (Permanent Drainage Easement and Restrictive Covenant Agreement (Lakin Park – Phase 1) appeared before me this day in person and acknowledged to me that he signed and delivered said instrument as his free voluntary act and deed and as the free and voluntary act and deed of said entities for the uses and purposes therein set forth.

Given my hand and notarial seal this 11 day of August, 2021.



Brittany Zoufal
Notary Public
Printed Name: Brittany Zoufal
My Commission Expires: 05/08/23

Signatures, Acknowledgements and Exhibits Continued on Following Pages

CITY OF GOODYEAR,
an Arizona municipal corporation

By: _____

Its: _____

State of Arizona)
) ss.
County of Maricopa)

The foregoing Permanent Drainage Easement and Restrictive Covenant Agreement (LAKIN PARK - PHASE 1) was acknowledged before me this ____ day of _____, 20__ by _____, as _____ of the CITY OF GOODYEAR, ARIZONA, an Arizona municipal corporation, on behalf of said City of Goodyear.

Notary Seal:

Notary Public

Exhibits on Following Pages

**LAKIN PARK
DRAINAGE EASEMENT
LEGAL DESCRIPTION**

A portion of land being situated within the Northeast Quarter and South Half of Section 26, Township 1 North, Range 2 West of the Gila and Salt River Meridian, Maricopa County, Arizona, being more particularly described as follows:

COMMENCING at a found 3 inch Maricopa County Department of Transportation brass cap in hand hole accepted as the East Quarter corner of said Section 26 from which a found 3 inch Maricopa County Department of Transportation brass cap in hand hole accepted as the Northeast corner thereof bears North 00°24'12" East, 2642.23 feet;

Thence North 00°24'12" East, 633.69 feet along the east line of the Northeast Quarter of said Section 26;

Thence leaving said east line, North 89°35'48" West, 323.82 feet to the **POINT OF BEGINNING**;

Thence South 68°31'41" West, 9.59 feet;

Thence South 61°51'29" West, 45.13 feet;

Thence South 46°59'46" East, 4.49 feet;

Thence South 09°52'06" West, 18.67 feet;

Thence South 66°53'43" West, 1311.62 feet;

Thence South 75°30'23" West, 844.52 feet;

Thence South 66°34'42" West, 430.92 feet;

Thence North 87°50'34" West, 19.80 feet;

Thence North 22°06'11" West, 60.40 feet;

Thence North 57°39'11" East, 23.10 feet to a non-tangent curve, concave northeasterly, having a radius of 107.97 feet, the center of which bears North 26°30'38" East;

Thence southeasterly along said curve, through a central angle of 45°52'37", an arc length of 86.45 feet to a non-tangent line;

Thence North 69°32'54" East, 325.32 feet;

Thence North 69°53'50" East, 419.34 feet;

Thence North 69°53'47" East, 1236.74 feet;

Thence North 70°11'52" East, 426.92 feet;

Thence North 58°37'19" East, 78.72 feet;

Thence South 82°07'56" East, 17.80 feet;

Thence South 46°59'46" East, 3.59 feet;

Thence North 61°53'34" East, 50.25 feet;

Thence North 68°33'08" East, 10.08 feet;

