

Prepared by: RETURN:

City Attorney's Office
100 N.W. 1st Avenue
Delray Beach, FL 33444

PCN: 12-43-46-21-55-000-0012
Address: 1230 South Ocean Boulevard

**HOLD HARMLESS AGREEMENT FOR
IMPROVEMENTS CONSTRUCTED IN AN EASEMENT AREA**

THIS HOLD HARMLESS AGREEMENT is entered into this ____ day of _____
_____ 2026 by and between the City of Delray Beach, a Florida municipal corporation
of the State of Florida (the “**CITY**”), whose address is 100 NW 1st Avenue, Delray Beach,
Florida 33444, and Gary H. Rice and Dominique M. Rice, husband and wife (the “**OWNERS**”),
whose address is 1230 South Ocean Boulevard, Delray Beach, Florida 33483.

W I T N E S S E T H:

WHEREAS, OWNERS are the fee simple owners of a parcel of land with a mailing
addresses of 1230 South Ocean Boulevard, Delray Beach, Florida 33483 (the “**Property**”), as more
particularly described in Exhibit “A”, attached hereto and incorporated herein; and

WHEREAS, a five-foot easement runs along the southern border of the Property (the
“**Easement Area**”); and

WHEREAS, OWNERS were permitted by the **CITY** to install fencing, and other
improvements within the Easement Area (the “**Improvements**”); and

WHEREAS, the Banyan House Condominium Association, Inc. (the “**ASSOCIATION**”),
maintains drainage facilities within the Easement Area licensed by the Florida Department of
Environmental Protection (the “**FDEP**”); and

WHEREAS, the FDEP determined the ASSOCIATION was not in compliance with its licensing requirements because the Easement Area was inaccessible to FDEP and the ASSOCIATION; and

WHEREAS, the **OWNERS** desire to leave the Improvements in place; and

WHEREAS, the FDEP will consider the ASSOCIATION in compliance with its licensing requirements if an agreement is entered into clearly permitting the FDEP and the ASSOCIATION to have unlimited access to the Easement Area; and

WHEREAS, this Agreement shall not be deemed an actual, constructive, or any other type of abandonment by the **CITY** or the ASSOCIATION of the Easement Area; and

WHEREAS, the **CITY** reserves the right at any time to utilize the Easement Area for its intended purposes; and

WHEREAS, the parties hereto mutually recognize the need for entering into an agreement designating and setting forth the responsibilities of each party.

NOW, THEREFORE, for the mutual covenants and matters set forth herein, as of the date set forth above, the parties hereby agree as follows:

1. The recitations set forth above are incorporated herein.
2. The **CITY**, FDEP, and ASSOCIATION (collectively the "BENEFICIARIES") shall assume no liability or responsibility for the Improvements and **OWNERS** acknowledge and shall be responsible for the upkeep and maintenance of the Improvements, including any restorative work. The BENEFICIARIES shall have no liability or responsibility for any future partial or complete destruction or removal of the Improvements required to access the Easement or for the maintenance of structures therein.

3. Nothing in this Agreement relieves **OWNERS** of any obligations imposed by the **CITY**'s Land Development Regulations or Code or Ordinances.

4. **OWNERS** shall be permitted to maintain the Improvements in their existing locations and manner until such time as they are removed. Once the Improvements are removed, the Easement Area shall remain free and clear of any new improvements that hinder access.

5. The **BENEFICIARIES**, their officers, agents, employees, servants, designees, and appointees shall be allowed unlimited access to the Easement Area, including the enclosed portion, if any, at any time.

6. **OWNERS** agrees to hold the **CITY**, its officers, agents, employees, servants, designees, and appointees harmless for any damage to the Improvements caused by the **CITY** in the regular course of the **CITY**'s maintenance responsibilities of the Easement Area and for the use of the Easement Area in the manner for which it is intended. It is understood that any cost for replacement or repair of the Improvements shall be the **OWNERS**' responsibility, and the **CITY** will not be held liable for any damage to the Improvements, subject to the restriction that once any improvement is removed from the Easement Area it will not be replaced.

