

This instrument prepared by  
and return to:  
City Clerk, City of Venice  
401 W. Venice Ave., Venice, FL 34285

## UTILITY EASEMENT AGREEMENT

This UTILITY EASEMENT AGREEMENT (the “Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between **PGT INDUSTRIES, INC.**, a Florida corporation, whose address is 1070 Technology Drive, North Venice, Florida, 34275 (hereinafter referred to as “**Grantor**”), the **CITY OF VENICE**, a Florida municipal corporation, whose mailing address is 401 W. Venice Avenue, Venice, Florida 34285 (hereinafter referred to as “**Grantee**”), and **MERITAGE HOMES OF FLORIDA, INC.**, a Florida corporation, whose address is 8800 East Raintree Drive, Suite 300, Scottsdale, Arizona 85260 (hereinafter referred to as “**Obligor**.” Grantor, Grantee, and Obligor may herein be collectively referred to as the “Parties.”

### RECITALS

WHEREAS, Grantor owns certain real property located in the City of Venice, Sarasota County, Florida, as more particularly described in **Exhibit “A”** attached hereto (hereinafter referred to as the “**Grantor’s Property**” and/or the “**Property**”); and,

WHEREAS, Grantor has conveyed a temporary construction and access easement to the Obligor (the “**TCE**”) for the purpose of Obligor’s construction and installation of certain utility improvements including, but not necessarily limited to a temporary water main connection and pump station, on the Grantor’s Property (the “**Improvements**”); and,

WHEREAS, the Improvements are necessary to adequately serve certain development projects including, but not limited to, a residential project being developed by the Obligor; and,

WHEREAS, pursuant to the TCE, the Improvements will be turned over to the Grantee in accordance with the City of Venice standard details and other requirements, as necessary; and,

WHEREAS, Grantor’s conveyance of the utility easement under this Agreement (the “**Utility Easement**,” as more specifically depicted in **Exhibit “B”** attached hereto) is necessitated by and part of the City of Venice utility turnover process for the Improvements; and,

WHEREAS, the purpose of the Utility Easement is to provide for the Improvements to be located, operated, and maintained on Grantor’s Property until such time that the Grantee completes its Booster Pump Station project; and,

WHEREAS, Grantor desires to retain the option to terminate the Utility Easement should the Improvements no longer be utilized for service in the future.

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following:

1. Recitals. The recitals set forth above are true and correct and incorporated herein by this reference.
2. Utility Easement Nature and Scope. The Utility Easement shall be a non-exclusive, easement on, over, under, across and through a portion of Grantor's Property, as more particularly described in **Exhibit "B"** attached hereto, for the purpose of providing City of Venice water services through the Improvements.
3. Conveyance of Utility Easement. In accordance with the recitals above and terms of the TCE referenced therein, Grantor hereby grants and conveys the Utility Easement to Grantee for its acceptance of the Improvements in accordance with and as part of the City of Venice utility turnover process, as well as its maintenance and service of same thereafter.
4. Grantee's Rights and Obligations. Grantee's right shall include, but not be limited to, the right for Grantee, its employees, contractors, sub-contractors, agents, successors, and assigns to enter upon said Utility Easement at all times and construct, lay, reconstruct, operate, maintain, inspect, remove, or repair all lines, mains, pipes, fixtures, ditches, accessories, and all appurtenances thereto.

For the full enjoyment of the rights granted herein, the Grantee shall have the further right to trim, cut, or remove trees, bushes, undergrowth, and other obstructions interfering with the location, construction, and maintenance of the lines, mains, pipes, fixtures, ditches, accessories, and appurtenances thereto. The Grantor further grants the reasonable right to enter upon adjoining lands of the Grantor for the purposes of exercising the rights herein granted.

Grantee shall exercise reasonable care in its use and maintenance of the Improvements and the Utility Easement, and, if in the course of its work on or about the Utility Easement, Grantee damages or destroys any of Grantor's Property, including without limitation the Utility Easement, or any improvements existing thereon, the Grantee, at its sole cost and expense, shall promptly repair or replace Grantor's Property and improvements thereon, as applicable, such that it is in the same condition it was in immediately prior to such damage or destruction.

