

Prepared by: RETURN:

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

GENERAL UTILITY EASEMENT AGREEMENT

THIS INDENTURE, made this ____ day of _____, 2019, by and between **ROSEBUD 3rd AVENUE, LLC**, a Florida Limited Liability Company with a mailing address of 101 SE 4th Avenue, Delray Beach, Florida 33483 ("**Grantor**"), and the **CITY OF DELRAY BEACH**, a municipal entity, 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 non-exclusive easement for the purpose of the construction and maintenance of public utilities ("**Utility Easement**") 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 or within the following described property as specifically identified on Exhibit "A" 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 effect the purposes of the Utility Easement, as expressed hereinafter. Notwithstanding the foregoing, this easement shall not provide the Grantee any other easement rights not specified herein, over or on any other portion of the property upon which the Utility Easement is not located.

That this Utility Easement shall be subject only to those easements, restrictions, conditions and reservations of record. That the Grantor agrees to provide for the release or subordination of any and all mortgages encumbering this Utility Easement. The Grantor also agrees to erect no building or affect any other kind of construction or improvements upon the property as described in Exhibit "A" that would unreasonably interfere with Grantee's rights, nor shall any such improvements be undertaken without prior consent of the Grantee, and such consent shall not be unreasonably withheld. The Grantee shall have the right to remove any permanent or temporary structure in order to access the Utility Easement for maintenance or repair of the public utilities. The Grantee shall 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.

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 Utility 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, the parties to this Easement Agreement set their hands and seals the day and year first above written.

ATTEST:

CITY OF DELRAY BEACH, FLORIDA

Katerri Johnson, City Clerk

By: _____
Shelly Petrolia, Mayor

Approved as to legal form
and sufficiency:

Lynn Gelin, City Attorney

WITNESS #1:

ROSEBUD 3rd AVENUE, LLC, a Florida limited
liability company

(name printed or typed)

By: **ROSEBUD CAPITAL, INC.**, a Florida
corporation, its Manager

By: _____
Craig Menin, President

WITNESS #2:

(name printed or typed)

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____, 2019 by **Craig Menin**, as President of Rosebud Capital Inc., as Manager of **ROSEBUD 3rd AVENUE, LLC**, a Florida Limited Liability Company on behalf of the company. He is personally known to me or has produced _____ (type of identification) as identification and did/did not take an oath.

(SEAL)

Signature of Notary Public
State of _____

EXHIBIT A

CITY NATIONAL BANK OF FLORIDA (Mortgagee), is the holder of that certain Mortgage, Assignment of Rents and Security Agreement dated as of April 26, 2019, recorded in Official Records Book 30572, at Page 1767, of the Public Records of Palm Beach County, Florida ("Mortgage"), which encumbers the following described property, in Palm Beach County, Florida, to wit:

Parcel "A" of Metropolitan at Delray, according to the plat thereof as recorded in Plat Book 123, at Page 52, of the Public Records of Palm Beach County, Florida.

The undersigned, Mortgagee, hereby: (i) consents to the foregoing General Utility Agreement ("Easement Agreement") from **Rosebud 3rd Avenue, LLC**, a Florida Limited Liability Company ("Grantor") to the **City of Delray Beach**, a municipal entity ("Grantee"), and (ii) subordinates the lien of its Mortgage to the Easement Agreement.

IN WITNESS WHEREOF, this Consent and Joinder is executed by the undersigned this _____ day of _____, 2019.

WITNESS #1:

CITY NATIONAL BANK OF FLORIDA

(Printed Name)

By: _____

(Printed Name & Title)

WITNESS #2:

Acknowledgement

STATE OF _____
COUNTY OF _____

ACKNOWLEDGED and subscribed before me this _____ day of _____, 2019, by _____, as _____ of CITY NATIONAL BANK OF FLORIDA, on behalf of the financial institution.

Notary Public, State of _____
Print Name: _____
Commission No.: _____
My Commission Expires: _____

[SEAL]

SKETCH AND LEGAL DESCRIPTION FOR GENERAL UTILITY EASEMENT

CONSENT OF MORTGAGEE

DESCRIPTION:**EXHIBIT "A"****G.U.E. #1**

BEING A PORTION OF PARCEL A, AS SHOWN ON THE PLAT OF METROPOLITAN AT DELRAY, AS RECORDED IN PLAT BOOK 123, PAGES 52 AND 53, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL A, BEING POINT OF BEGINNING #1; THENCE, ALONG THE WEST LINE OF SAID PARCEL A, N46°07'58"W, A DISTANCE OF 14.26 FEET TO A POINT OF INTERSECTION WITH A LINE 10.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID PARCEL A; THENCE, DEPARTING SAID WEST LINE OF PARCEL A, ALONG SAID PARALLEL LINE, N89°19'24"E, A DISTANCE OF 118.11 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF SAID PARCEL A; THENCE, DEPARTING SAID PARALLEL LINE, ALONG SAID EAST LINE OF PARCEL A, S45°53'36"W, A DISTANCE OF 14.04 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL A; THENCE, ALONG THE SOUTH LINE OF SAID PARCEL A, S89°19'24"W, A DISTANCE OF 98.10 FEET TO POINT OF BEGINNING #1.

