

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)

## PUBLIC UTILITY AND ACCESS EASEMENT AND SUBORDINATION

This Public Utility and Access Easement and Subordination (“Easement”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 2014 by and between **MELCOR DEVELOPMENTS ARIZONA, INC., an Arizona corporation (“OWNER”); STEWART TITLE & TRUST OF PHOENIX, INC., a Delaware corporation (“TRUSTEE”); VAN LEEUWEEN FARMS, LLC, an Arizona limited liability company (“BENEFICIARY”); and the CITY OF GOODYEAR, ARIZONA, an Arizona municipal corporation (the “CITY”)**

### RECITALS

WHEREAS, OWNER is the owner of certain real property legally described in Exhibit A attached hereto (the “Property”).

WHEREAS, the Property is subject to a certain Deed of Trust and Assignment of Rents dated July 31, 2014 and recorded on July 31, 2014 as Instrument No. 2014 0500456 of the official records of the County Recorder of Maricopa County, State of Arizona (“Deed of Trust”), wherein the Property was conveyed to TRUSTEE in trust to secure repayment of certain indebtedness as more specifically set forth therein.

WHEREAS, Stewart Title & Trust of Phoenix, Inc., a Delaware corporation is the TRUSTEE and Van Leeuwen Farms, LLC, an Arizona limited liability company is the BENEFICIARY under the Deed of Trust.

WHEREAS, it is the desire and intent of OWNER and TRUSTEE to grant and convey to the **CITY OF GOODYEAR, ARIZONA, an Arizona Municipal Corporation**, its successors, assigns, and permittees, an easement in the location and for public purposes as more specifically set forth herein.

WHEREAS, it is the desire and intent of BENEFICIARY to consent to the grant and conveyance of such easement and to subordinate the Deed of Trust and the underlying lien to the Easement.

NOW, THEREFORE, in consideration of the recitals and the mutual benefits, covenants and terms contained herein, and for the consideration of One Dollar (\$1.00) and other good and valuation consideration, the receipt of which is hereby acknowledged, OWNER and TRUSTEE hereby grant, and convey to the **CITY OF GOODYEAR, ARIZONA, an Arizona Municipal Corporation**, its successors, assigns, and permittees (collectively "GRANTEE") a permanent, perpetual, and exclusive easement upon, over, under, across, above, and through the real property described and depicted in Exhibit "A," attached hereto and incorporated herein (the "Easement Area") for all purposes, including, but not limited to entering upon, locating, constructing, operating, maintaining, replacing, and/or repairing all utility facilities, including, but not limited to: water, sewer and gas lines; poles, wires, conduits, ducts, cables; telemetering and communications equipment; drainage facilities and appurtenances thereto, etc. upon, together with the right of access to the easement for these purposes.

GRANTEE shall have all rights and privileges necessary or convenient for the full use and enjoyment of the easement, servitude and privileges herein granted for the purposes herein described. This Public Utility and Access Easement constitutes a covenant running with the land for the benefit of the GRANTEE.

Neither OWNER nor TRUSTEE, their respective successors and assigns shall have no responsibility or liability for the construction, operation, maintenance, or repair of any facilities constructed pursuant to the rights granted by this Public Utility and Access Easement and Subordination unless installed by them. OWNER and TRUSTEE, their respective successors and assigns, hereby waives and releases GRANTEE from any and all liability for damage to the Property that results from the exercise of the rights granted under this easement PROVIDED GRANTEE shall, as soon as practicable restore the Property to a neat and presentable condition.

OWNER and TRUSTEE reserve for their selves, their respective successors and assigns all such rights and privileges in the real property described in Exhibit "A" as may be used without interfering with or abridging the rights and easements hereby acquired.

OWNER and TRUSTEE hereby warrants and covenants to GRANTEE that every lender, easement holder or other person having any interest in the Easement Area adverse to or inconsistent with the conveyances or other property interests created or transferred by this Public Utility and Access Easement and Subordination has consented to the conveyance of the easement granted herein as evidenced by an instrument recorded in the Maricopa County Recorder's Office.