7. **OWNERS** shall at all times hereafter indemnify, hold harmless and, at the City Attorney's option, defend or pay for an attorney selected by the City Attorney to defend **CITY**, its officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney's fees and costs, court costs, and expenses, caused or alleged to be caused by any intentional, negligent, or reckless act of, or omission of, **OWNERS**, their employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, losses, liabilities, expenditures, demands or causes of action of any nature whatsoever

resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against **CITY** by reason of any such claim, cause of action, or demand, **OWNERS** shall, upon written notice from **CITY**, resist and defend such lawsuit or proceeding by counsel satisfactory to **CITY** or, at **CITY**'s option, pay for an attorney selected by the City Attorney to defend **CITY**. The obligations of this section shall survive the expiration or earlier termination of this Agreement.

9. All notices required or allowed by this Agreement shall be delivered in person or mailed to the party at the following address:

CITY: City Manager
City of Delray Beach
100 NW 1st Avenue
Delray Beach, FL 33444

OWNERS: Gary H. Rice and Dominique M. Rice
1230 S. Ocean Boulevard
Delray Beach, Florida 33483

10. This Agreement shall be binding on the Parties, their respective heirs, successors, legal representatives, and permitted assigns and shall be recorded in the Public Records of Palm Beach County and shall run with the land.

11. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Any proceeding initiated to enforce the provisions of this agreement shall be brought in the State or Federal courts located in Palm Beach County, Florida. It is hereby understood and agreed that in the event any lawsuit in the judicial system, federal or state, is brought to enforce compliance with this Agreement, each party shall bear their own attorney's fees and costs, including appellate fees and costs. **EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL**

**PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE
TRANSACTIONS CONTEMPLATED HEREBY.**

12. The **CITY** hereby reserves the right to enforce this Agreement by pursuing any and all remedies provided by law or in equity. All of the remedies available to the **CITY** shall be cumulative, and the election to pursue any remedy shall not preclude the **CITY** from then or later pursuing any one or more other remedies.

13. This Agreement shall constitute the entire agreement of the parties with respect to the subject matter of it.

14. This Agreement may not be amended, modified, altered, or changed in any respect, except by a further agreement in writing duly executed by each of the parties hereto with the same formality of this Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have entered into this agreement the day and year first written above.

ATTEST:

CITY OF DELRAY BEACH, FLORIDA

By: _____
Alexis Givings, City Clerk

By: _____
Thomas F. Carney, Jr., Mayor

Approved as to Form:

By: _____
Lynn Gelin, City Attorney

WITNESSES:

[Signature]
Thomas W. Walters
(Print or Type Name)

499 E. Palmetto Park Rd. Ste. 209
(Address) Boca Raton, FL 33432

[Signature]
CARMEN BARTON
(Print or Type Name)

499, E. PALMETTO PK. RD.
(Address) BOCA RATON, FL., 33432.

OWNERS:

By: [Signature]

Print Name: Gary H. Rice

Date: 11/19/25

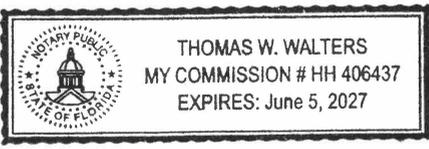
STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 19 day of November, 2025, by Gary H. Rice.

Personally known OR Produced Identification
Type of Identification Produced _____

[Signature]
Notary Public – State of Florida



WITNESSES:

Thomas Walters
Thomas Walters

(Print or Type Name)

499 E. Palmetto Rd. Ste. 209

(Address) Boca Raton, FL 33432

Carmen Batista
CARMEN BATISTA

(Print or Type Name)

499 E. PALMETTO RD.

(Address) BOCA RATON FL., 33432.

STATE OF Florida

COUNTY OF Palm Beach

OWNERS:

By: *Dominique M. Rice*

Print Name: Dominique M. Rice

Date: 19 Nov 2025

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 19 day of November, 2025, by Dominique M. Rice.

Personally known OR Produced Identification
Type of Identification Produced _____

Thomas Walters
Notary Public - State of Florida

and Dominique M. Rice

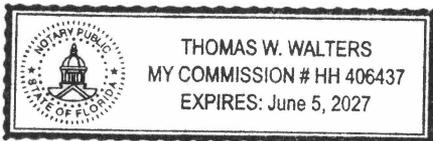


Exhibit "A"

Legal Description of the Property

Lot 3 and the East 5.00 feet of the South 35.00 feet of Lot 1, SOUTH OCEAN PARK, according to the Plat thereof, recorded in Plat Book 61, Page(s) 132, of the Public Records of Palm Beach County, Florida.