

When recorded return to:

City of Goodyear
City Clerk / KR
1900 N. Civic Square
Goodyear, Arizona 85395
QS-026C

EXEMPT UNDER A.R.S. § 11-1134(A)(2)

ACCESS EASEMENT

This Access Easement (the "Agreement") is made and entered into this ____ day of _____, 2024 by and between **City of Goodyear, an Arizona municipal corporation** (the "City") **RP PV III LLC, a Delaware limited liability company** ("RP PV III"). (Collectively the City and RP PV III are referred to as the "Parties")

RECITALS

WHEREAS, the City owns certain real property legally described as Tract C of the Final Plat for Palm Valley Phase V Parcels 18-22 recorded in the official records of the Maricopa County Recorder at Book 727 Page 23 (Instrument No. 2005-154340) (the "City Property"); and

WHEREAS, the City Property is intended for use as a drainage channel for the conveyance of water flows; and

WHEREAS, RP PV III owns certain real property located in the City of Goodyear described as Lots 2 and 3 in the Minor Land Division Map of PV10 recorded in the official records of the Maricopa County Recorder in Book 1706, Page 50 (Instrument 2022-0852677) ("Lots 2 and 3"); and

WHEREAS, to provide two required points of access into and out of Lots 2 and 3, RP PV III requires access to and from West Indian School Road through a portion of the City Property for vehicular access by owners of the Lots 2 and 3 in the Minor Land Division Map of PV10, their tenants, employees, contractors, agents, representatives, customers, and invitees and by emergency service providers; and

WHEREAS, subject to the terms and conditions set forth herein, including the requirement that the easement granted herein is subordinate to the City's use of the City Property as a drainage channel, the City has agreed to provide an Access Easement over a portion of the City Property.

NOW, THEREFORE, in consideration of the mutual covenants, promises, terms and conditions set forth herein, together with other good and valuable consideration provided to the City, the adequacy and receipt of which are hereby acknowledged, the Parties agree as follows:

1. **INCORPORATION OF RECITALS.** The Parties hereby adopt and incorporate, as if fully set forth herein, the Recitals stated above

2. **DEFINITIONS:** Capitalized Terms not defined in the foregoing Recitals or elsewhere in this document are defined as follows.

2.1. Access Improvements means the improvements identified in the Improvement Plans for McDonald's Goodyear, Arizona approved by the City Engineer on January 8, 2024, a copy of which is on file with the City, to be constructed within the Easement Area as such plans may be amended or replaced and approved by the City Engineer, which improvements currently include, but not limited to paving, headwalls, storm drain pipes and river rock.

2.2. Benefitted Property means Lots 2 and 3 in the Minor Land Division Map of PV10 recorded in the official records of the Maricopa County Recorder in Book 1706, Page 50 (Instrument 2022-0852677);

2.3. Burdened Property means the Easement Area

2.4. City Engineer means the person designated by the City Manager of the City of Goodyear as the City Engineer for the City of Goodyear or his/her designee.

2.5. Easement Area means the property legally described in Exhibit "A" attached hereto and incorporated herein by this reference.

2.6. Grantee means RP PV III, LLC, a Delaware limited liability company and its Successors and Assigns.

2.7. Grantor means the City of Goodyear, an Arizona municipal corporation.

2.8. Maintenance Obligations means those obligations described in 6.1 below.

2.9. Successors and Assigns means any person or entity that succeeds to any interest in all or part of the Benefitted Property and/or the Easement Property.

3. **EASEMENT.** Subject to the terms and conditions set forth herein, City of Goodyear, an Arizona municipal corporation hereby grants and conveys to Grantee, in its capacity as the owner of the Benefitted Property a perpetual, non-exclusive Access Easement on, over, across, and under the Easement Area for the following purposes: (i) to enter construct, maintain, operate, inspect, repair, replace, and/or remove Access Improvements; and (ii) to provide vehicular ingress and egress over, across and through the Easement Area by the

owner(s) of the Benefitted Property, their tenants, employees, contractors, agents, representatives, customers, and invitees ("Public Access"). The Access Easement granted herein is appurtenant to the Benefitted Property for the benefit of the owner(s) of the Benefitted Property.

4. **EASEMENT LIMITATIONS.** The easement granted herein is subordinate to the City's use of the City Property, including the Easement Area, as a drainage channel for the conveyance of water flows. Grantee shall not impede the flow of water over, under, or through the Easement Area.

5. **EFFECTIVE DATE.** This Access Easement shall become effective on the date it is recorded in the Official Records of the Maricopa County Recorder.

6. **GRANTEE'S DUTIES AND OBLIGATIONS.** For as long as this Access Easement is in effect, Grantee shall comply with the following:

6.1. **Operations and Maintenance.** Grantee shall have the duty to operate and maintain the Access Improvements constructed within the Easement Area in good condition, repairing and/or replacing the Access Improvements as needed to provide for safe ingress and egress to the Benefitted Properties and so as not to impede the follow of water flows through the Easement Area.

