

RESOLUTION NO. 148-19

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR THE ABANDONMENT OF A PORTION OF OLD DIXIE HIGHWAY RIGHT-OF-WAY, LYING WEST OF AND ADJACENT TO THE NORTH 20 FEET OF LOT 14 AND ALL OF LOTS 15, 16 AND 17, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 21, PAGE 13, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LOCATED APPROXIMATELY 415 FEET SOUTH OF GULFSTREAM BOULEVARD, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach, Florida (“the City”) received an application (2019-153-ABR-CCA) for the abandonment of a six-thousand four-hundred and eighty-two (6,482) square foot portion of Old Dixie Highway Right-of-Way (ROW), lying west of and adjacent to the north 20 feet of Lot 14 and all of Lots 15, 16 and 17, according to the plat thereof as recorded in plat book 21, page 13, public records of Palm Beach County, Florida, bounded on the north and south as follows: on the north by the westerly extension of the north line of said Lot 17 and on the south by the westerly extension of a line 20 feet south of and parallel to the north line of said Lot 14, as more particularly described in Exhibit “A”; and

WHEREAS, the portion of the right-of-way requested for abandonment was dedicated to the public for perpetual use, as recorded in Plat book 21, page 13 of the Public Records of Palm Beach County, Florida; and

WHEREAS, the City determined, except for a general utility easement, there is not now, nor will there be, any need for the use of this portion of the ROW for public purposes, as required by the City’s Comprehensive Plan at Policy A-6.3 of the Transportation Element and Sec. 2.4.6(M) of the Land Development Regulations; and

WHEREAS, pursuant to LDR Section 2.4.6(M)(3)(e), the Planning and Zoning Board, as the Local Planning Agency, formally reviewed the matter at a public hearing on August 19, 2019, and voted 5 to 0 in favor of the abandonment, based upon positive findings with respect to LDR Section 2.4.6(M)(5); and

WHEREAS, the City Commission of the City of Delray Beach, Florida, finds that its interest in the described property is no longer needed for the public good and deems it to be in the best interest of the City to abandon said right-of-way, based upon positive findings pursuant to LDR Section 2.4.6 (M)(5).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the forgoing recitals are hereby incorporated herein by this reference and are approved and adopted.

Section 2. That pursuant to Policy A-6.3 of the Transportation Element and Sec. 2.4.6(M) of the Land Development Regulations of the City of Delray Beach, the City hereby determines that said lands are not being used now, nor will be used in the future, for public purposes and thus abandoning such rights and interests it might hold, if any, to the following 6,482 square foot portion of Old Dixie Highway Right-of-Way (ROW), lying west of and adjacent to the north 20 feet of Lot 14 and all of Lots 15, 16 and 17, according to the plat thereof as recorded in plat book 21, page 13, public records of Palm Beach County, Florida, bounded on the north and south as follows: on the north by the westerly extension of the north line of said Lot 17 and on the south by the westerly extension of a line 20 feet south of and parallel to the north line of said Lot 14 as more particularly described in **Exhibit "A"** attached hereto.

Section 3. That the City of Delray Beach hereby retains and reserves unto itself a general utility easement for the purpose of the construction and maintenance of public utilities/drainage facilities (including sewer lines), 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, more particularly described in **Exhibit "B"** attached hereto, 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.

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Paul D. Engle.; O'Brien, Suiter & O'Brien, Inc., for attachment to petition to Palm Beach County for right-of-way abandonment.

