

AGREEMENT REGARDING UTILITY EASEMENT

This Agreement Regarding Utility Easement (hereinafter referred to as the "Agreement") is made effective as of the last date of execution, by and between the **CITY OF VENICE**, Florida, a Florida municipal corporation, whose mailing address is 401 West Venice Avenue, Venice, FL 34285 (hereinafter referred to as the "City"), and **WILLOW CHASE COMMUNITY ASSOCIATION, INC.**, a Florida Not-for-Profit corporation, whose mailing address is c/o Advanced Management, Inc. of Southwest Florida, 9031 Town Center Parkway, Bradenton FL, 34202 (hereinafter referred to as the "Association"):

WHEREAS, on July 28, 2009, the Association, via a Quit-Claim Deed granted by Lee Wetherington Development, LLC, which is recorded in the Official Records of Sarasota County, Florida, as Instrument #2009120130, acquired certain real property (hereinafter referred to as the "Property"); and

WHEREAS, the City is in the process of constructing a new potable water main (the "Utility Project"), a portion of which is to be located under a portion of the Property, to eliminate the existing dead-end watermain located at the east end of Calmer Way within the Toscana Isles Subdivision by creating water distribution system looping as a means of providing increased water quality and pressure for water customers with in this area; and

WHEREAS, in furtherance of the Utility Project, the City has requested that the Association grant a permanent Utility Easement to the City over a portion of the Property as more specifically set forth in Exhibit "A" attached hereto (the "Utility Easement"); and

WHEREAS, the Association has agreed to grant the requested Utility Easement to the City subject to certain terms and conditions as provided for herein; and

WHEREAS, the Association and the City wish to enter into this Agreement in order to set forth the respective duties and responsibilities of the parties regarding this matter and the Utility Easement.

NOW THEREFORE, in consideration of the mutual covenants and obligations contained herein, the Parties hereby agree as follows:

Section 1 - Recitals

The above recitals are true and correct and are hereby incorporated fully by reference.

Section 2 – Association's Responsibilities

The Association shall be responsible for the following:

- The Association shall grant the requested Utility Easement to the City.
- Upon the City's installation of the Fence and Sod on the Property as stated below in Section 3, the Association shall assume ownership of the Fence and Sod, and shall be responsible for the ongoing maintenance of the Fence and Sod.

- In addition, after the City's installation of the Fence and Sod on the Property, the Association shall be responsible for installing and maintaining any landscaping and any related improvements in the vicinity of the Utility Easement and the Fence on the Property, as generally shown in Exhibit "B" attached hereto.

Section 3 – City's Responsibilities

The City shall be responsible for the following:

- The City shall clear, fill, and grade the area shown as the "Clearing and Restoration Area" on Exhibit "B."
- The City shall install the 16"-diameter water main, and the 8"-diameter interconnect assembly including all associated appurtenances for the Utility Project, which are to be located under the Property within the Utility Easement.
- Coincident with the installation of the Utility Project under the Property, the City shall, as shown in Exhibit "B," install up to eighty-five (85) feet of six (6)-foot galvanized chain link fence (the "Fence") on a specific portion of the Property for purposes of providing a privacy barrier to, and as a measure of potential security for, the Willow Chase community. In addition, the City shall install approximately 11,000 square feet of Bahia sod in the "Clearing and Restoration Area" shown on Exhibit "B."
- The City agrees to reimburse the Association for an amount not-to-exceed \$3,500.00 for the installation of landscaping on the south and east sides of the Fence on the Property. Within ninety (90) days after the installation of the Fence and Sod is completed, the Association shall provide copies to the City of all invoices related to the purchase and installation of said landscaping, along with proof of payment (collectively, the "Reimbursement Documents"). Subject to the City's review, acceptance, and approval of the Reimbursement Documents provided by the Association, which shall not be unreasonably withheld, the City shall reimburse the Association for its costs associated with the landscaping as set forth in the Reimbursement Documents. Reimbursement payments shall be made by the City to the Association within thirty (30) days of the City's acceptance and approval of the respective Reimbursement Documents.
- It is understood and agreed that the Association may from time to time erect gates on the Property to prohibit its use by unauthorized persons. In such case, the Association agrees to provide the City with keyed or other access through any such gates.

Section 4 – Understanding

- The City's Director of Utilities shall be the City's representative, and the President of the Association, or their designee, shall be the Association's representative regarding administration of this Agreement.
- In the event this Agreement does not provide for which party shall be responsible for a particular aspect of this Agreement, the parties' respective representatives shall work together in order to fulfill

the intent of this Agreement.

Section 5 – Liability and Indemnification

The City shall be responsible for any and all damages to the Property, including any improvements, caused by any activities performed by the City, its agents, contractors, employees, volunteers, licensees, or invitees related to any work performed under this Agreement. To the extent permissible under Florida law, the City agrees to indemnify and hold harmless the Association from all claims, losses, damages, and expenses arising from any act or omission of the City, its agents, contractors, employees, volunteers, licensees, or invitees related to any work performed under this Agreement.