CONSENTS

NOW THEREFORE, the BENEFICIARY hereby consents to the Easement and agree that any acquisition, transfer or sale of the Property made under the provisions of the Deed of Trust, whether by foreclosure, deed-in-lieu or other means shall be subject to the Public Road and Utility Easement.

GENERAL TERMS

The persons executing this document on behalf of a corporation, trust or other organization warrants is or her authority to do so and that all persons necessary to bind the parties to this Easement have joined in this document.

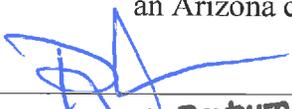
This Easement may be executed in two or more counterparts, each of which shall be deemed an original and all of which, taken together shall constitute one agreement binding on the Parties.

The date of the Easement set forth above shall be the date of execution by the last party to execute the Easement, and the City shall be entitled to fill in that date upon receipt of the fully executed Easement.

IN WITNESS WHEREOF, OWNER has caused this Easement to be signed by its duly authorized representative as of the date set forth below:

DATE: August 26, 2014

OWNER: MELCOR DEVELOPMENTS ARIZONA, INC.,  
an Arizona corporation

By: 

Name: Darin Rayburn  
Vice-President

Title: \_\_\_\_\_



AND

By: 

Name: Naomi Stefura, CA  
Vice-President, Finance

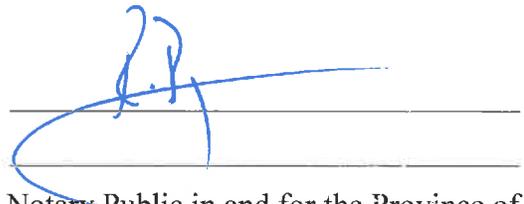
Title: \_\_\_\_\_

*Signatures and Acknowledgements Continued on Following Pages*

ACKNOWLEDGEMENT

I, ROBERT J. BLUGGEMAN, Barrister and Solicitor, with the law firm of BRYAN & COMPANY LLP, a Notary Public in and for the Province of Alberta by Royal Authority appointed, DO CERTIFY AND ATTEST that the foregoing instrument was acknowledged before me this 26 day of AUGUST, 2014 by DARIN RAYBURN and NAOMI STEFULA, as Darin Rayburn and Naomi Stefura, CA Vice-President and Vice-President, Finance, respectively, of MELCOR DEVELOPMENTS ARIZONA, INC., an Arizona corporation on behalf of the corporation.

IN TESTIMONY WHEREOF I have hereunto subscribed my name and affixed my seal of the office at the City of Edmonton, in province of Alberta, this 26 day of AUGUST, 2014.



Notary Public in and for the Province of  
Alberta, Canada

*Signatures and Acknowledgements Continued on Following Pages*

IN WITNESS WHEREOF, TRUSTEE has caused this Easement to be signed by its duly authorized representative as of the date set forth below:

DATE: 9/5/2014

TRUSTEE: STEWART TITLE & TRUST OF PHOENIX, INC.,  
A Delaware corporation, as Trustee, under the above  
described Deed of Trust, in its Trustee capacity only,  
not in its corporate capacity and not personally

By: [Signature]

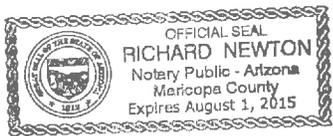
Name: JOHN LOTARDO

Its: SVP / General Counsel

State of Arizona        )  
  )ss  
County of Maricopa    )

The foregoing instrument was acknowledged before me this 5 day of September, 2014 by John Lotardo, as SVP / General Counsel of Stewart Title & Trust of Phoenix, Inc., a Delaware corporation and that he/she being authorized to do so, executed the foregoing instrument for the purposes therein contained on behalf of Stewart Title & Trust of Phoenix, Inc., a Delaware corporation, as Trustee, under the above described Deed of Trust, in its trustee capacity only, not in its corporate capacity and not personally.