Section 5. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

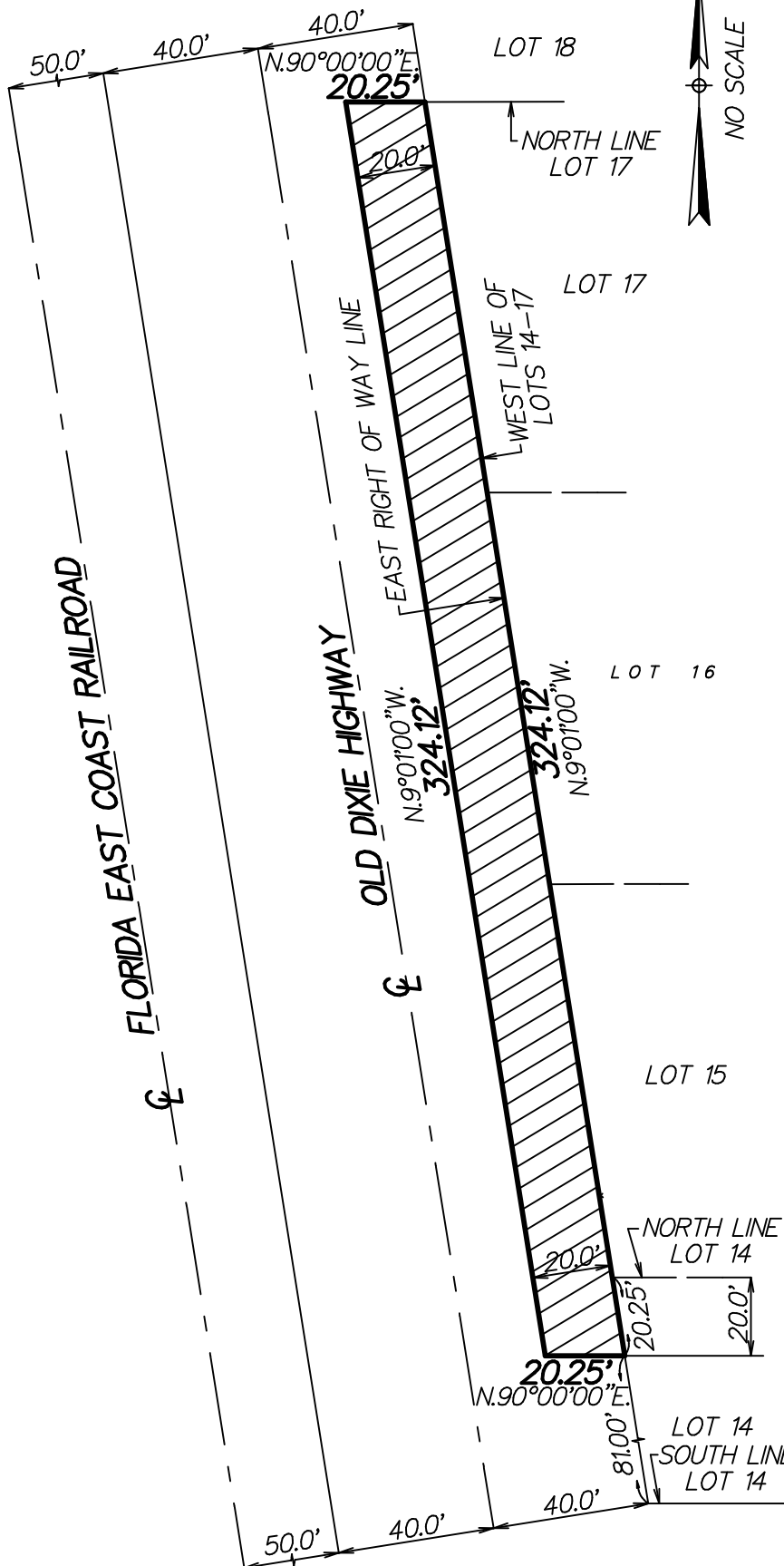
\_\_\_\_\_  
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lynn Gelin, City Attorney

COMPOSITE EXHIBIT “A” – SKETCH AND LEGAL DESCRIPTION

EXHIBIT "A"  
SHEET 1 OF 1



THE EAST 20.0 FEET OF THAT PORTION OF THE OLD DIXIE HIGHWAY ROAD RIGHT OF WAY LYING WEST OF AND ADJACENT TO THE NORTH 20.0 FEET OF LOT 14 AND ALL OF LOTS 15, 16 AND 17, DELRAY BEACH ESTATES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 21, PAGE 13, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. BOUNDED ON THE NORTH AND SOUTH AS FOLLOWS: ON THE NORTH BY THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 17 AND ON THE SOUTH BY THE WESTERLY EXTENSION OF A LINE 20.0 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID LOT 14.

CONTAINING 6,482 SQUARE FEET MORE  
OR LESS.

THIS IS NOT A SURVEY

THE SOUTH LINE OF LOT 17 IS  
ASSUMED TO BEAR N.90°00'00"E.

$\mathcal{C}$  = CENTERLINE

PAUL D. ENGLE  
SURVEYOR & MAPPER NO. 5708

DATE: JUNE 28, 2019

O'BRIEN, SUITER & O'BRIEN, INC.  
 CERTIFICATE OF AUTHORIZATION #LB353  
 SURVEYOR AND MAPPER IN RESPONSIBLE  
 CHARGE: PAUL D. ENGLE  
 955 N.W. 17TH AVENUE, SUITE K-1  
 DELRAY BEACH FLORIDA 33445  
 (561) 276-4501 (561) 732-3279

COMPOSITE EXHIBIT “B” – EASEMENT AGREEMENT

Prepared by: RETURN:

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

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## EASEMENT AGREEMENT

**THIS INDENTURE**, made this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between James G. O'Neill, with a mailing address of 655 NE 6th Avenue, Delray Beach, FL, 33483, 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 general utility easement for the purpose of the construction and maintenance of 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 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 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 Agreement allows or permits, the same shall include the successors or assigns of the parties.

