



City of North Port

RESOLUTION NO. 2024-R-65

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA, APPROVING A TEMPORARY CONSTRUCTION EASEMENT LOCATED ON A PARCEL IN SECTION 34, TOWNSHIP 39 SOUTH, RANGE 20 EAST, SARASOTA COUNTY FLORIDA, SARASOTA COUNTY PROPERTY APPRAISER PARCEL IDENTIFICATION NUMBER 0787-09-0001; ACCEPTING TEMPORARY CONSTRUCTION EASEMENT; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR FILING OF DOCUMENTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Brian L. McMurphy Revocable Trust owns a parcel of land located in Section 34, Township 39 South, Range 20 East, Sarasota County, Florida, bearing Parcel Identification Number 0787-09-0001 ("McMurphy Property"); and

WHEREAS, Myakka River Resort, LLC, ("Myakka Resort") owns a parcel of land located in Section 34 and Section 35, Township 39 South, Range 20 East, Sarasota County, Florida, bearing Parcel Identification Number 0787-08-0003 ("Myakka Resort Property"); and

WHEREAS, the private property owners have a branch line metered water system connection between the Myakka Resort Property and the McMurphy Property for utility service; and

WHEREAS, the Twelfth Judicial Circuit Court In and For Sarasota County has delivered final judgment to the City, via Case No. 2020 CA 000723 SC, requiring the City to disconnect the branch line between the Myakka Resort Property within six (6) months of judgment, dated June 13, 2024; and

WHEREAS, Brian L. McMurphy, desires to grant to the City the temporary construction easement to construct and install a new utility service line connection between the residential structure and the public right-of-way; and

WHEREAS, the City will use the temporary construction easement to disconnect the utility service line and to abandon the utility service line in place to prevent any further use for transporting water from the Myakka Resort Property to the McMurphy Property; and

WHEREAS, the City desires to accept the temporary construction easement for the construction, and installation; or disconnection of a utility service line between the properties; and

WHEREAS, the temporary construction easement shall terminate 180 calendar days after the date of execution of agreements; and

WHEREAS, the City Commission of the City of North Port, Florida finds that the easement satisfies an immediate or future need of the City; and

WHEREAS, the City Commission of the City of North Port, Florida finds that the agreements serve 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 true and correct and are incorporated in this resolution by reference.

SECTION 2 – RESOLUTION APPROVING AND ACCEPTING EASEMENT

2.01 The City Commission hereby adopts the resolution approving the *Temporary Construction Easement with Brian L. McMurphy Revocable Trust* described in the attached Exhibit A; and

2.02 The City Commission accepts the temporary construction easement attached in Exhibit A.

2.03 All exhibits attached to this resolution are incorporated by reference.

SECTION 3 - FILING OF DOCUMENTS

3.01 The City Clerk is directed to file a certified copy of this resolution as well as the executed easement agreements as attached, with the Sarasota County Clerk of the Circuit Court to be duly recorded in the official records of the county.

SECTION 4 – CONFLICTS

4.01 In the event of any conflict between the provisions of this resolution and any other resolution, in whole or in part, the provisions of this resolution will prevail to the extent of the conflict.

SECTION 5 – SEVERABILITY

5.01 If a court of competent jurisdiction finds that any section, subsection, sentence, clause, phrase, or provision of this resolution is for any reason invalid or unconstitutional, that provision will be deemed a separate, distinct, and independent provision and will not affect the validity of the remaining portions of the resolution.

SECTION 6 – EFFECTIVE DATE

6.01 This resolution takes effect immediately.

ADOPTED by the City Commission of the City of North Port, Florida, in public session on November 12, 2024.

CITY OF NORTH PORT, FLORIDA

ALICE WHITE
MAYOR

ATTEST

HEATHER FAUST, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

MICHAEL GOLEN
INTERIM CITY ATTORNEY

Return to:
City Clerk
City of North Port
4790 City Hall Blvd.
North Port, FL 34286

Portion of PID 0787090001

TEMPORARY CONSTRUCTION EASEMENT

THIS TEMPORARY CONSTRUCTION EASEMENT (“the Easement”) made and entered into by and between **Brian L. McMurphy Revocable Trust**, whose address is 10002 Tamiami Trail S. North Port, FL 34287 (“Grantor”), and **City of North Port, Florida, a municipal corporation of the State of Florida**, located in Sarasota County, Florida, (the “City”), whose mailing address is 4970 City Hall Boulevard, North Port, Florida 34286.

