



## City of North Port

### RESOLUTION NO. 2020-R-13

**A RESOLUTION OF THE CITY OF NORTH PORT, FLORIDA, AUTHORIZING THE ACQUISITION OF REAL PROPERTY LOCATED AT 5891 JESSAMINE AVENUE, NORTH PORT, FLORIDA 34291-6371 AND DESCRIBED AS PARCEL IDENTIFICATION NUMBER 0967058935; PROVIDING FOR FILING OF DOCUMENTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City Commission recognizes the need for the preservation of the wildlife corridor along the Myakkahatchee Creek; and

**WHEREAS**, James E. Foster and Mary D. Foster own real property in the City of North Port along the Myakkahatchee Creek and have agreed to sell the property to the City of North Port; and

**WHEREAS**, the City Commission finds that the property satisfies an immediate or future need of the City; and

**WHEREAS**, James E. Foster and Mary D. Foster will pay all outstanding taxes on the real property at closing; and

**WHEREAS**, the City Commission finds that this property acquisition serves the public health, safety, and welfare of the citizens of the City of North Port, Florida

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:**

#### **SECTION 1 – INCORPORATION OF RECITALS**

1.01 The above recitals are hereby ratified and confirmed as being true and correct and are incorporated herein by reference.

#### **SECTION 2 – RESOLUTION**

2.01 The City Commission hereby authorizes the City Manager to acquire the real property bearing parcel identification number 0967058935, located at 5891 Jessamine Avenue, in the City of North Port, and legally described as:

Lot 35, Block 589, 18th Addition to Port Charlotte Subdivision, according to the map or plat thereof as recorded in Plat Book 14, Pages 6, 6A through 6V, inclusive, of the Public Records of Sarasota County, Florida.

Relevant portions of the plat are attached hereto as Exhibit A and incorporated as if set forth herein. Transfer of ownership from James E. Foster and Mary D. Foster to the City of North Port will be made via Warranty Deed.

- 2.02 The Commission hereby approves the Agreement for Purchase and Sale of Real Property attached as Exhibit B and incorporated as if set forth herein and authorizes the City Manager to execute the agreement.
- 2.03 The Commission hereby authorizes the City Manager or his designee to perform all other actions delegable to him by law that are necessary to negotiate, enter into, and consummate the proposed purchase(s), exchange(s), or donation(s).

**SECTION 3 – FILING OF DOCUMENTS**

- 3.01 The City Clerk is hereby directed to file a certified copy of this resolution with the Clerk of the Sarasota County Circuit Court to be duly recorded in the official records of the county.
- 3.02 The City Clerk is hereby directed to record the fully executed original Warranty Deed(s) with the Clerk of Sarasota County Court to be duly recorded in the official records of the county.
- 3.03 The City will pay all applicable filing fees as required by law.

**SECTION 4 – CONFLICTS**

- 4.01 In the event of any conflict between the provisions of this resolution and any other resolution or portions thereof, the provisions of this resolution shall prevail to the extent of such conflict.

**SECTION 5 – SEVERABILITY**

- 5.01 If any section, sentence, clause or phrase of this resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this resolution.

**SECTION 6 – EFFECTIVE DATE**

- 6.01 This resolution shall take effect immediately upon adoption by the City Commission of the City of North Port, Florida.

PASSED AND DULY ADOPTED by the City Commission of the City of North Port, Florida this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