Should Grantor exercise its right and option to terminate the Utility Easement pursuant to Section 5 hereof, and thereby in accordance with same, should Grantee take any action or Grantor be directed by Grantee to take any action, that damages Grantor's Property in the process of terminating and abandoning the Utility Easement, then Grantee further agrees to, at its sole cost and expense, promptly repair or replace Grantor's Property and improvements thereon, as applicable, such that it is in the same condition it was in immediately prior to such damage or destruction.

5. Termination of Utility Easement. Grantor reserves the right and option to terminate the Utility Easement upon such time that the Improvements are no longer utilized. Notwithstanding, in no event shall the Utility Easement be terminated before the City's Booster Pump Station project on Gene Green Road has been completed and is in operation. It is anticipated that the City's Booster Pump Station project on Gene Green Road will be completed and in operation no later than December 31, 2026 (the "Outside Completion Date"). The Outside Completion Date may be reasonably extended if the delay is due to causes beyond the Grantee's reasonable control and if the extension is agreed to in writing by the Parties (the Parties hereby agree not to unreasonably withhold their respective approvals of any such extension). After the Outside Completion Date, this Utility Easement Agreement shall automatically terminate without further action by any party.

To exercise its right to terminate prior to the Outside Completion Date, Grantor shall provide at least thirty (30) days' written notice to Grantee and Obligor of its intent to terminate the Utility Easement and thereafter comply with the City of Venice requirements, as necessary, for terminating and abandoning a utility easement. Grantee agrees to deal in good faith and further agrees to not unduly interfere with Grantor's exercise of this right.

Following completion of any such necessary requirements, Grantor shall effectively terminate the Utility Easement upon recording a Notice of Termination of Utility Easement in the Public Records of Sarasota County, Florida. Upon the removal or relocation of the water line, the temporary booster pumps, the temporary water line, and the PVC fence shall all be removed by Obligor, or its assigns, and Obligor, or its assigns, shall restore the Property to its original condition.

6. Grantor's Ownership. Grantor covenants and warrants that it is lawfully seized of said land in fee simple; that it has good, right, and lawful authority to sell and convey the said easement; and, that the real property described above is free of all liens, mortgages and encumbrances of every kind except for real property taxes not delinquent.

7. Notices. All notices shall be in writing and delivered by registered or certified mail, courier, or by Federal Express to the Parties at the addresses below:

To Grantor:                    PGT Properties, Inc.  
  ATTN: General Counsel  
  1070 Technology Dr.  
  North Venice, FL 34275

To Grantee:                    City of Venice  
  ATTN: City Manager  
  401 W. Venice Avenue  
  Venice, FL 34285

To Obligor: Meritage Homes of Florida, Inc.  
10117 Princess Palm Ave., Suite 550  
Tampa, FL 33610  
Attention: R. Tyler Vansant

With A Required Copy To:  
Meritage Homes  
8800 E. Raintree Drive, Suite 300  
Scottsdale, Arizona 85260  
Attention: Florida Regional Counsel

8. Governing Law. This Agreement will be governed in accordance with Florida law. All suits or actions at law arising from the provisions, performance, or breach of this Agreement shall be brought, for State Court jurisdiction, in the Circuit Court for Sarasota County, Florida, South County Division, and for Federal Court jurisdiction, in the United States District Court for the Middle District of Florida, and no other jurisdictions.

9. Successors and Assigns. All rights and liabilities herein given to or imposed upon the respective parties hereto shall extend to and inure to the benefit of each respective parties' successors and assigns; and if more than one, shall all be bound jointly and severally by the terms, covenants and agreement herein contained.

10. Executed Counterparts. This Agreement may be executed in any number of counterparts, each of which when executed and delivered, shall constitute an original, but all counterparts shall together constitute one and the same instrument.

11. Amendment. No amendment to this Agreement shall be effective unless it is in writing executed by the parties in the same manner as this Agreement.

12. Default. Upon the breach by either of the parties of any term or condition of this Agreement, and unless the breaching party is diligently pursuing a cure of said breach, upon the failure to cure same after thirty (30) days written notice from either party, then the non-defaulting party shall have the right to enforce same or to perform any such term or condition and recover the costs of same from the defaulting party.

