

Prepared by: RETURN:

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

EASEMENT AGREEMENT FOR PEDESTRIAN CLEAR ZONE

THIS INDENTURE, made this ____ day of _____, 2019 (“**Easement Agreement**”), 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 easement to be used for a pedestrian sidewalk clear zone for the purpose of public pedestrian access (“**Pedestrian Clear Zone**”) with full and free right, liberty, and authority to enter upon and to maintain such Pedestrian Clear Zone across, through and upon 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 Pedestrian Clear Zone, as expressed hereinafter. Notwithstanding the foregoing, this easement shall not encumber any portion of the property in which there is no Pedestrian Clear Zone, and shall not provide the Grantee or the public any rights of ingress or egress, or other easement rights not specified herein, over or on any other portion of the property upon which the Pedestrian Clear Zone is not located.

That this 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 the Pedestrian Clear Zone. 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”, with the exception of any construction or improvements approved by Grantee or otherwise described herein.

It is understood that the Grantor shall improve the Pedestrian Clear Zone so as to be an extension of the adjacent public sidewalk and shall match the adjacent public sidewalk in design and material. Upon completion of construction of the Pedestrian Clear Zone by the Grantor to the required standards, the Grantor shall maintain the sidewalk in conformance with the City’s practices of maintaining public sidewalks throughout the City.

It is understood, upon appropriate application to and approval by the Grantee, that the Grantor may, from time to time, restrict or limit the Grantee and any pedestrians from accessing the Pedestrian Clear Zone or any portions thereof, for the sole purpose of completing construction and making any improvements or repairs necessary to fulfill its obligation hereunder to build and maintain the sidewalk in conformance with the City’s practices of maintaining public sidewalks.

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 Pedestrian Clear Zone and that the same is unencumbered except as provided above. Where the context of this 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

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

(name printed or typed)

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 corporation. 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 _____

CONSENT AND JOINDER OF MORTGAGEE

CITY NATIONAL BANK OF FLORIDA (Mortgagee), is the holder of that certain Mortgage, Assignment of Rents and Security Agreement and Fixture Filing dated as of April 26, 2019, recorded in the Official Records Book 30572 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, Page 52, of the Public Records of Palm Beach County, Florida.

The undersigned, Mortgagee, hereby consents to the foregoing Pedestrian Clear Zone Easement 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 hereby 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]

EXHIBIT A

SKETCH AND LEGAL DESCRIPTION FOR PEDESTRIAN CLEAR ZONE EASEMENT

DESCRIPTION:**EXHIBIT "A"**

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, N01°35'19"W, A DISTANCE OF 58.47 FEET; THENCE, CONTINUING ALONG SAID WEST LINE, N07°49'29"E, A DISTANCE OF 262.12 FEET TO THE NORTHWEST CORNER OF SAID PARCEL A; THENCE, ALONG THE NORTH LINE OF SAID PARCEL A, N89°19'23"E, A DISTANCE OF 5.06 FEET TO A POINT OF INTERSECTION WITH A LINE 5.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID PARCEL A; THENCE, DEPARTING SAID NORTH LINE, ALONG SAID PARALLEL LINE, THE FOLLOWING TWO (2) COURSES, S07°49'29"W, A DISTANCE OF 262.45 FEET; THENCE S01°35'19"E, A DISTANCE OF 63.13 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID PARCEL A; THENCE, ALONG THE SOUTH LINE OF SAID PARCEL A, N46°07'58"W, A DISTANCE OF 7.13 FEET TO POINT OF BEGINNING #1.

CONTAINING 1,615 SQUARE FEET/0.0371 ACRES OF LAND MORE OR LESS.

TOGETHER WITH:

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

COMMENCING AT AFORESAID POINT OF BEGINNING #1; THENCE, ALONG THE SOUTH LINE OF SAID PARCEL A, S46°07'58"E, A DISTANCE OF 25.19 FEET TO A POINT OF INTERSECTION WITH A LINE 2.33 FEET NORTH OF AND PARALLEL WITH THE SAID SOUTH LINE OF SAID PARCEL A AND POINT OF BEGINNING #2;

THENCE, DEPARTING SAID SOUTH LINE, ALONG SAID PARALLEL LINE, N89°19'24"E, A DISTANCE OF 59.45; THENCE, DEPARTING SAID PARALLEL LINE, S73°15'05"E, A DISTANCE OF 7.78 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID PARCEL A; THENCE, ALONG SAID SOUTH LINE THE FOLLOWING TWO (2) COURSES, S89°19'24"W, A DISTANCE OF 64.51 FEET; THENCE N46°07'58"W, A DISTANCE OF 3.32 FEET TO POINT OF BEGINNING #2.

