

Prepared by: RETURN:

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

BICYCLE PARKING MAINTENANCE AGREEMENT

THIS AGREEMENT is made this ____ day of _____, 2021 by and between the **City of Delray Beach**, Florida ("City") and **GROVE ROSEBUD TWO LLC**, a Florida Limited Liability Company with a mailing address of 101 SE 4th Avenue, Delray Beach, Florida 33483 and hereinafter referred to as ("Owner").

W I T N E S S E T H:

WHEREAS, the Owner is installing six (6) bicycle parking spaces in the curb zone along NE 2nd Avenue adjacent to the subject property located at Lots 1 through 12, Block 82, Delray Beach, Florida, according to the Plat thereof, recorded in Plat Book 12, Page 30, of the public records of Palm Beach County, Florida, with physical address 233 NE 2nd Avenue; and

WHEREAS, in order to provide bicycle racks in the City, the City Commission has adopted ordinances, setting forth requirements for bicycle parking; and

WHEREAS, to comply with the City's zoning regulations within the Central Business District, the Owner shall be allowed to install bicycle parking spaces in the right-of-way on NE 2nd Avenue, pursuant to the terms of this Agreement; and

WHEREAS, this Agreement shall in no way be deemed an actual, constructive or any other type of abandonment by the City of the public right-of-way of NE 2nd Avenue; and

WHEREAS, the City reserves the right at any time to utilize the right-of-way for right-of-way purposes; and

WHEREAS, the public will benefit from the access to bicycle parking areas along its streets by the addition of the bicycle racks; 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, in consideration of the mutual covenants and conditions contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. The Parties hereby represent and warrant that the above recitals are accurate and correct and hereby incorporate them in this Agreement.
2. The Owner shall perform all conditions as required by the City or any Board of the City in conjunction with the site plan and review process for the required installation and maintenance of the bicycle racks. The subject property shall have an approved site plan, further described in Exhibit "A", attached hereto and incorporated herein by reference.
3. The Owner shall be responsible for purchasing and installing of the bicycle racks or any other material as required by the Owner's approved site plan. Owner shall further be responsible for obtaining all permits and approvals from all applicable governmental agencies.
4. The Owner hereby agrees to maintain the bicycle racks in the right-of-way in accordance with the City's Ordinances and the terms and conditions of this Agreement. The Owner shall be responsible to maintain the bicycle racks, which means that the bicycle racks are always in working condition, not bent, and that color and finishes always remain intact. To maintain means to keep the curb zone area where the bicycle racks are located free of litter. To maintain means that the bicycles are placed in accordance with the property regulatory standards which prevent bicycles from infringing in the pedestrian clear zone. If the bicycle racks are ever damaged, or defaced it is the Owner's responsibility to replace the bicycle racks with the same style and color as approved on the site plan.
5. If at any time after the execution of this Agreement by the Owner, it shall come to the attention of the City that the bicycle racks or parking spaces are not properly maintained pursuant to the terms and conditions of this Agreement then the City may at its option issue a written notice that a deficiency or deficiencies exist, by sending a certified letter to the Owner. Thereafter, the Owner shall have a period

of sixty (60) calendar days within which to correct the cited deficiencies. If said deficiencies are not corrected within this time period, the City may at its option, proceed as follows:

- a) Maintain the bicycle racks and invoice the Owner for expenses incurred.
 - b) Terminate this Agreement and require the Owner to comply with the City's current Ordinances on bicycle parking.
 - c) Cite the Owner for failure to comply with the City's Ordinances.
6. At all times hereto, the Owner shall own and maintain all bicycle racks installed in the right-of-way by the Owner.
7. If for any reason the City decides that it needs the right-of-way of NE 2nd Avenue or for any other public purpose this Agreement shall terminate, and the Owner shall be required to comply with the City's current Code of Ordinances. Owner shall remove all bicycle racks from the right-of-way within sixty (60) days of such notification, if so, requested by the City.
8. The Owner shall indemnify and hold harmless the City, its officers and employees from all suits, actions, claims, and liability arising directly out of damages incurred solely due to the Owner's negligence in the installation and maintenance of bicycle racks in the City's right-of-way.
9. This Agreement shall constitute the entire Agreement of the parties with respect to the subject matter of it. All prior understandings and agreements between the parties with respect to such matters are merged into this Agreement, which alone fully and completely expresses their understanding.
10. Upon conveyance of the subject property to any future owner, this Agreement shall be deemed automatically assigned by the Owner to any such future owner of the subject property, and such future owner shall be deemed to have assumed all the Owner's obligations hereunder.
11. 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.

12. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

[Remainder of this Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on their behalf this ____ day of _____, 20__.

ATTEST:

CITY OF DELRAY BEACH, FLORIDA

Katerri Johnson, City Clerk

By: _____
Shelly Petrolia, Mayor

Approved as to Form:

Lynn Gelin, City Attorney

GROVE ROSEBUD TWO LLC, a Florida
Limited Liability Company:

WITNESS #1
meissa Apolunario
(name printed or typed)

By: _____
Craig Menin, Manager

WITNESS #2
Lara Rubin
(name printed or typed)

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 9th day of June, 2021, by Craig I. Menin (name of person), as manager (type of authority) for Grove Rosebud Two, LLC (name of party on behalf of whom instrument was executed).

Personally known ☒ OR Produced Identification _____

Type of Identification Produced _____

Notary Public – State of Florida

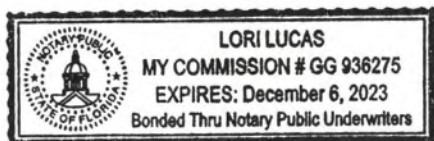


EXHIBIT A
Site Plan