13. Enforcement. In the event of a breach or default of this Agreement, the parties shall have all remedies available at law or equity, including but not limited to entitlement to an injunction or similar action in equity to enforce the terms of this Agreement.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

1st Witness [Signature]

Print Name: Ryan Quinn

2nd Witness [Signature]

Print Name: JEFF SCHOLLINGER

PGT INDUSTRIES INC,  
a Florida corporation

By: [Signature]

Print Name: David McCutcheon

Title: SVP Business Integration

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 29 day of AUGUST, 2023 by DAVID McCutcheon, as SVP BUSINESS INTEGRATION of PGT Industries, Inc., a Florida corporation, on behalf of the company, who is  personally known to me or  who has produced \_\_\_\_\_ as identification and who did not take an oath.

[Signature]  
Notary Public, State of FLORIDA  
My Commission Expires: 9-11-2024



**ACCEPTANCE BY GRANTEE**

The foregoing Agreement is accepted and agreed to by the City of Venice, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Nick Pachota, Mayor

ATTEST:


\_\_\_\_\_  
Kelly Michaels, City Clerk

Approved as to form and correctness:

\_\_\_\_\_  
Kelly Fernandez, City Attorney

**ACCEPTANCE BY OBLIGOR**

The foregoing Agreement is accepted and agreed to by Meritage Homes of Florida, Inc., this \_\_\_\_\_ 1st day of \_\_\_\_\_, 2023.