CONTAINING 144 SQUARE FEET/0.0033 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	G.U.E. - GENERAL UTILITY EASEMENT	O.R.B. - OFFICIAL RECORD BOOK
D.E. - DRAINAGE EASEMENT	LB - LICENSED BUSINESS	PB - PLAT BOOK
E - EASTING	N - NORTHING	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.

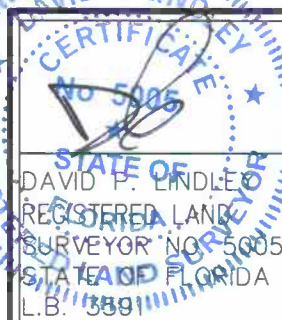
CERTIFICATE:

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 15, 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

**DELRAY CITY MARKET
SIDEWALK EASEMENTS
SKETCH OF DESCRIPTION**



DATE	04/15/19
DRAWN BY	DLS
F.B./ PG.	NONE
SCALE	NONE
JOB NO.	6820SWE

EXHIBIT "A"



SECTION 16 – TOWNSHIP 46 SOUTH – RANGE 43 EAST

LOCATION MAP

NOT TO SCALE

SHEET 2 OF 5



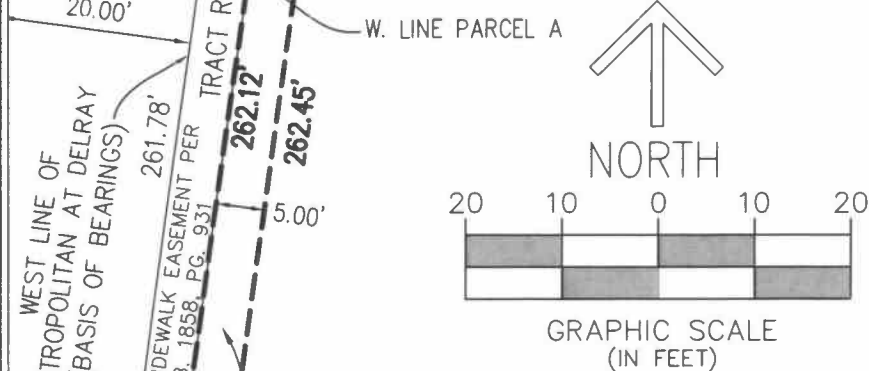
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DELRAY CITY MARKET
SIDEWALK EASEMENTS
SKETCH OF DESCRIPTION

DATE	05/15/19
DRAWN BY	DLS
F.B./ PG.	NONE
SCALE	NONE
JOB NO.	6820SWE

MATCHLINE SEE SHEET 4 OF 5



SIDEWALK EASEMENT

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

PARCEL A

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

POINT OF BEGINNING #1

SW CORNER PARCEL A N 773971.32 E 960449.30

N46°07'58"W

POINT OF BEGINNING #2

N 773953.87 E 960467.46

S73°15'05"E

-N46°07'58"W 3.32'

N89°19'24"E

59.45'

7.78'

7.78'

N 773952.33
E 960534.36

S89°19'24"W

33.55'

-POINT OF COMMENCEMENT

N 773948.77
E 960444.92

S.E. 1ST STREET

LAWRENCE STREET (PLAT)

(50' R/W, PB 1 PAGE 3)