[Signature]  
NOTARY PUBLIC



*Signatures and Acknowledgements Continued on Following Pages*

IN WITNESS WHEREOF, BENEFICIARY has caused this Easement to be signed by its duly authorized representative as of the date set forth below:

DATE: 9/2/14

BENEFICIARY: VAN LEEUWEEN FARMS, LLC,  
an Arizona limited liability company

By: [Signature]  
Name: Lawrence Hirsch  
Its: Manager

AND

By: [Signature]  
Name: Nicholas Lees III  
Its: ~~Manager~~

STATE OF ARIZONA        )  
  ) ss.  
County of Maricopa        )

The foregoing instrument was acknowledged before me this 2nd day of September 2014 by Lawrence Hirsch, a Manager of Van Leeuwen Farms, L.L.C., an Arizona limited liability company, and that he, being authorized to do so, executed the foregoing instrument for the purposes therein contained on behalf of Van Leeuwen Farms, L.L.C., an Arizona limited liability company.

[Signature]  
Notary Public



*Signatures and Acknowledgements Continued on Following Pages*



EXHIBIT  
LEGAL DESCRIPTION FOR  
**10' PUBLIC UTILITY EASEMENT**  
PORTION OF THE SOUTHWEST QUARTER OF SECTION 10, T1N, R2W  
MARICOPA COUTNY, ARIZONA

All that certain lot, tract, or parcel of land, situated in a portion of the Southwest Quarter of Section 10, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, and being more completely described as follows, to-wit:

COMMENCING at a found aluminum cap flush for the South Quarter corner of said Section 10, from which a found brass cap in handhole for the North Quarter corner of said Section 10 bears North 00 deg. 25 min. 37 sec. East (Basis of Bearings) - 5287.34 feet;

THENCE North 89 deg. 30 min. 48 sec. West along the South line of the Southwest Quarter of said Section 10, a distance of 63.08 feet;

THENCE North 00 deg. 29 min. 12 sec. East departing said South line, a distance of 75.00 feet to the TRUE POINT OF BEGINNING;

THENCE North 00 deg. 29 min. 12 sec. East, a distance of 14.15 feet;

THENCE North 45 deg. 27 min. 22 sec. East, a distance of 32.49 feet;

THENCE North 00 deg. 25 min. 37 sec. East being 40.00 feet West of and parallel to the mid-section line of said Section 10, a distance of 1242.25 feet;

THENCE South 89 deg. 30 min. 48 sec. East, a distance of 10.00 feet;

THENCE South 00 deg. 25 min. 37 sec. West being 30.00 feet West of and parallel to said mid-section line, a distance of 1246.38 feet;