IN WITNESS WHEREOF, said Grantor has signed and sealed these presents the day and year first above written.

WITNESSES:

**GRANTOR**

By: James G. O'Neill

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Name: James G. O'Neill

Its: Sole Manager

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_ (name of officer or agent), of \_\_\_\_\_ (name of corporation), a \_\_\_\_\_ (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 and did/did not take an oath.

\_\_\_\_\_  
Signature of Notary Public -

State of \_\_\_\_\_

(SEAL)

ATTEST:

CITY OF DELRAY BEACH, FLORIDA

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

By: \_\_\_\_\_  
Shelly Petrolia, Mayor

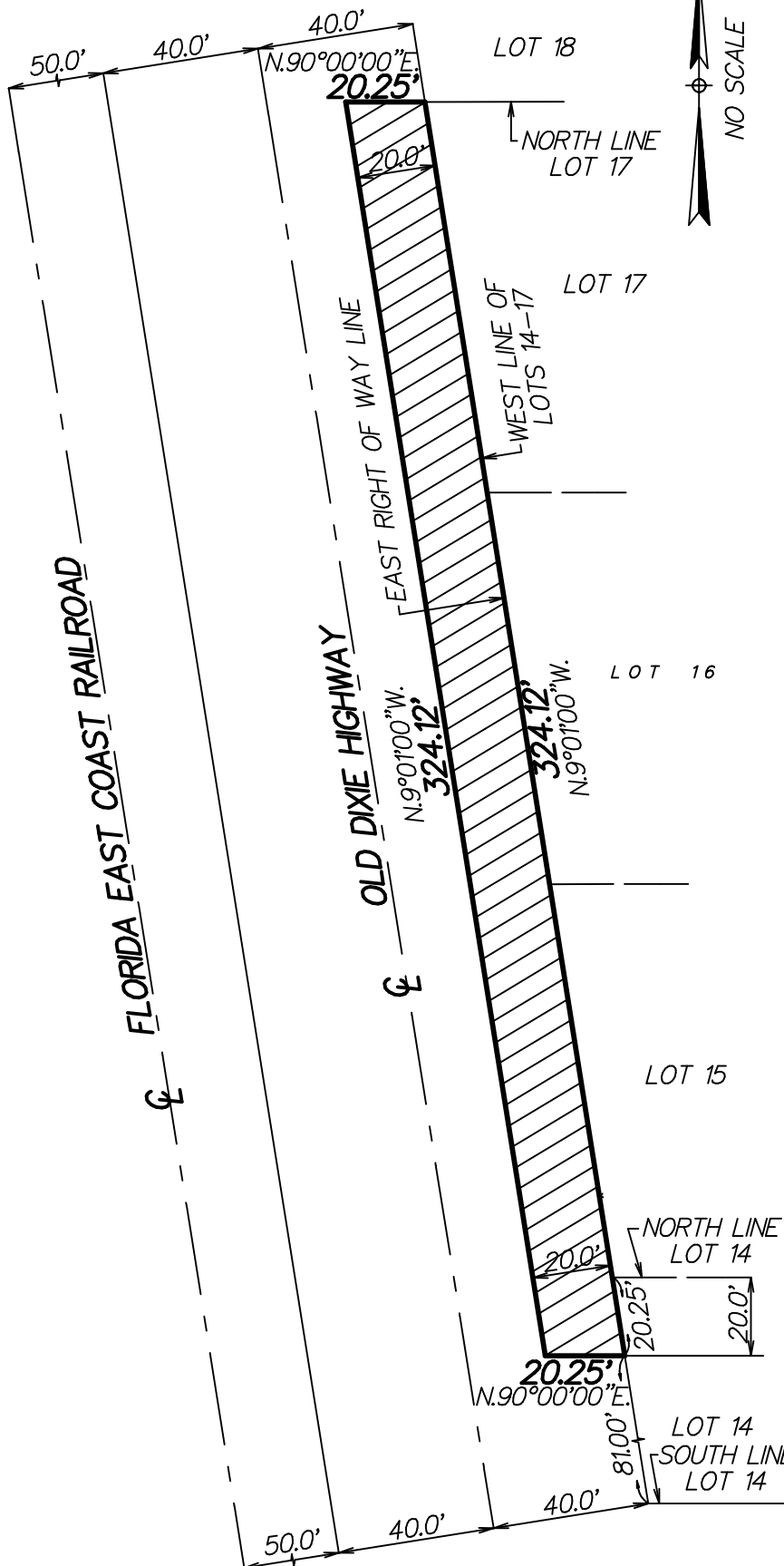
Approved as to Form:

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



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