Section 6 – Term and Termination

- The term of this Agreement shall commence upon the Effective Date, as defined herein, and shall remain in effect unless the Agreement has been terminated as provided for herein; provided, however, any provisions, restrictive covenants, conditions or requirements of this Agreement which are perpetual or permanent in their term shall not be considered terminated by any termination of this Agreement as provided for herein unless such provisions, covenants, conditions or requirements are expressly made subject to such termination.
- In the event either party defaults or otherwise violates any of the terms of this Agreement, the non-defaulting party shall give the defaulting party written notice of the default and indicate that such default shall be corrected within ten (10) business days of the date of the written notice. In the event the defaulting party fails to correct the conditions of the default within the aforementioned timeframe, the non-defaulting party shall have all legal remedies available to it including, but not limited to, termination of this Agreement for cause.

Section 7 – Notice

Any notice or communication required or permitted under this Agreement shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such other address as one party may have furnished to the other in writing. When designating such notice or communication, if to the City, notice should be directed to the City Manager; if to the Association, notice should be directed to the President of the Association and the Community Association Manager, if any, with a copy being also delivered by certified mail, return receipt requested, to the Association's Registered Agent.

Section 8 - Governing Law; Venue; Enforcement

This Agreement shall be construed in accordance with the laws of the State of Florida. The sole and exclusive forum, venue and jurisdiction for any action arising from this Agreement shall be in the 12th Judicial Circuit in and for Sarasota County, Florida. In any action to enforce this Agreement, the prevailing party shall be entitled to its reasonable attorneys' fees and costs, as determined by the court.

Section 9 - Assignment

Neither party may assign or transfer the responsibilities or agreements made herein without the prior written consent of both parties.

Section 10 - Agreement

- This Agreement represents the entire understanding of the respective parties hereto and there is no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof.
- A waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provision, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or any other provisions.
- Any provision or part of this Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the parties, who agree that this Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- At the sole discretion of the Association, the Association may cause this Agreement to be recorded in the Official Records of Sarasota County, Florida.

Section 11 - Amendment

This Agreement may not be amended, modified, or supplemented except if agreed to in writing by the parties with the same degree of formality with which this Agreement is executed.

Section 12 - Severability

If any provision of this Agreement may be found to be invalid or unenforceable for any reason, such invalidity shall not affect the other remaining provisions of this Agreement which can be given effect without the invalid provisions.

Section 13 - Effective Date

This Agreement shall become effective upon the latter of: (i) the execution by the last party hereto; and (ii) the execution and recording of the Utility Easement in the Official Records of Sarasota County, Florida.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement Regarding Utility Easement on the dates indicated below.

CITY OF VENICE, FLORIDA

By: _____
Nick Pachota, Mayor

Date: _____

Attest:

City Clerk

Approved as to form and correctness:

City Attorney

STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____, 20____, by _____, who is personally known to me or who has produced _____ (type of identification) as identification and who did take an oath.

My Commission Expires:

Notary Public

Printed name of notary

Commission Number:

WILLOW CHASE COMMUNITY ASSOCIATION, INC.

By: _____

Its: _____

Date: _____

STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____, 20____, by _____, _____ of the Willow Chase Community Association, Inc., who is personally known to me or who has produced _____ (type of identification) as identification and who did take an oath.

My Commission Expires:

Notary Public

Printed name of notary

Commission Number:

EXHIBIT "A"

SKETCH & DESCRIPTION OF UTILITY EASEMENT AREA

Public Water Utility Easement
Section 27, Township 38 South, Range 19 East
Calmar Way Nokomis, Florida

DESCRIPTION: (Prepared by Levine Surveying and Mapping, LLC)

A Public Water Utility Easement, being a portion of Tract 609, Willow Chase, as recorded in Plat Book 45, Page 15, Public Records of Sarasota County, lying in Section 27, Township 38 South, Range 19 East, Sarasota County, Florida. Described as follows:

COMMENCE at a 4" Concrete Monument, being the Southwest Corner of Tract 609 of said Willow Chase; thence N.00°56'10"W., along the West line of said Tract 609, a distance of 163.45 feet to the POINT OF BEGINNING; thence continue N.00°56'10"W., a distance of 10.00 feet; thence S.89°22'35"E., a distance of 70.03 feet; thence S.00°56'10"E., along the West line of a 30' public utility easement per said Willow Chase, a distance of 10.00 feet; thence N.89°22'35"W., a distance of 70.03 feet to the POINT OF BEGINNING.