CONTAINING 1,081 SQUARE FEET/0.0248 ACRES OF LAND MORE OR LESS.

TOGETHER WITH:

G.U.E. #2

BEING A PORTION OF SAID PARCEL A; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL A; THENCE, ALONG THE EAST LINE OF SAID PARCEL A, S01°32'36"E, A DISTANCE OF 10.00 FEET TO POINT OF BEGINNING #2;

THENCE, CONTINUING ALONG SAID EAST LINE, S01°32'36"E, A DISTANCE OF 90.00; THENCE, DEPARTING SAID EAST LINE, S89°19'23"W, A DISTANCE OF 10.00 FEET TO A POINT OF INTERSECTION WITH A LINE 10 FOOT WEST OF AND PARALLEL WITH THE SAID EAST LINE OF PARCEL A; THENCE, ALONG SAID PARALLEL LINE, N01°32'36"W, A DISTANCE OF 90.00 FEET; THENCE, DEPARTING SAID PARALLEL LINE, N89°19'23"E, A DISTANCE OF 10.00 FEET TO POINT OF BEGINNING #2.

CONTAINING 900 SQUARE FEET/0.0207 ACRES OF LAND MORE OR LESS.

SAID LANDS SITUATE IN SECTION 16, TOWNSHIP 46 SOUTH, RANGE 43 EAST, CITY OF DELRAY BEACH, PALM BEACH COUNTY, FLORIDA. SUBJECT TO RIGHTS-OF-WAY EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS, AND RIGHTS OF WAY OF RECORD.

LEGEND/ABBREVIATIONS

CL - CENTERLINE

D.E. - DRAINAGE EASEMENT

E - EASTING

G.U.E. - GENERAL UTILITY EASEMENT

LB - LICENSED BUSINESS

N - NORTHING

O.R.B. - OFFICIAL RECORD BOOK

PB - PLAT BOOK

PG(S). - PAGE(S)

NOTES

1. SURVEY MAP OR THE COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL SEAL OF A FLORIDA LICENSED PROFESSIONAL LAND SURVEYOR.
2. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD.
3. BEARINGS SHOWN HEREON ARE BASED ON GRID BEARING OF N07°49'29"E ALONG THE WEST LINE OF METROPOLITAN AT DELRAY ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 123, PAGES 52 AND 53, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA;.
4. THE "LAND DESCRIPTION" HEREON PREPARED BY THE SURVEYOR.
5. ADDITIONS OR DELETIONS TO SURVEY MAPS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
6. DATA SHOWN HEREON WAS COMPILED FROM INSTRUMENTS OF RECORD AND DOES NOT CONSTITUTE A BOUNDARY SURVEY AS SUCH.
7. RECORDING INFORMATION SHOWN HEREON IS OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CERTIFICATE:

I HEREBY CERTIFY THAT THE ATTACHED SKETCH OF DESCRIPTION OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION ON MAY 21, 2019. I FURTHER CERTIFY THAT THIS SKETCH OF DESCRIPTION MEETS THE STANDARDS OF PRACTICE SET FORTH IN CHAPTER 5J-17 ADOPTED BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS PURSUANT TO FLORIDA STATUTES 472.027.

SHEET 1 OF 5



CAULFIELD & WHEELER, INC.

CIVIL ENGINEERING - LAND PLANNING
LANDSCAPE ARCHITECTURE - SURVEYING
7301A W. PALMETTO PARK ROAD - SUITE 100A
BOCA RATON, FLORIDA 33433
PHONE (561)-392-1991 / FAX (561)-750-1452



DATE	05/21/19
DRAWN BY	DLS
F.B./ PG.	NONE
SCALE	NONE
JOB NO.	6820GUE

**DELRAY CITY MARKET
GENERAL UTILITY EASEMENTS
SKETCH OF DESCRIPTION**



SECTION 16 – TOWNSHIP 46 SOUTH – RANGE 43 EAST

LOCATION MAP

NOT TO SCALE

SHEET 2 OF 5



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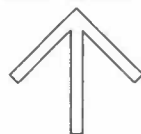
DELRAY CITY MARKET
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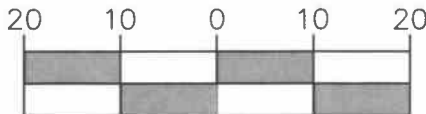
EXHIBIT "A"