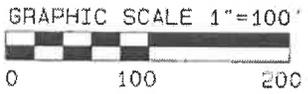
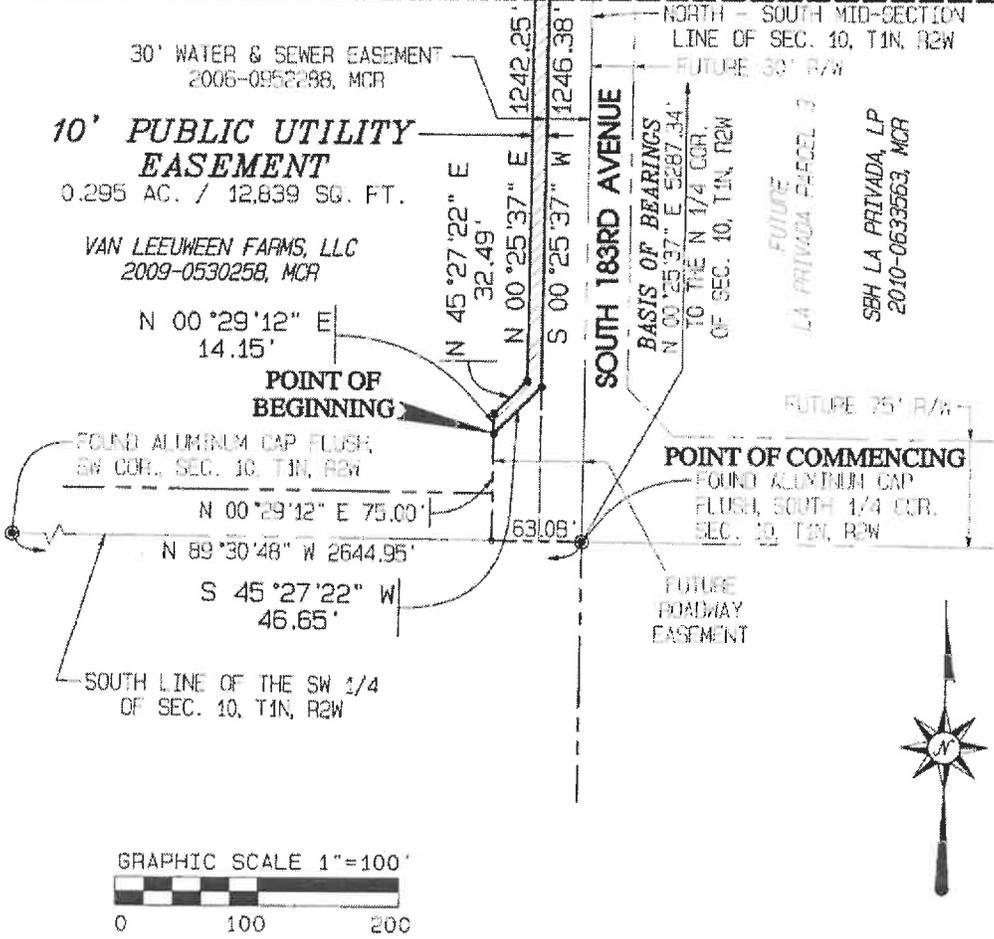
THENCE South 45 deg. 27 min. 22 sec. West, a distance of 46.65 feet to the POINT OF BEGINNING, containing 12,839 square feet or 0.295 acres of land, more or less.

Exhibit attached and made a part hereof.



EXPIRES 3/31/2016

MATCH SHEET 3



PAGE 2 OF 4

SOUTH 183RD AVENUE 10' PUBLIC UTILITY EASEMENT  
BEING A PORTION OF THE SOUTHWEST QUARTER OF  
SECTION 10, T1N, R2W, G&SRB&M, MARICOPA COUNTY, ARIZONA