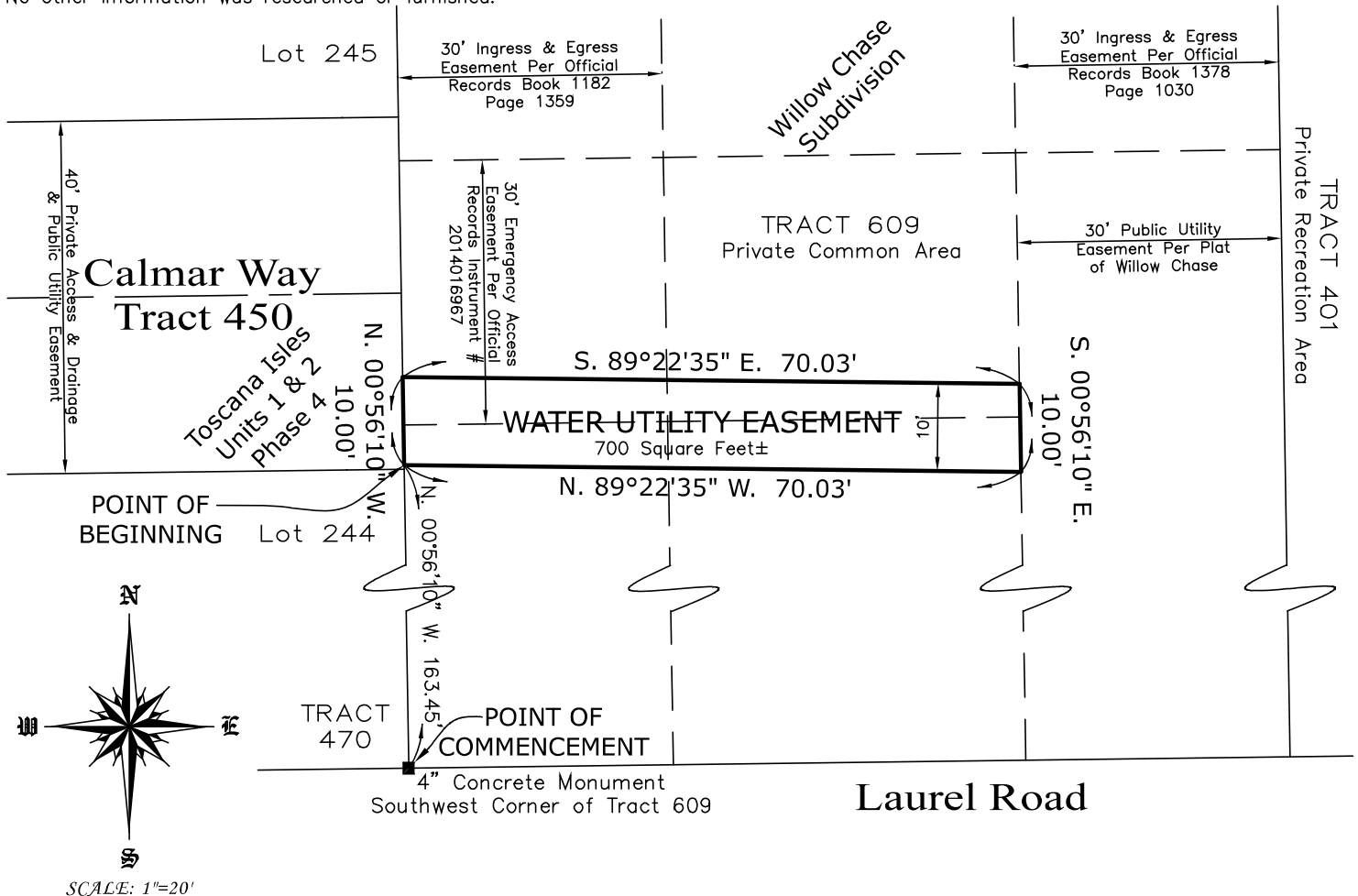
Easement Contains 700 square feet more or less.

Data Sources:

1. Plat of Willow Chase, recorded in Plat Book 45, Page 15, Public Records of Sarasota County, Florida.
2. Plat of Toscana Isles, Units 1 & 2, Phase 4, recorded in Plat Book 45, Page 15, Public Records of Sarasota County, Florida.
3. Easement recorded in Official Records Instrument # 2014016967, Public Records of Sarasota County, Florida.
4. Sarasota County Property Appraiser's web site - www.sc-pa.com.
5. No other information was researched or furnished.

Notes:

1. This map represents a Sketch & Description and is NOT A SURVEY.
2. Bearings shown hereon refer to an assumed meridian. The West line of Tract 609, being N.00°56'10"W.
3. The description shown hereon was prepared for this survey based on information provided by the client.
4. Subject to easements and rights of way of record, if any.
5. This map has been prepared without the benefit of a Commitment for Title Insurance or a Title Policy.



