

RESOLUTION 03-2024

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR ACCEPTANCE AND CERTIFICATION OF COSTS IN CONSTRUCTING CANDY LANE FOR A DISTANCE OF 1332 FEET+/- SOUTH OF ATZ ROAD IN SECTION 12, TOWNSHIP 29, RANGE 37; PROVIDING FOR A TEMPORARY EASEMENT FOR PUBLIC USE; PROVIDING FOR THE ROAD PAYBACK AS DESCRIBED IN SECTION 13-42 OF THE TOWN CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Malabar is a Florida municipal corporation organized and existing under Florida law; and

WHEREAS, the Town Council provided in Chapter 13, Section 13-42 the requirements for acceptance and certification of a road; and

WHEREAS, Candy Lane has been inspected by the Town Engineer, and is determined to meet the required standards; and

WHEREAS, THE Town Council wishes to establish a temporary easement for public use at the southern end of Candy Lane; and

WHEREAS, the Town Council is satisfied that Candy Lane meets its required standards, and that portions of the certified cost shall be reimbursed to the Road Builder, as described in Chapter 13, Section 13-47 of the Town Code.

NOW, THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. Findings: The above "WHEREAS" statements are true and correct.

Section 2. The Town Council hereby certifies the cost of construction as \$186,174.80 for 1,322.56 feet south of Atz Road, for a cost per linear foot of \$70.37.

Section 3. That a certified copy of this Resolution shall be delivered to the Clerk of Court of Brevard County, Florida.

Section 4. The Town of Malabar accepts the Candy Lane Temporary Easement attached to this Resolution.

Section 5. The Town of Malabar also accepts the Roadbuilding Payback form attached to this Resolution as Exhibit C.

Section 6. This Resolution shall take effect immediately upon its adoption.

This Resolution was moved for adoption by Council Member Scardino. This motion was seconded by Council Member Hofmeister and, upon being put to vote, the vote was as follows:

Council Member Marisa Acquaviva	<u>Aye</u>
Council Member Brian Vail	<u>Aye</u>
Council Member Jim Clevenger	<u>Aye</u>
Council Member David Scardino	<u>Aye</u>
Council Member Mary Hofmeister	<u>Aye</u>

This Resolution was then declared to be duly passed and adopted this 12th day of March 2024.

TOWN OF MALABAR

By: Patrick T. Reilly
Mayor Patrick T. Reilly, Council Chair

(Seal)



ATTEST:

Richard W. Kohler

Richard W, Kohler
Town Clerk

Approved as to Form and Content:

Karl W Bohne Jr

Karl Bohne Jr., Town Attorney

CANDY LANE EASEMENT AGREEMENT

This AGREEMENT made and entered into this 18 day of March, 2024, by and between, the TOWN OF MALABAR, FLORIDA, a Florida municipal corporation, 2725 Malabar Road, Malabar FL 32950 (hereinafter referred to as “THE TOWN” or “Grantee”), and the owners of the property located at 2705 Candy Lane, Malabar, FL 32950 (hereinafter referred to as “KOSHINSKI”), and the owners of the property located at 2700 Candy Lane, Malabar, FL 32950 (hereinafter referred to as “HOOPER”).

WITNESSETH:

WHEREAS, THE TOWN maintains the Right of Way known as Candy Lane, with a southern terminus located between the KOSHINSKI and HOOPER (also referred to as Grantors) properties; and,

WHEREAS, THE TOWN desires to establish a temporary Easement for public use; and,

WHEREAS, THE TOWN desires to maintain said temporary easement for public use; and,

WHEREAS, THE TOWN desires for the temporary Easement to sunset upon future southern extension beyond the newly accepted southern terminus of the Candy Lane Right-of-Way; and,

WHEREAS, KOSHINSKI has agreed to grant and convey to THE TOWN a temporary non-exclusive access easement over, on, under, upon and across the Candy Lane Right of Way as described in “Exhibit A”