CITY OF NORTH PORT, FLORIDA

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DEBBIE MCDOWELL  
MAYOR

ATTEST

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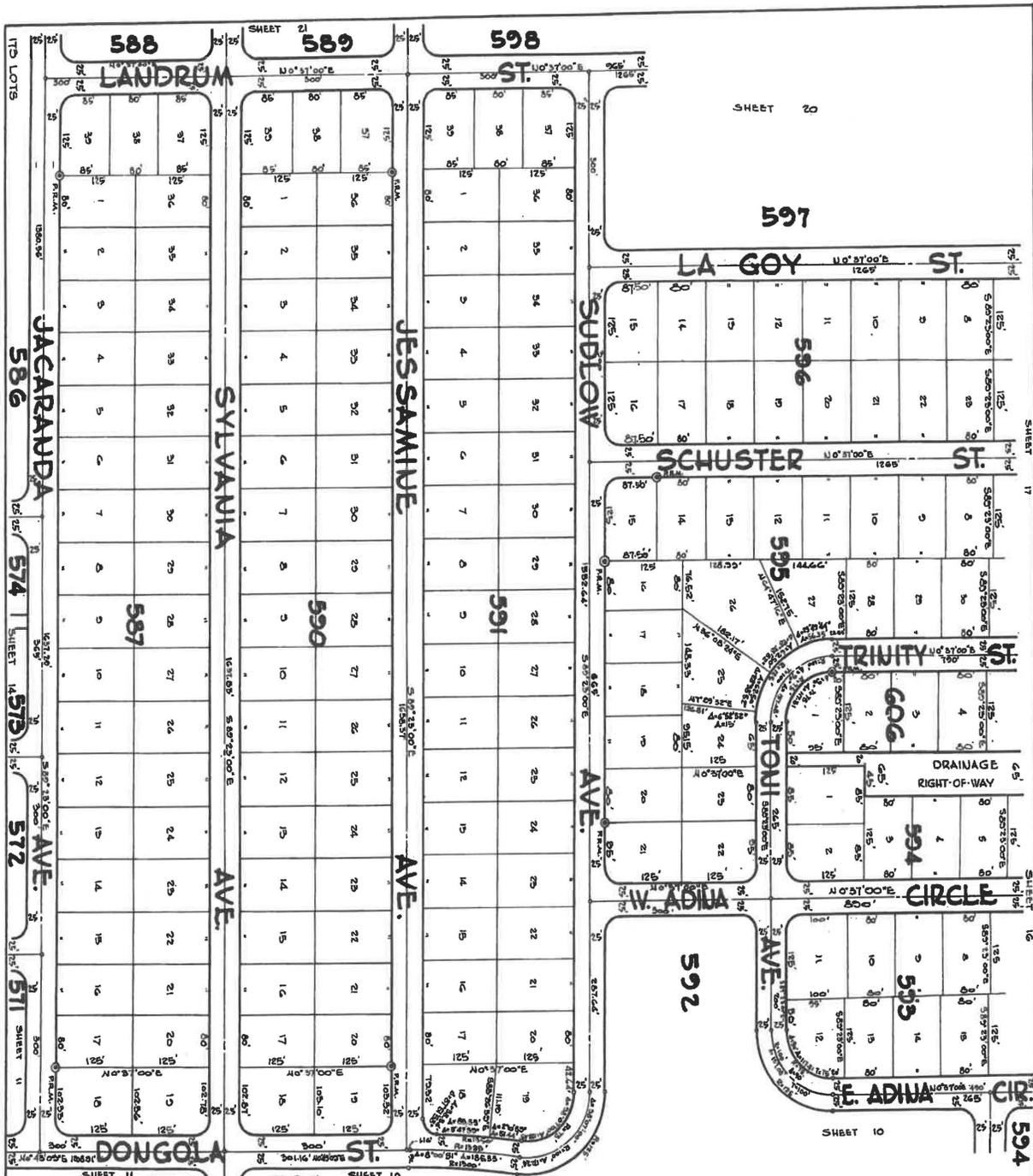
HEATHER TAYLOR, CMC  
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

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AMBER L. SLAYTON  
CITY ATTORNEY

# EXHIBIT A



**EIGHTEENTH ADDITION TO  
PORT CHARLOTTE SUBDIVISION**

A SUBDIVISION OF A PORTION OF SECTIONS 9, 15, 16, 17,  
21 & 22, TOWNSHIP 39<sup>th</sup> RANGE 21<sup>st</sup> AND A RESUBDIVISION  
OF PORTIONS OF "TENTH ADDITION" AND "FOURTEENTH ADDITION"  
TO PORT CHARLOTTE SUBDIVISION

CITY OF NORTH PORT CHARLOTTE  
SARASOTA COUNTY, FLORIDA

MUELLER AND FAITH IUC.