MATCHLINE SEE SHEET 4 OF 5

WEST LINE OF METROPOLITAN AT DELRAY (BASIS OF BEARINGS)
 20.00'
 261.78'
 5' SIDEWALK EASEMENT PER O.R.B. 1858, PG. 931
 N07°49'29"E
 262.12'
 5.00'
 5.00'
 81.27'
 58.47'
 W. LINE PARCEL A
 N01°35'19"W
 14.25'
 22.50'
 N46°07'58"W
 28.51'
 5' SIDEWALK EASEMENT PER O.R.B. 1858, PG. 931
 25.00'



NORTH

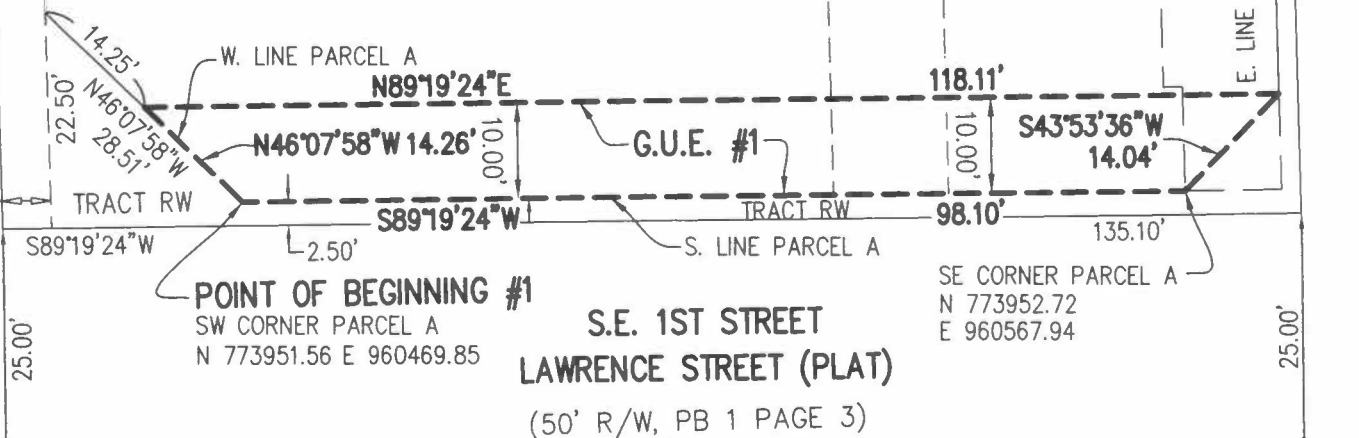


GRAPHIC SCALE
 (IN FEET)

PARCEL A
METROPOLITAN AT DELRAY
 PLAT BOOK 123 , PGS. 52 & 53

NOTES
COORDINATES, BEARINGS AND DISTANCES

COORDINATES SHOWN ARE GRID
 DATUM = NAD 83 1990 ADJUSTMENT
 ZONE = FLORIDA EAST
 LINEAR UNIT = US SURVEY FEET
 COORDINATE SYSTEM 1983 STATE PLANE
 TRANSVERSE MERCATOR PROJECTION
 ALL DISTANCES ARE GROUND
 SCALE FACTOR = 1.0000467
 GROUND DISTANCE X SCALE FACTOR = GRID DISTANCE