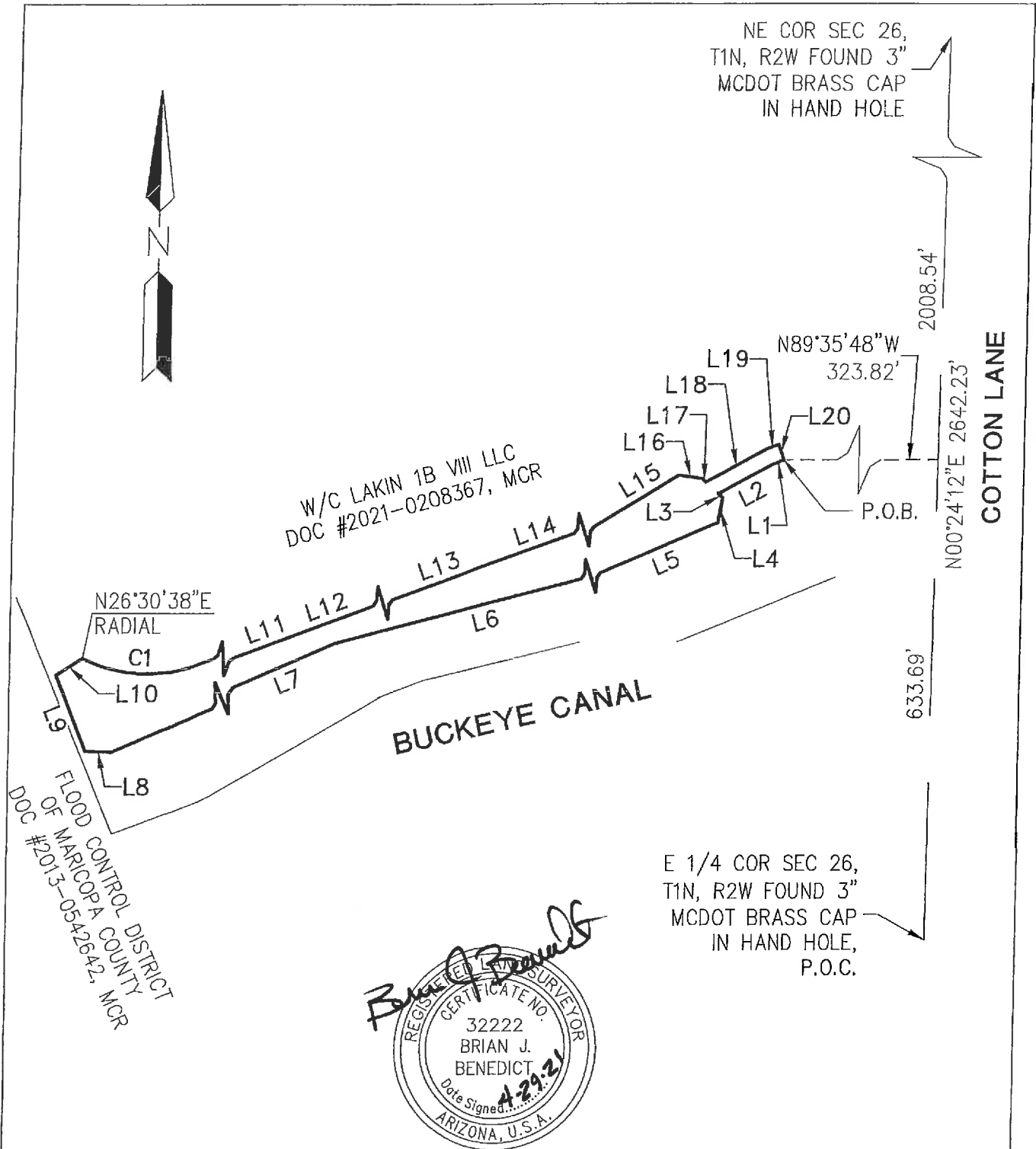
Thence South 20°56'28" East, 12.00 feet to the **POINT OF BEGINNING**.

The above described parcel contains a computed area of 147,140 sq. ft. (3.3779 acres) more or less and being subject to any easements, restrictions, rights-of-way of record or otherwise.

The description shown hereon is not to be used to violate any subdivision regulation of the state, county and/or municipality or any land division restrictions.

Prepared by: HILGARTWILSON, LLC
2141 E. Highland Avenue, Suite 250
Phoenix, AZ 85016
Project No.: 1981
Date: April 2021





P.O.B. - POINT OF BEGINNING
P.O.C. - POINT OF COMMENCEMENT

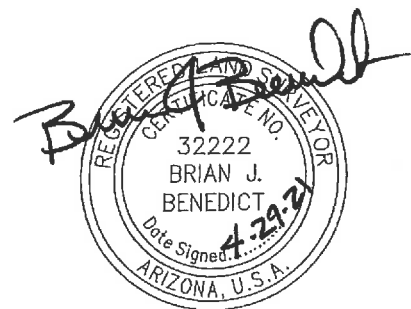
PAGE 1 OF 2

PROJ.NO.: 1981	LAKIN PARK DRAINAGE EASEMENT GOODYEAR, ARIZONA	 HILGARTWILSON 2141 E. HIGHLAND AVE., STE. 250 PHOENIX, AZ 85016 P: 602.490.0535 / F: 602.368.2436
DATE: APR 2021		
SCALE: N.T.S.		
DRAWN BY: GS		
CHECKED BY: BJB	EXHIBIT	

LINE TABLE		
LINE NO.	DIRECTION	LENGTH
L1	S68°31'41"W	9.59'
L2	S61°51'29"W	45.13'
L3	S46°59'46"E	4.49'
L4	S09°52'06"W	18.67'
L5	S66°53'43"W	1311.62'
L6	S75°30'23"W	844.52'
L7	S66°34'42"W	430.92'
L8	N87°50'34"W	19.80'
L9	N22°06'11"W	60.40'
L10	N57°39'11"E	23.10'

LINE TABLE		
LINE NO.	DIRECTION	LENGTH
L11	N69°32'54"E	325.32'
L12	N69°53'50"E	419.34'
L13	N69°53'47"E	1236.74'
L14	N70°11'52"E	426.92'
L15	N58°37'19"E	78.72'
L16	S82°07'56"E	17.80'
L17	S46°59'46"E	3.59'
L18	N61°53'34"E	50.25'
L19	N68°33'08"E	10.08'
L20	S20°56'28"E	12.00'

CURVE TABLE			
CURVE NO.	RADIUS	DELTA	LENGTH
C1	107.97'	45°52'37"	86.45'



PAGE 2 OF 2

PROJ.NO.: 1981	LAKIN PARK DRAINAGE EASEMENT GOODYEAR, ARIZONA	 HILGARTWILSON 2141 E. HIGHLAND AVE., STE. 250 PHOENIX, AZ 85016 P: 602.490.0535 / F: 602.368.2436
DATE: APR 2021		
SCALE: NONE		
DRAWN BY: GS	EXHIBIT	
CHECKED BY: BJB		