

Prepared by: RETURN:

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

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### ACCESS EASEMENT AGREEMENT

**THIS INDENTURE**, made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **GROVE ROSEBUD TWO, LLC**, a Florida Limited Liability Company with a mailing address of 101 SE 4<sup>th</sup> 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 access easement ("Access Easement") to be used for adequate right-of-way for the safe movement of vehicles and pedestrians, pursuant to Sec. 5.3.1(A)(1) of the Land Development Regulations, with full and free right, liberty, and authority to enter upon and to maintain the surfaces across, through and upon or within the Access Easement areas as specifically identified on Exhibit "A" attached hereto.

#### DESCRIPTION

See Exhibit "A"

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 easement, as expressed hereinafter. Notwithstanding the foregoing, this easement shall not encumber any portion of the property in which there is no Access Easement 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 Access Easement 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 which are superior to this easement. The Grantor also agrees to erect no structure nor affect any other kind of construction or improvements upon the area of the Access Easement as described in Exhibit "A", without the written consent of Grantee, so as to keep these areas free for vehicles and pedestrians and to allow for unobstructed sight.

It is understood that the Grantor shall improve the Access Easement area so as to be an extension of the adjacent public alleyway and shall match the adjacent public alleyway in design and material. Upon completion of construction of the alleyway and related improvements, if any, by the Grantor to the required standards, the Grantor shall maintain the alleyway in conformance with the City's practices of maintaining public rights-of-way throughout the City.

It is understood by the Grantee that the Grantor may, from time to time, restrict or limit the Grantee and any vehicles or pedestrians from accessing the alleyway, 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 paved surface in conformance with the City's practices of maintaining public rights-of-way.

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 Access Easement Agreement allows or permits, the same shall include the successors or assigns of the parties.

IN WITNESS WHEREOF, the parties to this Access 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 Form:

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

WITNESS #1:

GRANTOR: **GROVE ROSEBUD TWO LLC**, a  
Florida Limited Liability Company

\_\_\_\_\_  
\_\_\_\_\_  
(name printed or typed)

By: \_\_\_\_\_  
Craig Menin, Manager

WITNESS #2:

\_\_\_\_\_  
\_\_\_\_\_  
(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 \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_  
(name of person), as \_\_\_\_\_ (type of authority) for \_\_\_\_\_ (name of party on behalf of whom instrument was executed).

Personally known \_\_\_\_ OR Produced Identification \_\_\_\_  
Type of Identification Produced \_\_\_\_\_

\_\_\_\_\_  
Notary Public – State of \_\_\_\_\_

**EXHIBIT A**

**SKETCH FOR ACCESS EASEMENT AREA**

## SKETCH AND LEGAL DESCRIPTION

A PORTION OF LOTS 11 & 12, BLOCK 82,  
SUBDIVISION OF BLOCK 82 DELRAY, FLORIDA (PLAT BOOK 12, PAGE 30)

### LEGAL DESCRIPTION:

A PORTION OF LOT 11 AND LOT 12, BLOCK 82, OF SUBDIVISION OF BLOCK 82 DELRAY, FLORIDA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 12, PAGE 30, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE SOUTHEAST CORNER OF LOT 12; THENCE RUN N00°00'18"E ALONG THE EAST LINE OF LOT 12 FOR A DISTANCE OF 10.00' TO THE **POINT OF BEGINNING**; THENCE RUN S45°25'26"W ALONG THE NORTHWESTERLY LINE OF A CORNER CLIP EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 30426, PAGE 790, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA FOR A DISTANCE OF 5.56' TO A POINT; THENCE RUN N00°00'12"E FOR A DISTANCE OF 41.28' TO A POINT; THENCE RUN N23°52'38"E FOR A DISTANCE OF 9.78' TO A POINT ON THE EAST LINE OF LOT 11; THENCE RUN S00°00'18"W ALONG THE EAST LINE OF LOT 11 AND LOT 12 FOR A DISTANCE OF 46.32 FEET TO THE **POINT OF BEGINNING**.

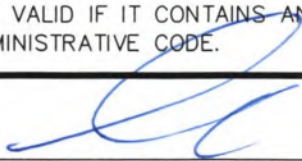
CONTAINING AN AREA OF 173 SQUARE FEET, MORE OR LESS.