SHEET 3 OF 5

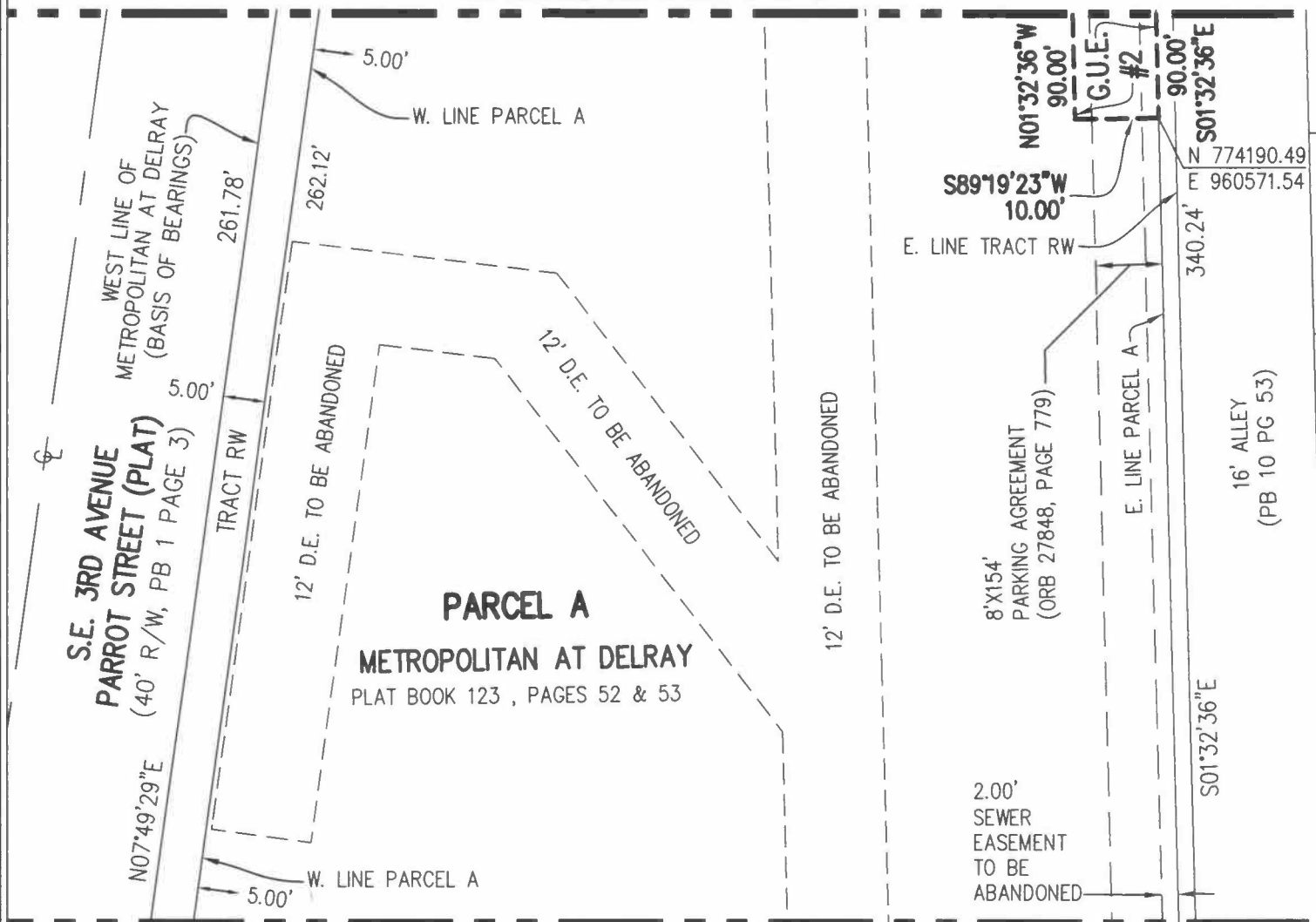


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DELRAY CITY MARKET
GENERAL UTILITY EASEMENTS
SKETCH OF DESCRIPTION

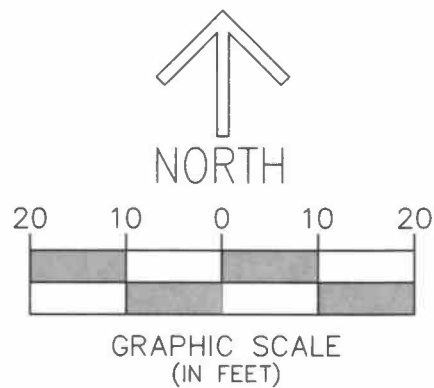
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DRAWN BY	DLS
F.B./ PG.	NONE
SCALE	1"=20'
JOB NO.	6820GUE



MATCHLINE SEE SHEET 3 OF 5

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SHEET 4 OF 5

**CAULFIELD & WHEELER, INC.**

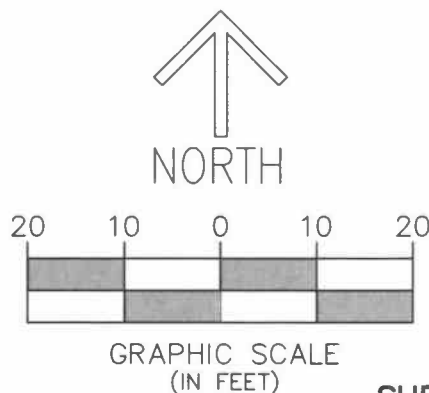
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[illegible]

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DRAWN BY DLS

F.B. / PG. NONE

SCALE 1"=20'

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