6.2. **Insurance.** Grantee shall maintain the following liability insurance coverages:

6.2.1. Commercial General Liability insurance with a limit of not less than \$1,000,000, per occurrence for bodily injury and property damage, \$2,000,000 per occurrence for products and completed operations, and \$2,000,000 in the aggregate. The policy shall include coverage for premises-operations, products/completed operations, contractual covering, personal injury/bodily injury, property damage, but not limited to, the liability assumed under the indemnification provisions of this Access Easement, which coverage will be at least as broad as the most current version of the Insurance Services Office Commercial General Liability Coverage Form CG)) 01, which shall include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations, products and completed operations, and contractual liability. Such insurance shall be endorsed to include Grantor as an additional insured under such policy, and such insurance shall be primary insurance and not contributory with any insurance maintained by Grantor. Grantee shall provide Grantor a certificate of insurance for the Commercial General Liability insurance policy, which shall expressly cover the indemnification obligations of indemnification required by this Access Easement and that provides for Grantor to receive advance written notice from the insurer prior to any termination of the insurance policy. A general liability insurance policy may not be written on a 'claims made' basis.

6.2.2. Umbrella/Excess Liability. Grantee shall maintain Umbrella and Excess Liability insurance with a limit of not less than \$3,000,000 per occurrence combined limit Bodily Injury and Property Damage. that "follows form" and applies in excess of the

Commercial General Liability and Employer's Liability as required above. Grantee shall provide Grantor a certificate of insurance for the Umbrella and Excess Liability insurance policy, which shall that provides for Grantor to receive advance written notice from the insurer prior to any termination of the insurance policy. The Umbrella and Excess Liability insurance policy may not be written on a 'claims made' basis.

6.3. **Indemnification.** Grantee shall defend and hold harmless Grantor, its elected officials, officers, directors, employees, agents and representatives (the "Indemnified Party") for, from and against any losses, claims, damages, liability costs and expenses, including, but not limited to, reasonable attorneys' fees, court costs and the cost of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or action in respect thereof) relate to, arise out of, or are caused by, in whole or in part, or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, of Grantee in connection with its use of the Easement Area and/or its obligations under this Access Agreement.

7. **FAILURE TO PERFORM MAINTENANCE.** If Grantee fails to satisfy its Maintenance Obligations, Grantor shall have the right, but not the obligation to maintain, repair, and/or replace the Access Improvements. If Grantor exercises this right, Grantor shall be entitled to recover from Grantee the costs Grantor incurred in maintaining, repairing, and/or replacing the Access Improvements and for all expenses, including, without limitation, reasonable attorney fees, incurred by the Grantor in recovering such costs.

8. **GRANTOR'S RESERVATION.** The easement conveyed herein is non-exclusive, and Grantor reserves for itself, its successors and assigns, all such rights and privileges in the Easement Area that are not inconsistent with the rights conveyed herein and that do not, modify, interfere with or endanger the Access Improvements constructed within the Easement Area including the right to grant additional non-exclusive easements within the Easement Area.

9. **COUNTERPARTS.** This Access Easement may be executed in two or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one agreement binding on all signatories thereto.

10. **COVENANT RUNNING WITH THE LAND.** The Access Easement granted herein constitutes a covenant running with the land and is binding upon Grantee and all successors and assigns in interest or title to all or part of the Benefitted Property and is binding upon Grantor and successors and assigns in interest or title to all or part of the Easement Area.

Signatures, Acknowledgements and Exhibit(s) Continued on the Following Pages

IN WITNESS WHEREOF, this Access Easement is executed this ____ day of February 2024.

GRANTOR:

CITY OF GOODYEAR, an Arizona municipal corporation

By: _____
Wynette Reed

Its: City Manager

State of Arizona)
)ss.
County of Maricopa)

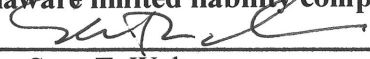
The foregoing (Access Easement) was acknowledged before me this ____ day of _____, 2024 by Wynette Reed, the City Manager of the CITY OF GOODYEAR, an Arizona municipal corporation, on behalf of said corporation.

Notary Public

Signatures, Acknowledgements and Exhibit(s) Continued on the Following Pages

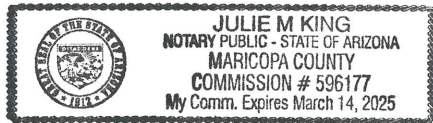
GRANTEE:

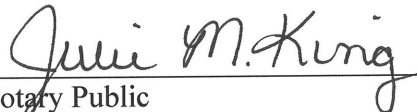
**RP PV III LLC,
a Delaware limited liability company**


By: Sean T. Walters
Its: Authorized Representative

State of Arizona)
)ss.
County of Maricopa)

The foregoing Access Easement was acknowledged before me this 15th day of February 2024 by Sean T. Walters, as Authorized Representative of RP PV III LLC, a Delaware limited liability company, on behalf of said entity.