WHEREAS, HOOPER has agreed to grant and convey to THE TOWN a temporary non-exclusive access easement over, on, under, upon and across the Candy Lane Right of Way as described in “Exhibit B”

WHEREAS, it is in the interest of the public health, safety and welfare of the involved parties to cooperate concerning the development of the Candy Lane; and

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the parties agree as follows:

The scope, nature, and character of this Easement shall be as follows:

1. Recitals. The recitals herein are true and correct and are hereby incorporated into and made a part of this Easement.
2. Purpose. It is the purpose of this Easement to grant a temporary non-exclusive access easement over, on, under, upon, and across the Property at all times to perform all acts necessary to ensure fulfillment of all requirements of the Town of Malabar, all of which Grantee shall be authorized to perform in its sole discretion.
3. Dedication. Right of access by the general public to any portion of the Property is conveyed by this Easement.

“Exhibit A”

CANDY LANE

**Temporary Construction and Ingress/Egress Easement
David Alan and Candyce L. Koshinski to the Town of Malabar**

It is the intention of the Town of Malabar to have a constructed, centered, cul-de-sac moved to the south as Candy Lane is extended further and further south. To that end, to help simplify the creation and removal of these temporary rights of the present and future temporary construction and public ingress-egress easement, the Town is requiring Sunset Provision language to be added to the legal description describing the limitations of this temporary construction and public ingress-egress easement.

The owner hereby grants to the Town of Malabar a Temporary Construction and Public Ingress/Egress Easement over the portion of Lot 29, Section 12, Township 29 South, Range 37 East, Plat of Florida Indian River Land Company, according to the Map or Plat Thereof, as Recorded in Plat Book 1, Page 165, of the Public Records of Brevard County, Florida, Being More Particularly Described as Follows:

Legal Description:

The East 35 feet of the West 60 feet of the South 120 feet of Lot 28, Section 12, Township 29 South, Range 37 East, Plat of Florida Indian River Land Company according to the Plat thereof as recorded in Plat Book 1, Page 165, of the public records of Brevard County, Florida.

The Town's staff, contractors, agents and workmen are permitted through, along and over the said temporary easement for the purpose of constructing and maintaining the temporary cul-de-sac, with their materials, machinery, or equipment thereto until such time as this southerly extension of Candy Lane is accepted by the Town and it is usable. This temporary construction and public ingress/egress easement shall automatically expire over this parcel at the point in time when the temporary easement is relocated south to accommodate the construction of the temporary cul-del-sac for the future extension of Candy Lane, south of this present location. The temporary easement shall Sunset when the future extension of Candy has been constructed and accepted by the Town of Malabar.

“Exhibit B”

CANDY LANE

Temporary Construction and Ingress/Egress Easement

Alicia J. Hooper to the Town of Malabar

It is the intention of the Town of Malabar to have a constructed, centered, cul-de-sac moved to the south as Candy Lane is extended further and further south. To that end, to help simplify the creation and removal of these temporary rights of the present and future temporary construction and public ingress-egress easement, the Town is requiring Sunset Provision language to be added to the legal description describing the limitations of this temporary construction and public ingress-egress easement.

The owner hereby grants to the Town of Malabar a Temporary Construction and Public Ingress/Egress Easement over the portion of Lot 28, Section 12, Township 29 South, Range 37 East, Plat of Florida Indian River Land Company, according to the Map or Plat Thereof, as Recorded in Plat Book 1, Page 165, of the Public Records of Brevard County, Florida, Being More Particularly Described as Follows:

Legal Description:

The West 35 feet of the East 60 feet of the South 120 feet of Lot 28, Section 12, Township 29 South, Range 37 East, Plat of Florida Indian River Land Company according to the Plat thereof as recorded in Plat Book 1, Page 165, of the public records of Brevard County, Florida.