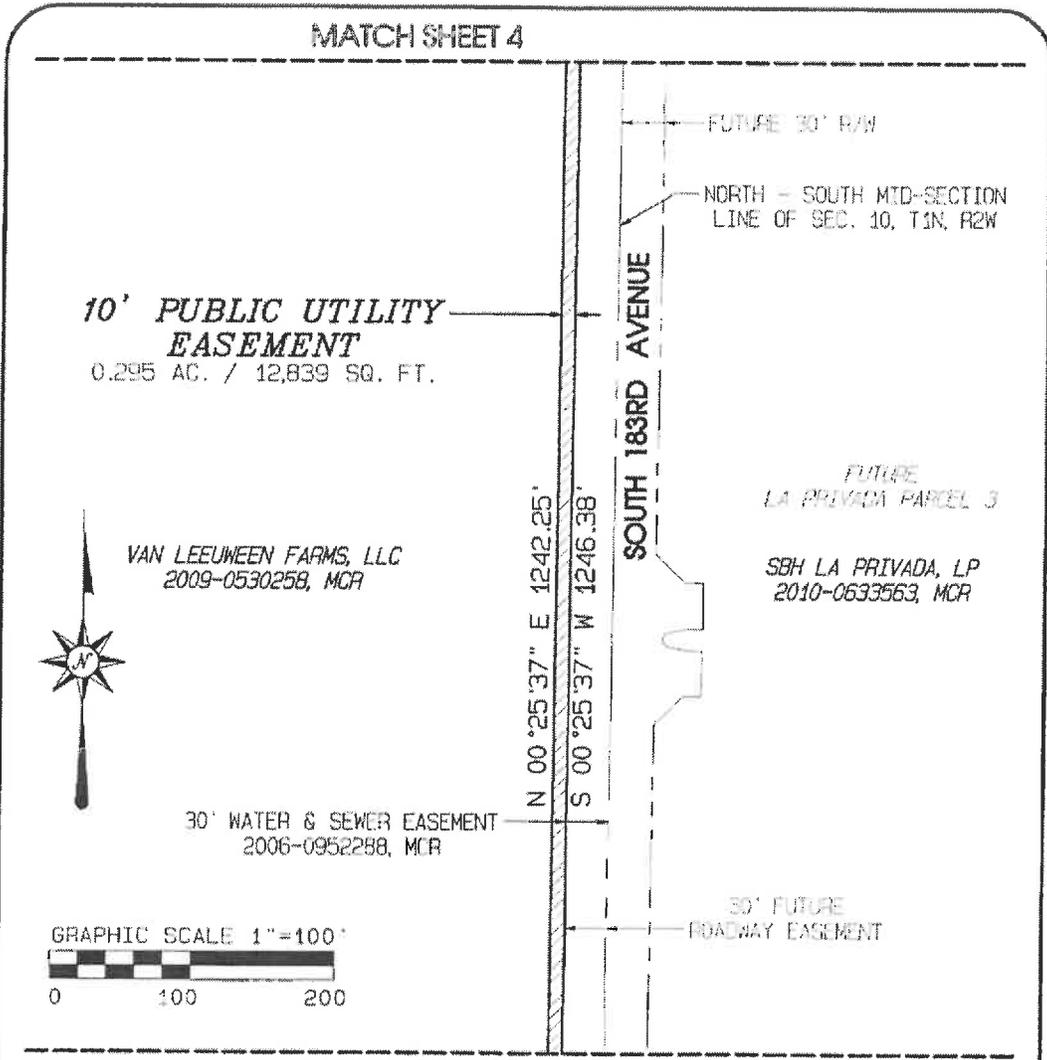
**GOODWIN & MARSHALL**  
CIVIL ENGINEERS ~ PLANNERS ~ SURVEYORS  
6909 W. RAY ROAD #15, CHANDLER, ARIZONA 85226  
(602) 218-7285

Scale: 1" = 100'  
Date: 4/5/2014  
Job No.: 10543A  
Drafted: J.N.R.  
Checked: R.D.H.

REGISTERED LAND SURVEYOR  
54332  
JOHN N. ROGERS  
Date Signed: 4-5-14  
ARIZONA, U.S.A.  
EXPIRES 3/31/2016

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MATCH SHEET 4



MATCH SHEET 2

PAGE 3 OF 4

SOUTH 183RD AVENUE 10' PUBLIC UTILITY EASEMENT  
BEING A PORTION OF THE SOUTHWEST QUARTER OF  
SECTION 10, T1N, R2W, G&SRB&M, MARICOPA COUNTY, ARIZONA