CIVIL ENGINEERS & SURVEYORS

SCALE: 1"=100' CORAL GABLES, FLORIDA JANUARY 1961

SHEET 15 OF 23

BR 14 Pg 6 N

Exhibit B to Resolution No. 2020-R-13

**AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY**

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY ("Agreement") is entered into by and between James E. and Mary D. Foster ("Seller"), with an address of 5891 Jessamine Avenue, North Port, Florida 34291-6371, and the CITY OF NORTH PORT, FLORIDA, a municipal corporation of the State of Florida ("Buyer"), with an address of 4970 City Hall Boulevard, North Port, Florida 34286-4100, as of the date that the Buyer executes this Purchase and Sale Agreement (the "Effective Date").

In consideration of the mutual covenants and agreements herein set forth, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

1. Sale of Property. Seller agrees to sell, assign, transfer, and convey to Buyer, and the Buyer agrees to purchase from Seller that certain real property ("Property") consisting of 0.30 acres (13,156 square feet) of land, described as:

Lot 35, Block 589, 18th Addition to Port Charlotte Subdivision, according to the map or plat thereof as recorded in Plat Book 14, Pages 6, 6A through 6V, inclusive, of the Public Records of Sarasota County, Florida,

Sarasota County Property Appraiser PID # 0967058935

together with all privileges and other rights appurtenant to the Property, if any; all fill and top soil thereon, if any; all oil, gas and mineral rights possessed by Seller, if any; and all right, title and interest of Seller in and to any and all streets, roads, highways, easements, drainage rights, or rights-of-way, appurtenant to the Property, if any; and all right title and interest of Seller in and to any and all covenants, restrictions, agreements and riparian rights benefiting the Property, if any.

2. Purchase Price. In consideration of the conveyance of the Property to Buyer, Buyer shall pay to Seller the sum of Two Hundred Twelve Thousand and no/100 dollars (\$212,000.00) payable at closing.

3. Clear and Marketable Title. Seller warrants that it is the sole owner of the Property in fee simple and will convey good, recordable, marketable, insurable title free and clear of all encumbrances to Buyer at closing. Seller acknowledges that all warranties found in law are in effect.

- Seller agrees to purchase title insurance
- Buyer agrees to purchase title insurance
- Title Insurance is waived.

4. Commission Approval. Buyer's obligation to perform on this Purchase and Sale Agreement is conditioned upon the approval of this Purchase and Sale Agreement by the City Commission of the City of North Port, Florida.

5. Closing Costs and Documents. Buyer agrees to pay all reasonable closing costs. Taxes shall be prorated as of the scheduled closing date. Buyer shall select the closing agent. The purchase price will be disbursed to the Seller or their agent at the time of closing, except outstanding taxes, which, if due, will be withheld at closing. Seller agrees to sign and provide a Warranty Deed and all other relevant closing documents at closing, and further acknowledge(s) that the closing and aforesaid

## Exhibit B to Resolution No. 2020-R-13

payment is contingent on Seller's ability to convey clear, recordable, marketable, insurable, and complete title at the closing.

6. Closing Date. Closing on the Property will take place within 90 days of the North Port City Commission's approval of this Purchase and Sale Agreement unless otherwise agreed to by the parties. Seller will be informed by the Closing Officer at least seven (7) days prior to the closing of its date, time and place, when closing is in person.

7. Hazardous Materials. Seller warrants to Buyer that to the best of Seller's knowledge, information and belief, the Property has not been nor is it currently used as a disposal site for toxic or other hazardous waste materials. This warranty shall survive the closing and shall continue for so long as there is liability imposed on Buyer under any applicable federal or state law. In the event that the City obtains an Environmental Site Assessment that confirms the presence of Hazardous Materials on the Property, the City, at its sole option, may elect to terminate this Purchase and Sale Agreement and neither party shall have any further obligations under this Purchase and Sale Agreement.

8. Encumbrances. Seller hereby covenants and agrees that from the Effective Date until the closing date, the Seller shall not, without the prior written consent of the Buyer, grant or otherwise voluntarily create or consent to the creation of any easement, restriction, lien, or encumbrance affecting the Property.

9. Default; Remedies. If Seller or Buyer default under this Purchase and Sale Agreement, the non-defaulting party may waive the default and proceed to closing, seek specific performance, or refuse to close and elect to receive the return of any money paid, each without waiving any action for damages, or exercise any other remedy permitted by law or in equity resulting from Seller's or Buyer's default.