Notary Public

Exhibit(s) on Following Page(s)

EXHIBIT “A”

ACCESS EASEMENT LEGAL DESCRIPTION ON FOLLOWING PAGES



January 24, 2024
3 Engineering Job No. 1953

**ACCESS EASEMENT
LEGAL DESCRIPTION**

A portion Tract C of the **FINAL PLAT FOR PALM VALLEY PHASE V, PARCELS 18-22**, recorded in Book 727 of Maps, Page 23, records of Maricopa County Recorder located in the Southwest quarter of Section 19, Township 2 North, Range 1 West of the Gila and Salt River base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

COMMENCING at the Southwest corner of said Section 19;
Thence South 89 Degrees 19 Minutes 08 Seconds East along the South line of said Southwest quarter, 72.19 feet;

Thence North 00 Degrees 40 Minutes 52 Seconds East, 107.00 feet to the South line of said Tract C;

Thence North 44 Degrees 32 Minutes 08 Seconds West, 29.81 feet to the West line of said Tract C;

Thence North 00 Degrees 14 Minutes 52 Seconds East along said West line, 49.00 feet to the Northwest Corner of said Tract C;

Thence South 89 degrees 19 Minutes 08 Seconds East along the North line of said Tract C, 397.74 feet to the **TRUE POINT OF BEGINNING**;

(The following 3 courses run along said North line)

Thence continuing South 89 Degrees 19 Minutes 08 Seconds East along said North line, 32.24 feet;

Thence South 00 Degrees 40 Minutes 52 Seconds West, 10.00 feet;

Thence South 89 Degrees 19 Minutes 08 Seconds East, 8.88 feet;

Thence South 00 Degrees 00 Minutes 00 Seconds West, 47.63 feet;

Thence South 50 Degrees 11 Minutes 40 Seconds East, 35.47 feet to the South line of said Tract C;

Thence North 89 Degrees 19 Minutes 08 Seconds West along said South line, 88.80 feet;

Thence North 50 Degrees 11 Minutes 40 Seconds East, 26.75 feet

Thence North 00 Degrees 00 Minutes 00 Seconds East, 62.64 feet to the **POINT OF BEGINNING**.

W. CHARLES BOULEVARD

APN 501-62-881A
LOT 1 OF MINOR
DIVISION MAP
OF PV10 RECORDED AS
BK.1706, PG. 50, M.C.R.

LINE TABLE			LINE TABLE		
NO.	BEARING	DISTANCE		BEARING	DISTANCE
L1	S89°19'08"E	32.24'	L7	N50°11'40"E	26.75'
L2	S00°40'52"W	10.00'	L8	N00°00'00"E	62.64'
L3	S89°19'08"E	8.88'			
L4	S00°00'00"W	47.63'			
L5	S50°11'40"E	35.47'			
L6	N89°19'08"W	88.80'			

N. SARIVAL AVENUE

52'
R/W

APN 501-62-881B
LOT 2 OF MINOR
DIVISION MAP
OF PV10 RECORDED AS
BK.1706, PG. 50, M.C.R.

APN 501-62-881C
LOT 3 OF MINOR
DIVISION MAP
OF PV10 RECORDED AS
BK.1706, PG. 50, M.C.R.

APN 501-62-860

APN 501-62-859

APN 501-62-858

APN 501-62-857

APN 501-62-856

APN 501-62-855

PALM VALLEY
PHASE V PAR 18-22
BK 727 PG 23

NW COR
TRACT C

T.P.O.B.

N00°14'52"E 49.00'
S89°19'08"E 397.74'
N44°32'08"W 29.81'
APN 501-62-868
TRACT C
BK.727, PG. 23

L1
L2
L3
L4
L5
L6
L7
L8

N. LINE
TRACT C

S. LINE TRACT C
65'
R/W

W. INDIAN SCHOOL ROAD

72.19'

P.O.C.
SWC SEC. 19
T2N, R1W

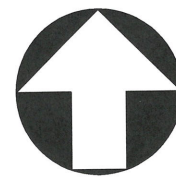
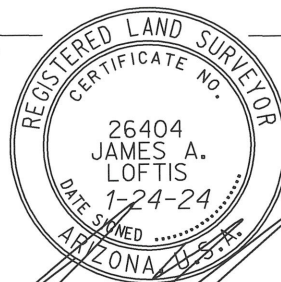
S89°19'08"E 2,567.88'

S1/4 COR.
SEC. 19
T2N, R1W

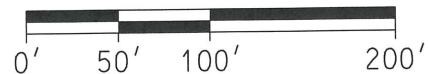
LEGEND

T.P.O.B. INDICATES TRUE POINT
OF BEGINNING

P.O.C. INDICATES POINT
OF COMMENCEMENT



SCALE: 1"=100'



McDONALD'S
ACCESS EASEMENT

EXHIBIT "A"

3 engineering
planning civil engineering surveying

3 ENGINEERING, LLC
6370 E. THOMAS ROAD, SUITE # 200 - SCOTTSDALE, ARIZONA 85251
PHONE: (602) 334-4387 - FAX: (602) 490-3230
WWW.3ENGINEERING.COM

DATE:	PROJECT NO.
01/24/24	1953