  
\_\_\_\_\_  
R. Tyler Vansant  
Its Vice President

**EXHIBIT "A"**

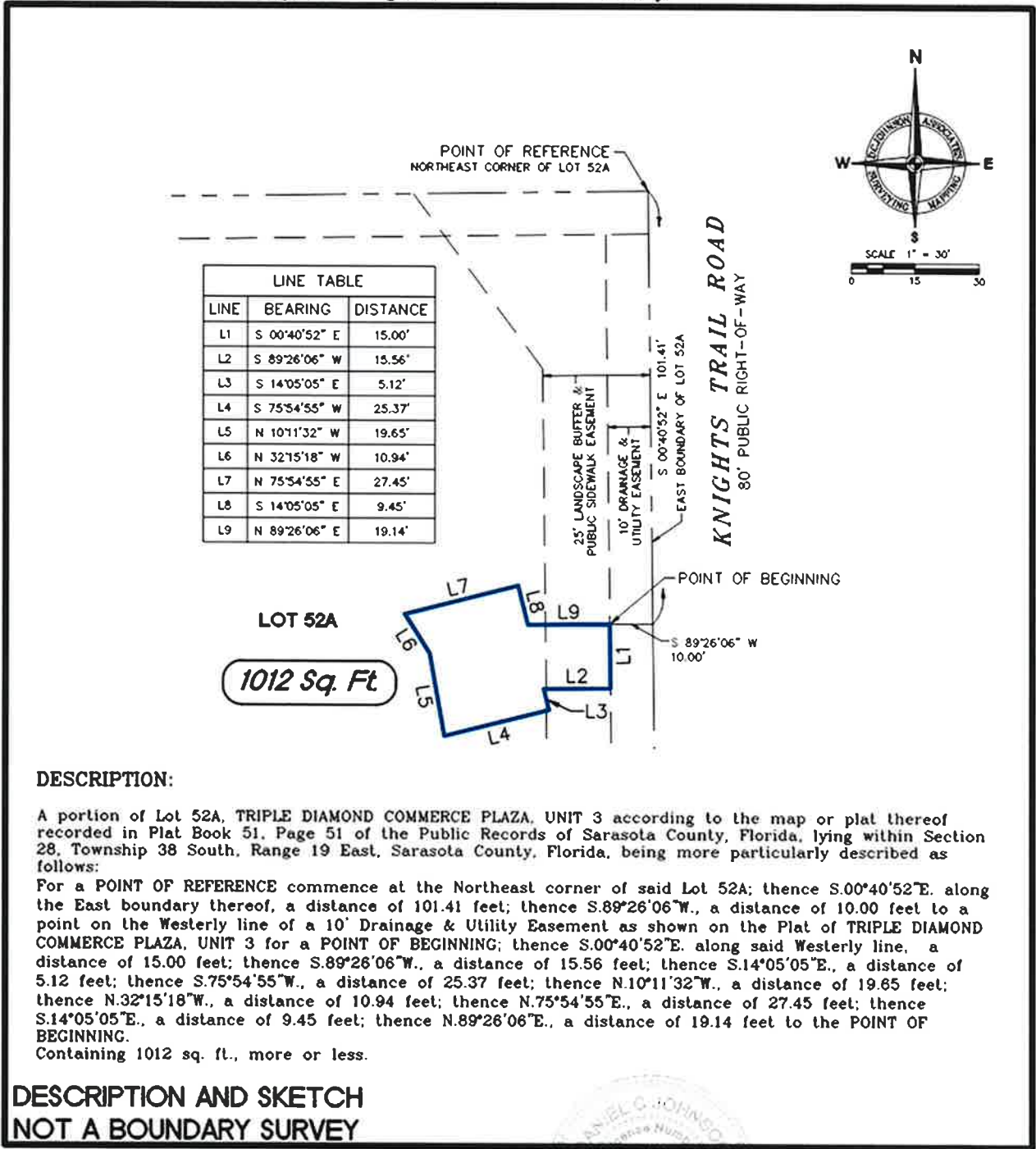
Legal Description of Grantor's Property

**Parcel Identification Number: 0377160020**

LOT 52A, TRIPLE DIAMOND COMMERCE PLAZA UNIT 3, PB 51 PG 51-52, Public  
Records of Sarasota County, Florida.

**EXHIBIT "B"**

**Legal Description and Sketch of Utility Easement**



**DESCRIPTION:**

A portion of Lot 52A, TRIPLE DIAMOND COMMERCE PLAZA, UNIT 3 according to the map or plat thereof recorded in Plat Book 51, Page 51 of the Public Records of Sarasota County, Florida, lying within Section 28, Township 38 South, Range 19 East, Sarasota County, Florida, being more particularly described as follows:

For a POINT OF REFERENCE commence at the Northeast corner of said Lot 52A; thence S.00°40'52"E. along the East boundary thereof, a distance of 101.41 feet; thence S.89°26'06"W., a distance of 10.00 feet to a point on the Westerly line of a 10' Drainage & Utility Easement as shown on the Plat of TRIPLE DIAMOND COMMERCE PLAZA, UNIT 3 for a POINT OF BEGINNING; thence S.00°40'52"E. along said Westerly line, a distance of 15.00 feet; thence S.89°26'06"W., a distance of 15.56 feet; thence S.14°05'05"E., a distance of 5.12 feet; thence S.75°54'55"W., a distance of 25.37 feet; thence N.10°11'32"W., a distance of 19.65 feet; thence N.32°15'18"W., a distance of 10.94 feet; thence N.75°54'55"E., a distance of 27.45 feet; thence S.14°05'05"E., a distance of 9.45 feet; thence N.89°26'06"E., a distance of 19.14 feet to the POINT OF BEGINNING.

Containing 1012 sq. ft., more or less.

**DESCRIPTION AND SKETCH  
NOT A BOUNDARY SURVEY**

Corner Monuments were not set in conjunction with the preparation of this sketch. Improvements, if any, have not been located in conjunction with the preparation of this sketch. This sketch is for graphic illustration only, and does not represent a field survey. Descriptions created per this sketch.

**TRIPLE DIAMOND COMMERCE PLAZA  
PUBLIC UTILITY EASEMENT**

PREPARED FOR  
**Meritage Homes of Florida, Inc.**

JOB NO: 2023-140A01.6G00001 DRAWN BY: LDJ

We hereby certify that the sketch and description shown hereon are true and correct to the best of our knowledge and belief, and were prepared in accordance with the "Standards of Practice" as set forth by the Florida Board of Land Surveyors in Chapter 53-17, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

*Daniel C. Johnson*  
Date: 8/22/2023

Daniel C. Johnson PLS/PSM License Number 3653  
For D.C. Johnson & Associates, Inc.  
Not valid without the signature and raised seal of a Florida Licensed Surveyor

**JOHNSON ASSOCIATES**  
SURVEYING AND MAPPING

Florida Licensed Business No. LB 4514  
11911 S. Curley St. San Antonio, FL 33576  
(352) 588-2768 survey@dcjohnson.com  
www.dcjohanson.com