10. Governing Law; Venue. This Agreement is intended to be performed in the State of Florida and shall be governed and construed in all respects in accordance with the laws of the State of Florida. The exclusive venues for any legal or judicial proceedings in connection with the enforcement or interpretation of this Contract are the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida and the United States District Court for the Middle District of Florida.

11. Complete Agreement. This Agreement incorporates and includes all prior negotiations, correspondence, agreements, or understandings between the parties, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Purchase and Sale Agreement that are not contained in this document.

12. Amendment. No modifications, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

13. Severability. In the event any provision of this Purchase and Sale Agreement shall be held invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any breach of any provision, term, condition or covenant shall not be construed as a waiver of a subsequent breach by the other party.

14. Assignment. Seller shall not assign this Agreement, or any interest therein or any right or privilege appurtenant thereto or to the Property without first obtaining Buyer's written consent,

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which shall not be unreasonably withheld. Buyer's consent to one assignment by a party other than Seller shall not be consent to any subsequent assignment by any other person. Any unauthorized assignment shall be void and shall terminate this Purchase and Sale Agreement at Buyer's option. Subject to the terms of the preceding sentence, all terms of this Purchase and Sale Agreement shall be binding upon and shall inure to the benefit of and be enforceable by the parties hereto and their respective legal representative, heirs, successors, and assigns.

15. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be hand delivered, sent via UPS for FedEx, or sent by certified United States mail (postage prepaid), return receipt requested, and addressed as follows:

If to Seller:                    James E. and Mary D. Foster  
   5891 Jessamine Avenue  
   North Port, FL 34291-6371

If to Buyer:                    City of North Port, Florida  
   Assistant City Manager  
   4970 City Hall Boulevard  
   North Port, FL 34286

With copy to:                    City Attorney  
   4970 City Hall Blvd.  
   North Port, FL 34286

Notices will be deemed delivered upon deposit with the carrier, deposit in the U.S. Mail, or upon hand delivery.

16. Binding Effect/Counterparts. By the signatures affixed hereto, the parties intend to be bound by the terms and conditions hereof. This Purchase and Sale Agreement may be signed in counterparts.

17. Non-Discrimination. The City of North Port, Florida does not discriminate on the basis of race, color, national origin, sex, age, disability, family or religious status in administration of its programs, activities, or services.

*(This space intentionally left blank; signature pages to follow)*

**Exhibit B to Resolution No. 2020-R-13**

This Agreement has been executed and delivered on the dates set forth below.

**SELLER**  
JAMES E. FOSTER

\_\_\_\_\_  
Witness No. 1

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness No. 2

\_\_\_\_\_  
Printed Name

**ACKNOWLEDGEMENT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Sworn to (or affirmed) and subscribed before me by means of  physical presence or  online notarization, this \_\_\_ day of \_\_\_\_\_ 2020, by James E. Foster.

\_\_\_\_\_  
Notary Public - State of Florida

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

**Exhibit B to Resolution No. 2020-R-13**

This Agreement has been executed and delivered on the dates set forth below.

**SELLER**  
MARY D. FOSTER

\_\_\_\_\_  
Witness No. 1

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness No. 2

\_\_\_\_\_  
Printed Name

**ACKNOWLEDGEMENT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Sworn to (or affirmed) and subscribed before me by means of  physical presence or  online notarization, this \_\_\_ day of \_\_\_\_\_ 2020, by Mary D. Foster.

\_\_\_\_\_  
Notary Public - State of Florida

\_\_\_ Personally Known OR \_\_\_ Produced Identification

Type of Identification Produced

\_\_\_\_\_

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**BUYER**  
CITY OF NORTH PORT, FLORIDA

By: \_\_\_\_\_  
Peter D. Lear, CPA, CGMA  
City Manager

ATTEST

Date: \_\_\_\_\_

\_\_\_\_\_  
Heather Taylor, CMC  
City Clerk

APPROVED AS TO FORM AND CORRECTNESS

\_\_\_\_\_  
Amber L. Slayton  
City Attorney