### SURVEYOR'S NOTES:

1. BEARINGS SHOWN ARE REFERENCED TO AN ASSUMED BEARING OF N89°09'26"W ALONG THE SOUTH LINE OF LOT 12, AS SHOWN ON THE CORNER CLIP EASEMENT RECORDED IN OR 30426, PG 790.
2. NO FIELDWORK WAS PERFORMED DURING THE PREPARATION OF THIS EXHIBIT: THIS IS NOT A SURVEY
3. ALL DIMENSIONS ARE U.S. SURVEY FEET (12 METERS = 39.37 FEET)
4. ALL DOCUMENT RECORDING INFORMATION CONTAINED HEREIN IS IN REFERENCE TO THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.
5. THIS EXHIBIT CONSISTS OF 2 PAGES, AND IS NOT VALID WITHOUT ALL PAGES.
6. IF THIS EXHIBIT IS IN PAPER FORMAT, IT IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR.
7. IF THIS EXHIBIT IS IN AN ELECTRONIC FORMAT, IT IS ONLY VALID IF IT CONTAINS AN ELECTRONIC SIGNATURE AS SPECIFIED IN CHAPTER 5J-17.062(3) OF THE FLORIDA ADMINISTRATIVE CODE.

### SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS EXHIBIT OF THE HEREON DESCRIBED PROPERTY HAS BEEN MADE UNDER MY DIRECTION, AND COMPLIES WITH STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS CONTAINED IN CHAPTER 5J-17.051, FLORIDA ADMINISTRATIVE CODE, AND THAT SAID EXHIBIT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

  
WILLIAM J WRIGHT, P.S.M.  
LICENSE NO. 6868, STATE OF FLORIDA  
ELECTRONIC VERSION OF THIS EXHIBIT SIGNED AND SEALED BY WILLIAM J WRIGHT, P.S.M., ON DATE SHOWN, USING AN SHA-1 AUTHENTICATION CODE. AUTHENTICATION CODE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

PAPER COPIES OF THIS EXHIBIT NOT VALID WITHOUT ORIGINAL INK SIGNATURE AND RAISED SEAL.

05/26/2021

*WrightPSM, LLC*  
PROFESSIONAL SURVEYING AND MAPPING  
1248 SE 12TH AVE DEERFIELD BEACH, FL 33441  
(772) 538-1858 www.wrightpsm.com  
CERTIFICATE OF AUTHORIZATION NO. L.B.8186

SCALE: 1"=30'

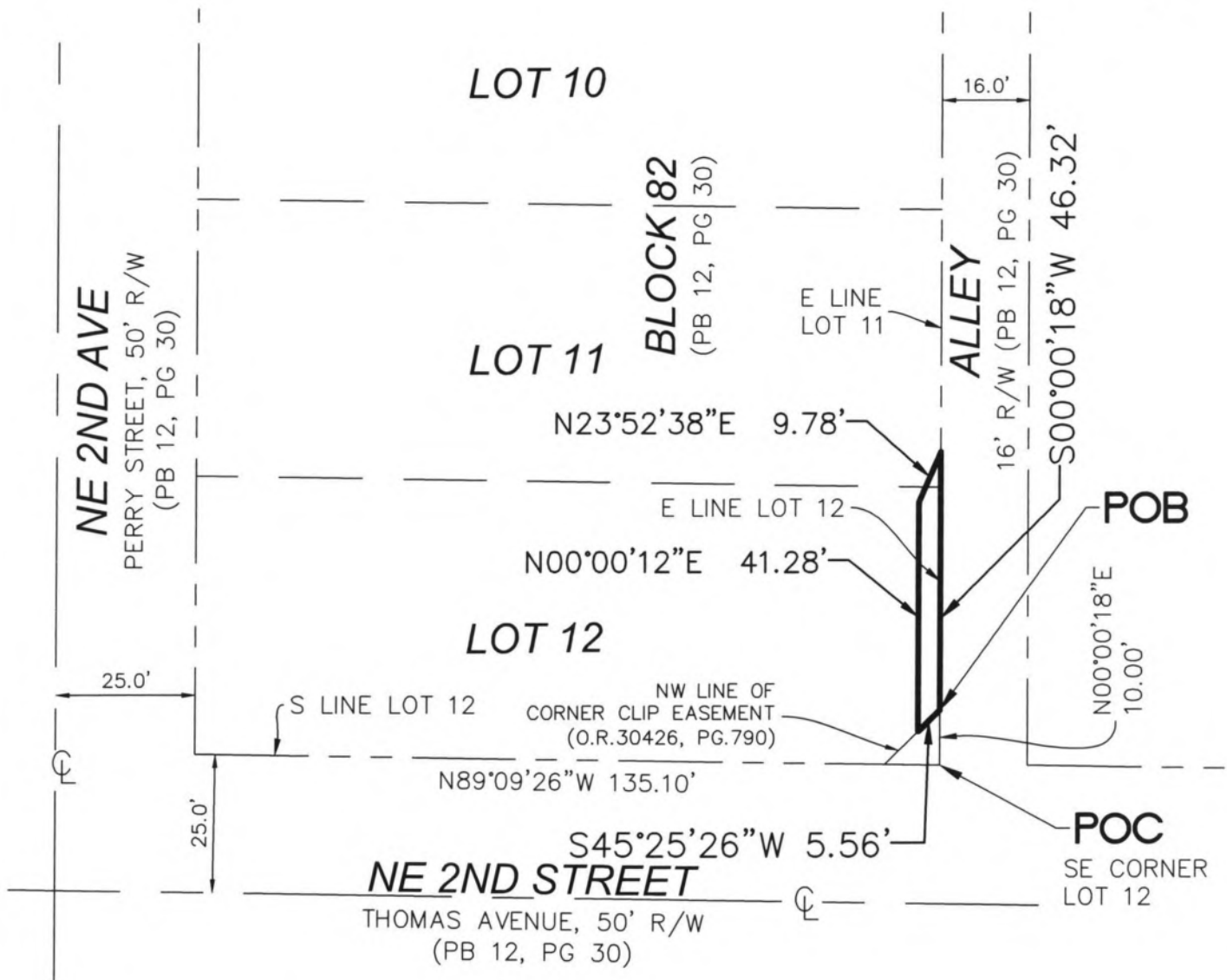
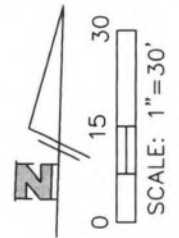
DATE: 05/26/2021

