

M E M O R A N D U M

To: Mayor Schneier and Town Commissioners
Cc: Howard Tipton, Town Manager
From: Maggie D. Mooney, Esq., Town Attorney
Date: February 28, 2023
Subject: Temporary Access Agreement with Long Bar Pointe LLC for Pipeline Lining Project

As discussed during the February 21, 2023 Town Commission Workshop, the Town is in the process of relining the existing wastewater pipeline. The last segment of that relining project involves gaining access to the Long Bar Pointe property, specifically along a delineated access road that extends from El Conquistador Parkway waterward to Sarasota Bay. Because the Town’s existing recorded wastewater pipeline easement does not provide an adequate access area to complete the relining project, the Town needed to reach out to the Long Bar Pointe representatives to gain additional access. The attached Temporary Access Agreement (“Agreement”) provides the Town with a license for temporary access over a delineated “Access Road” identified in the document to complete this project. The Agreement was negotiated with the Long Bar Pointe representatives to provide the Town and its contractors necessary access for pipeline relining purposes only. A summary of the relevant Agreement terms are as follows:

- The Agreement is in effect until February 24, 2026 unless terminated with notice by the parties.
- The Town agrees to require its contractors performing the relining work provide specified insurance coverage including workers compensation, commercial or general liability, comprehensive automobile liability and excess or umbrella coverage.
- The Town agrees to require its contractor in the Town’s contract documents to indemnify, defend and hold harmless Long Bar Pointe and its related entities for the work associated with the relining project.
- Without waiving sovereign immunity and to the extent permitted by Florida law, the Town agrees to indemnify Long Bar Pointe and related entities for the work associated with the relining project.

The attached Agreement has been agreed to and executed by Carlos Beruff, the Managing General Partner of Long Bar Pointe, LLC. Mr. Beruff has conditioned the execution of this Agreement upon the Town entering into a separate Tolling Agreement that provides Long Bar Pointe with additional time to bring an alleged damage claim against the Town arising out of the June 2020 wastewater leak. The Tolling Agreement is also being provided to the Town Commission on this Meeting Agenda as a separate consent agenda item. It is the collective recommendation of the Town Manager, Public Works Director and I that the Town Commission approve the attached Temporary Access Agreement for the pipeline lining project and authorize the Town Manager to execute the Temporary Access Agreement on the Town Commission's behalf.

Recommended Motion: Approve the Temporary Access Agreement for the pipeline lining project with Long Bar Pointe LLC and authorize the Town Manager to execute the Temporary Access Agreement on the Town Commission's behalf.

Attachment:

Temporary Access Agreement (Available in Town Clerk's Office)

End of Agenda Item