The Town's staff, contractors, agents and workmen are permitted through, along and over the said temporary easement for the purpose of constructing and maintaining the temporary cul-de-sac, with their materials, machinery, or equipment thereto until such time as this southerly extension of Candy Lane is accepted by the Town and it is usable. This temporary construction and public ingress/egress easement shall automatically expire over this parcel at the point in time when the temporary easement is relocated south to accommodate the construction of the temporary cul-del-sac for the future extension of Candy Lane, south of this present location. The temporary easement shall Sunset when the future extension of Candy has been constructed and accepted by the Town of Malabar.

4. Liability. The TOWN's liability is limited as provided in Subsection 704.05 and Section 768.28, F.S. Additionally, KOSHINSKI and HOOPER shall not be responsible for any costs or liabilities related to the operation, upkeep, or maintenance of this Easement.

5. Future Improvements Required. Upon any future southern extension of Candy Lane beyond the newly accepted southern terminus shall require the developer to install, at their own expense, Culverts and Stormwater Management swales for both the KOSHINSKI and HOOPER properties. The developer shall also be responsible for returning the easement area to its natural state at their own expense.

6. Duration. This Easement shall sunset upon future southern extension beyond the newly accepted southern terminus of the Candy Lane Right-of-Way. This Easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be filed in the public records in Brevard County, Florida.

Signed, Sealed and Delivered in the presence of:

Judy Scholtz

Witness

Address: 461 Scanlon Rd SW
Palm Bay, FL 32908

David Koshinski

KOHSINSKI Signature

Judy Scholtz

Witness

Address: 461 Scanlon Rd SW
Palm Bay, FL 32908

Deicia Hooper

HOOPER Signature

Notary for KOSHINSKI Signature
State of Florida
County of Brevard

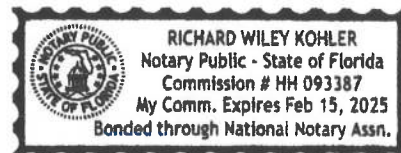
Sworn to (or affirmed) and subscribed before me by means of Physical Presence or Online Notarization, this 27 day of March, 2024, by David Koshinski.

Rich W. Kohler

(Signature of Notary Public – State of Florida)

Richard W. Kohler

(Name of Notary Public - State of Florida)



Personally Known _____ OR Produced Identification X

Type of Identification Produced: FL DL K252-161-55-455-0

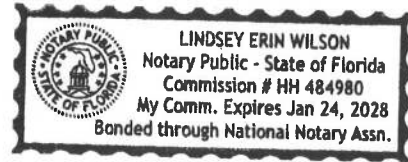
Notary for HOOPER Signature
State of Florida
County of Brevard

Sworn to (or affirmed) and subscribed before me by means of Physical Presence or Online Notarization, this

17 day of April, 2024, by Drivers Licence.
~~Attest~~ Kleia Hooper

Lindsey E. Wilson
(Signature of Notary Public - State of Florida)

Lindsey E. Wilson
(Name of Notary Public - State of Florida)



Personally Known _____ OR Produced Identification 10

Type of Identification Produced: Drivers Licence


PROMISSORY NOTE

On 9-13-2023 I, Christopher Hampson and I, Jessica Brown-Hampson received \$ 65,000 from Michelle M. Brown and Eric S Vanek with the promise to transfer title and deed of 1.4 acres of land from Parcel ID 29-37-12-00-250 located at 1975 Atz Road in Malabar, FL 32950. The receipt of this money is payment in full. Said property will be transferred by Quitclaim Deed upon completion of Candy Lane Road and lot assignment.

SELLER: Christopher Hampson and Jessica Hampson

BUYER: Michelle M. Brown and Eric S. Vanek as joint tenants with rights of survivorship.

LAND: 1.4 acres of parcel ID 29-37-12-00-250 located at 1975 Atz Road in Malabar, FL 32950.

SELLER:  _____

Christopher Hampson

SELLER:  _____

Jessica Brown-Hampson

BUYER:  _____

Michelle M Brown

BUYER:  _____

Eric S Vanek

- \$ 45,000 for Lot

- \$ 20,000 for Road Improvement

x ~~LA~~