JOB NO. 20-0902

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# SKETCH AND LEGAL DESCRIPTION

A PORTION OF LOTS 11 & 12, BLOCK 82,  
SUBDIVISION OF BLOCK 82 DELRAY, FLORIDA (PLAT BOOK 12, PAGE 30)



## ABBREVIATIONS LEGEND

POC=POINT OF COMMENCEMENT  
POB=POINT OF BEGINNING  
R/W=RIGHT OF WAY  
C/L OR  $\text{C}$ =CENTERLINE  
P.B.=PLAT BOOK  
OR =OFFICIAL RECORDS BOOK  
PG =PAGE

LB =LICENSED BUSINESS  
PSM=PROFESSIONAL SURVEYOR &  
MAPPER

*WrightPSM, LLC*

PROFESSIONAL SURVEYING AND MAPPING  
1248 SE 12TH AVE DEERFIELD BEACH, FL 33441  
(772) 538-1858 www.wrightpsm.com  
CERTIFICATE OF AUTHORIZATION NO. L.B.8186

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DATE: 05/26/2021

JOB NO. 20-0902

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### CONSENT AND JOINDER OF MORTGAGEE

NE 2nd Ave Delray 1 LLC (Mortgagee), is the holder of that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of June 4, 2019, recorded in the Official Records Book 30667, at page 1308 (Instrument No. 20190208424), of the Public Records of Palm Beach County, Florida ("Mortgage"), which encumbers a portion of the following described property, in Palm Beach County, Florida, to wit:

Lots 1 through 12, Block 82, SUBDIVISION OF 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.

The undersigned, Mortgagee, hereby consents to the foregoing Easement Agreement from Grove Rosebud Two, 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 10 day of June, 2021.

WITNESS #1:

Paige Bactram  
(Printed Name)

MORTGAGEE: NE 2nd Ave Delray 1 LLC

By: David Spelser  
(Printed Name & Title)

**David Spelser**  
**Authorized Signatory**

WITNESS #2:

Brad Horn

### Acknowledgement

STATE OF New York  
COUNTY OF New York

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 10 day of June, 2021, by David Spelser (name of person), as Authorized Signatory (type of authority) for NE 2nd Ave Delray 1 LLC (name of party on behalf of whom instrument was executed).

Personally known ☒ OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

Signature of Notary Public  
State of \_\_\_\_\_

**JIGANASA PARISH-SILO**  
Notary Public, State of New York  
No. 01PA6178443  
Qualified in Richmond County  
Certificate on file in New York County  
Commission Expires 03.24.24