CERTIFIED TO: DeJonge Excavating Contractors Inc.

NOT A SURVEY

LEVINE SURVEYING & MAPPING INC.
871 DARWIN ROAD
VENICE, FLORIDA 34293
PHONE NO.: (941) 315-0900
CERTIFICATE OF AUTHORIZATION # LB 8583

JOB NUMBER: 231107

DATE OF SKETCH: 08/21/2024

DRAWN BY: AVL



Aaron V Levine
2024.08.21
14:25:04 -04'00'

AARON V. LEVINE,
REGISTERED SURVEYOR & MAPPER, FLA. CERT. NO. LS 7011
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED OR
ELECTRONIC SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

EXHIBIT “B”

**APPROXIMATE LOCATIONS FOR
PROPOSED FENCE AND CLEARING/RESTORATION
AREAS**

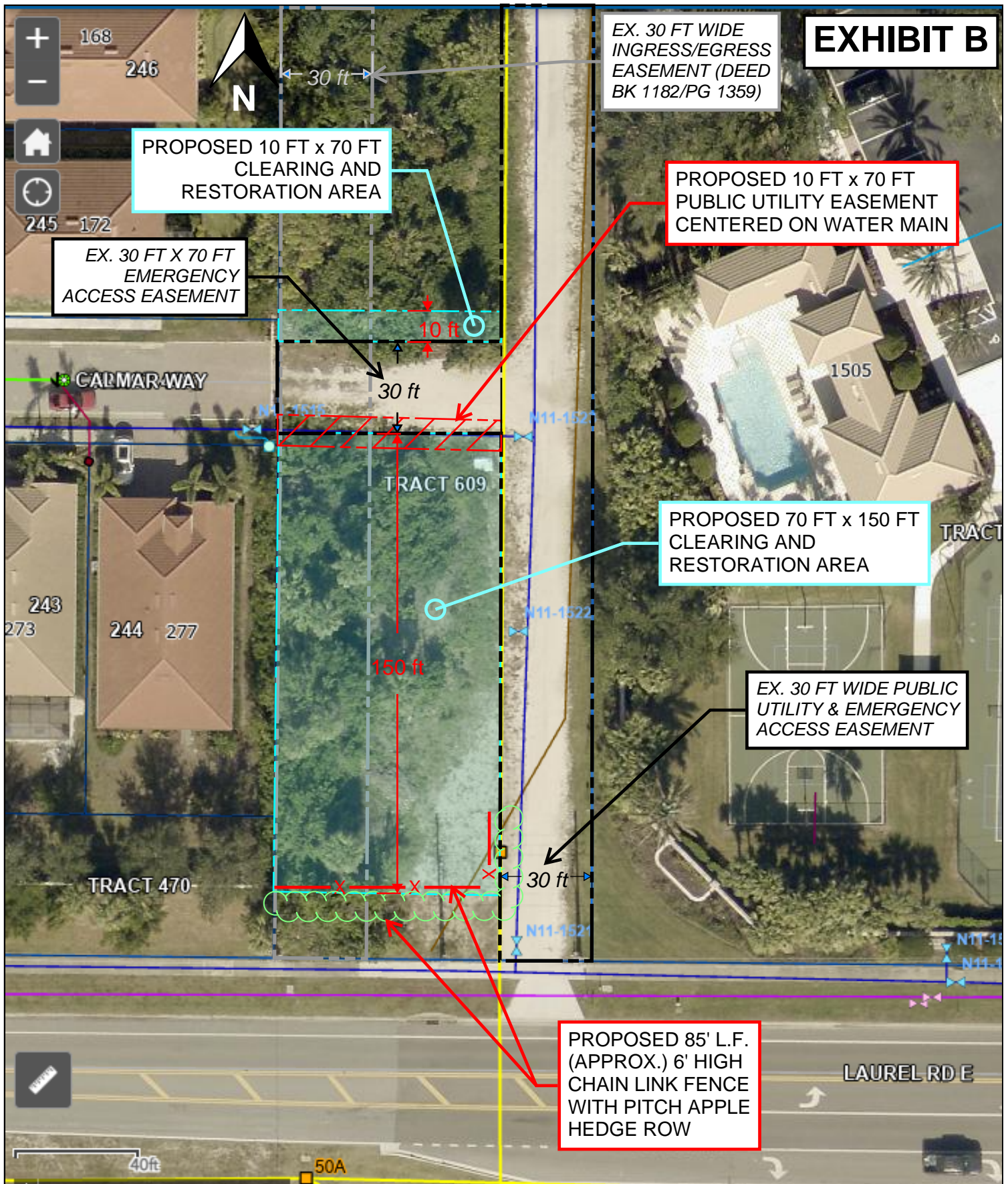


EXHIBIT B: PROPOSED WILLOW CHASE TRACT 609 IMPROVEMENTS