

Prepared by: RETURN:

City Attorney's Office  
200 N.W. 1st Avenue  
Delray Beach, Florida 33444

---

## EASEMENT AGREEMENT

**THIS INDENTURE**, made this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between B.B.B Plaza Associates, Ltd., with a mailing address of 3500 Flamingo Drive, Miami Beach, FL 33140 Grantor, and the **CITY OF DELRAY BEACH**, with a mailing address of 100 N.W. 1st Avenue, Delray Beach, Florida 33444, a municipal corporation in Palm Beach County, State of Florida, Grantee:

**WITNESSETH:** That the Grantor, for and in consideration of the mutual promises herein contained and other good and valuable considerations, does hereby grant, bargain, sell and release unto the Grantee, its successors and assigns, a perpetual exclusive easement for the purpose of the construction and maintenance of public utilities/drainage facilities with full and free right, liberty, and authority to enter upon and to install, operate, and maintain such facilities under, across, through and upon, over, under, or within the following described property located in Palm Beach County, Florida, to-wit:

### DESCRIPTION

See Composite Exhibit "A" (Easement Area -Sketch and Legal Description)

Concomitant and coextensive with this right is the further right in the Grantee, its successors and assigns, of ingress and egress over and on that portion of land described above, to affect the purposes of the easement, as expressed hereinafter.

That this easement shall be subject only to those easements, restrictions, and reservations of record. That the Grantor agrees to provide for the release or subordination of any and all mortgages or liens encumbering this easement. The Grantor is permitted and authorized to make the improvements as specifically shown on Exhibit "A" but agrees to erect no building or affect any other kind of construction or improvements upon the above-described property without prior consent of the Grantee. The Grantee shall have the right to remove any permanent or temporary structure in order to access the easement for maintenance or repair of the public utilities/drainage facilities; and Grantee shall not be responsible for repairing any structures damaged or destroyed while accessing the easement for maintenance or repair. The Grantee shall only be responsible for restoring the affected property area to a substantially similar condition utilizing substantially similar materials which were existing before repairs or maintenance took place, except that as to grass areas, the Grantee shall only be required to restore grass areas with either Bahia or St Augustine sod; and no specialty sod shall be installed without payment for same by Grantor to Grantee prior to the restoration of the grass areas.

Grantor does hereby fully warrant the title to said land and will defend the same against the lawful claims of all persons whomsoever claimed by, through or under it, that it has good right and lawful authority to grant the above-described easement and that the same is unencumbered except as provided above. Where the context of this Easement Deed allows or permits, the same shall include the successors or assigns of the parties.

IN WITNESS WHEREOF, the parties to this Easement Deed set their hands and seals the day and year first above written.

WITNESS #1:

  
\_\_\_\_\_  
SYLVIA KANOFF

(name printed or typed)

WITNESS #2:

  
\_\_\_\_\_  
MICHAEL TRAVIS JOHNSON

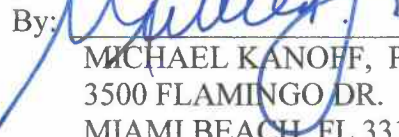
(name printed or typed)

GRANTOR:

B.B.B. PLAZA ASSOCIATES, LTD.,  
a Florida limited partnership

By: B.B.B. Plaza GP, LTD., a Florida  
limited partnership, as General Partner

By: Berta B.B.B. Plaza, LLC, a Delaware limited  
liability company, its General Partner

By:   
\_\_\_\_\_  
MICHAEL KANOFF, PRESIDENT  
3500 FLAMINGO DR.  
MIAMI BEACH, FL 33140

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of August, 2018, by MICHAEL KANOFF, as PRESIDENT (name of officer or agent, title of officer or agent), of BERTA B.B.B. PLAZA, LLC (name of corporation acknowledging), a DELAWARE (state or place of incorporation) corporation, on behalf of the corporation. He/She is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification.



  
\_\_\_\_\_  
Signature of Notary Public – State of Florida

ATTEST:

CITY OF DELRAY BEACH, FLORIDA

\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Shelley Petrolia, Mayor

Approved as to Form:

\_\_\_\_\_  
City Attorney