SHEET 3 OF 5



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**DELRAY CITY MARKET
SIDEWALK EASEMENTS
SKETCH OF DESCRIPTION**

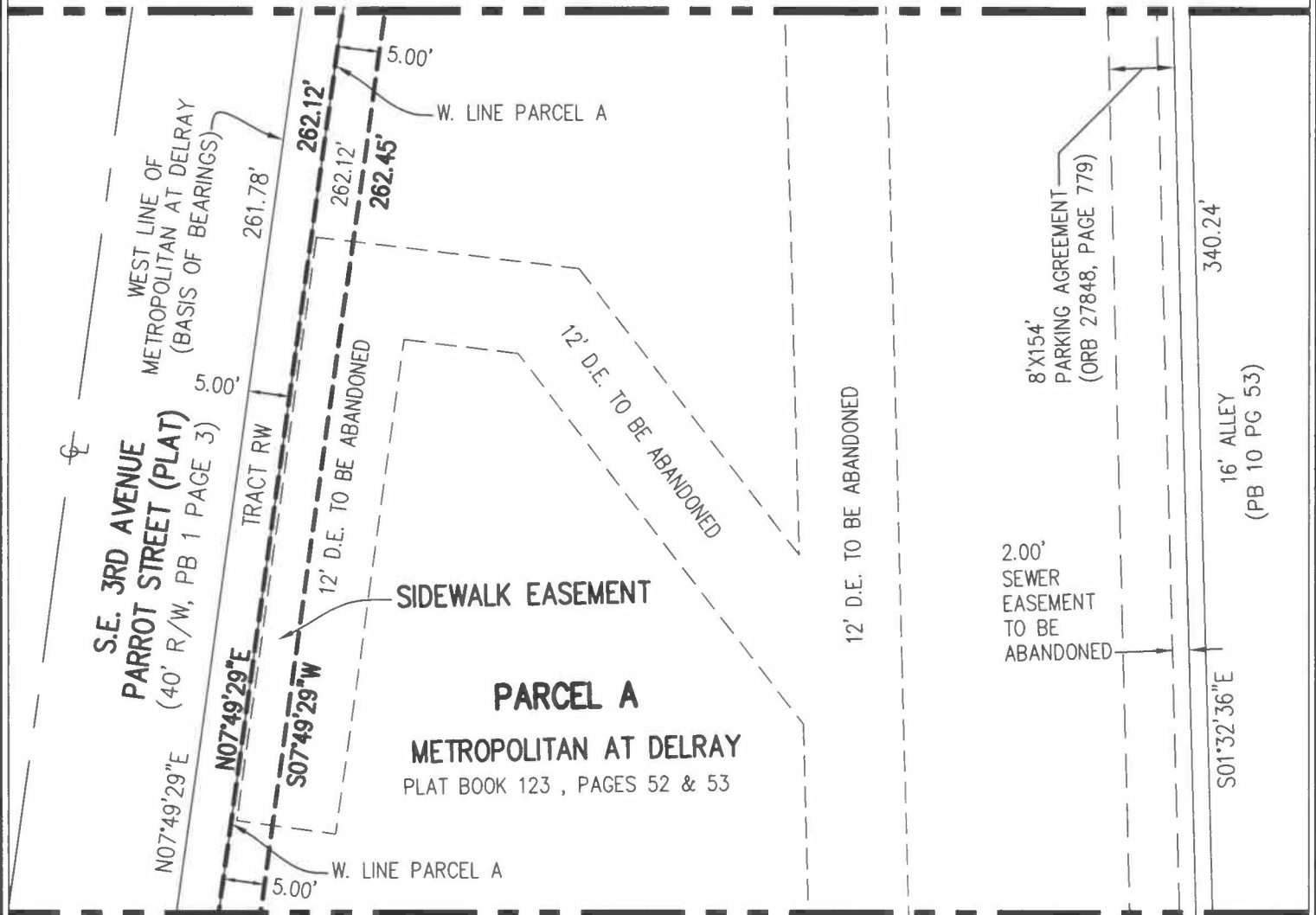
DATE 05/15/19

DRAWN BY DLS

F.B. / PG. NONE

SCALE 1"=20'

JOB NO. 6820SWE

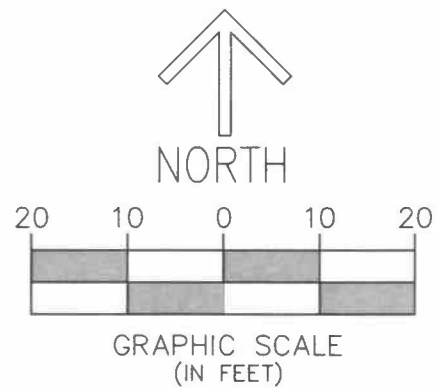


MATCHLINE SEE SHEET 3 OF 5

NOTES

COORDINATES, BEARINGS AND DISTANCES

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SHEET 4 OF 5

**CAULFIELD & WHEELER, INC.**

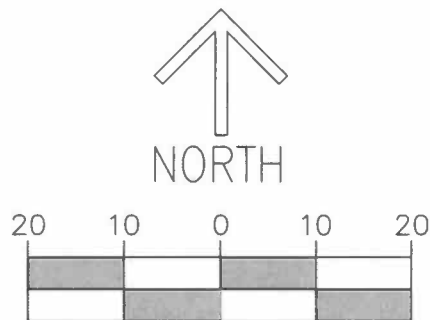
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 SKETCH OF DESCRIPTION

DATE	05/15/19
DRAWN BY	DLS
F.B./ PG.	NONE
SCALE	1"=20'
JOB NO.	6820SWE

[illegible]

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GRAPHIC SCALE
(IN FEET)

SHEET 5 OF 5



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**DELRAY CITY MARKET
SIDEWALK EASEMENTS
SKETCH OF DESCRIPTION**

DATE 04/29/19

DRAWN BY DLS

F.B./ PG. NONE

SCALE 1"=20'

JOB NO. 6820SWE