**GOODWIN  
MARSHALL**

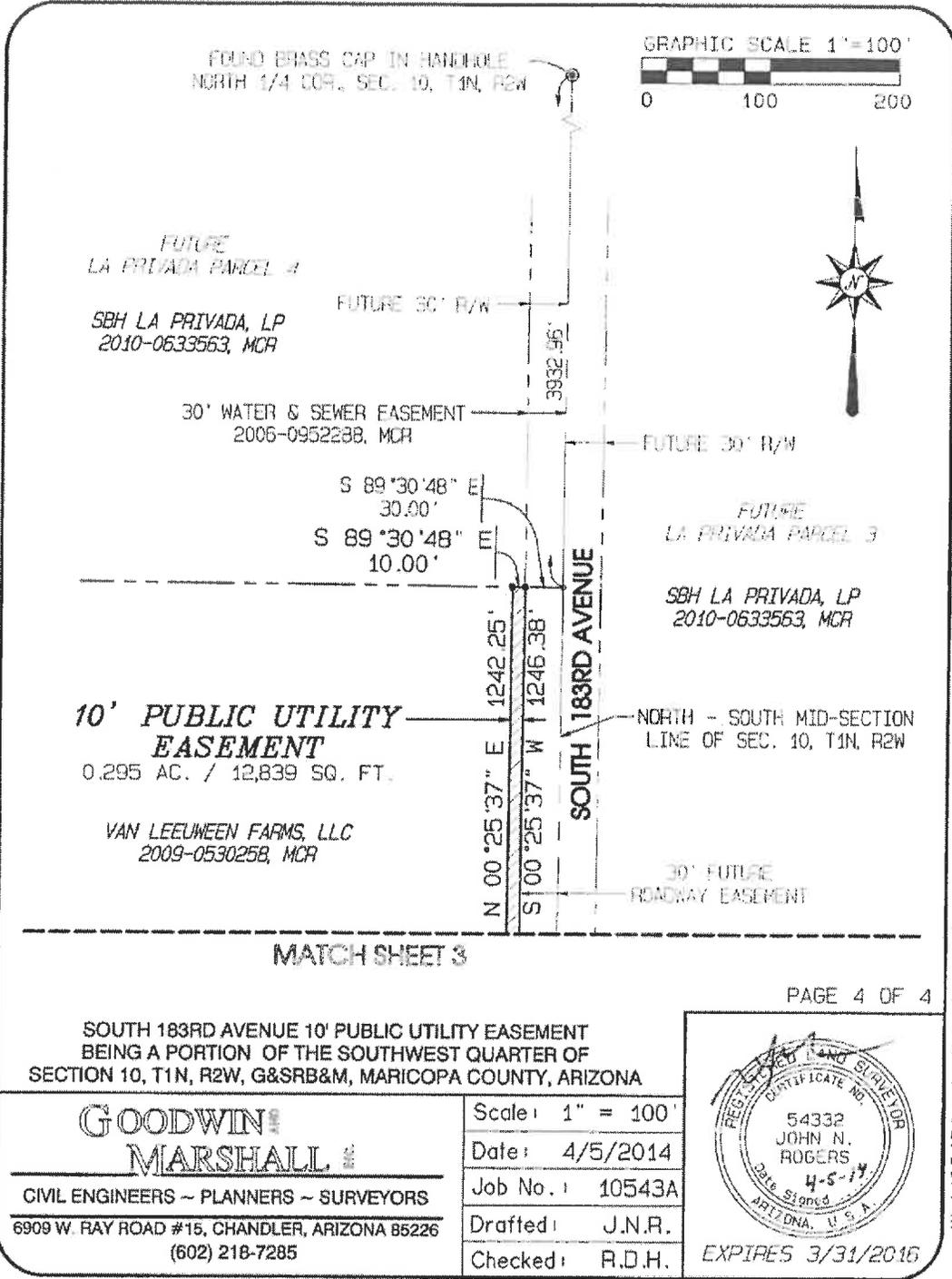
CIVIL ENGINEERS -- PLANNERS -- SURVEYORS  
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MATCH SHEET 3

PAGE 4 OF 4

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**GOODWIN  
 MARSHALL**

CIVIL ENGINEERS ~ PLANNERS ~ SURVEYORS  
 6909 W. RAY ROAD #15, CHANDLER, ARIZONA 85226  
 (602) 218-7285

Scale: 1" = 100'  
 Date: 4/5/2014  
 Job No.: 10543A  
 Drafted: J.N.R.  
 Checked: R.D.H.



EXPIRES 3/31/2015

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