WHEREAS, the Brian McMurphy owns that certain parcel of land located in Sarasota County, Florida, Sarasota County Property Appraiser Parcel Identification Number 0787090001; and

WHEREAS, Grantor fully warrants being the sole owner of said property in fee; and

WHEREAS, City needs a temporary construction easement over, under, and across a portion of said land for the utility operations;

WHEREAS, Grantor desires to grant the City a temporary construction easement over, under and across said land for the installation of a water service line to serve the residential property.

That Grantor, for and in consideration of ten dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants to the City a temporary construction easement, on, over and across the property described in the attached Exhibit A (the “Easement Area”) in Sarasota County, Florida.

The purpose and rights granted to the City in the temporary construction easement include the following:

1. Ingress and egress access to perform the other purposes described in this easement.
2. Use of the easement area for the construction or installation of a water service pipeline for the purpose of transporting water over, across, through and under certain lands, along with the installation of appurtenant above-ground and below-ground pipes, valves, and equipment to be located within the easement area and in compliance with required utility specifications.
3. To trim trees, shrubs, weeds, bushes, undergrowth, and other obstructions within the easement area which, in the opinion of the City endanger, interfere, or that may endanger or

interfere with the City's safe and efficient exercise of the rights granted herein or that present or may present a threat to public safety.

4. To restore, as near as reasonably practicable, the surface of all disturbed areas of the Temporary Construction Property at the conclusion of the construction.
5. To avoid interference with the use of the property by the Grantor.

After completion of the construction and installation of water service pipeline, Grantor will be responsible for maintenance and repair of the water service pipeline as installed by the City.

Grantor must indemnify, defend, and hold harmless the City of North Port, Florida, and any of their officers, employees, and agents in both their official and individual capacity, from any and all liability, claims, damages, expenses including attorney's fees and litigation costs, resulting from or arising out of the installation of the water service pipeline. The Grantor acknowledges that specific consideration has been given for this indemnity provision.

All rights granted herein shall terminate 180 days after the date of execution of this grant of easement without recording any further instrument.

[This space intentionally left blank]

IN WITNESS WHEREOF, the Grantor has duly authorized and caused this Easement to be executed the date below.

WITNESSES:

GRANTOR:

Witness Name: _____
Mailing Address: _____

Brian L. McMurphy Revocable Trust

Title: Brian L. McMurphy, as Trustee
Mailing Address: _____

Witness Name: _____
Mailing Address: _____

ACKNOWLEDGEMENT

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ___ day of _____ 2024, by _____ (name), as _____ (title) for _____ (entity).

EXHIBIT A TO TEMPORARY CONSTRUCTION EASEMENT – PARCEL IDENTIFICATION NO. 0787090001

Legal Description

An area 15 feet wide between U.S. 41 right of way and the existing residence, and generally along the driveway.

A parcel of land lying in Section 34, Township 39 South, Range 20 East, Sarasota County, Florida, said parcel being more particularly described as follows: Begin at a P.O.B. at the Southerly U.S. 41 R/W Line and the Northerly mean high water line, approximate, of the West branch of the Myakka River; thence North 57 degrees 05'11" East, 448 feet, approximate, along said Southerly U.S. 41 R/W, to the Southerly mean high water line, approximate, of the East branch of Myakka River; thence meandering Southeasterly, approximate, along the said Southerly mean high water line of the East branch, to a line parallel with the said southerly R/W of U.S 41 R/W and 1018 feet perpendicular dist. therefrom; thence Southwesterly (South 57 degrees 05' 11" West) along the said parallel line 360 feet, approximate, to the Northerly mean high water line, approximate, of the West branch of Myakka River (LESS the projection of any tidal waters lying Northerly, approximate, of said parallel line); thence meander Northwesterly along the said Northerly mean high water line, approximate, of the West Branch to said P.O.B. Less Road Right-of-Way to State of Florida conveyed by Quit Claim Deed recorded in Official Records Book 1034, Page 1970, Public Records of Sarasota County, Florida.

Parcel Identification Number: 07877090001