

RESOLUTION NO. 91-24

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, DECLARING THE ACQUISITION OF A PERMANENT EASEMENT AND A TEMPORARY EASEMENT, DESIGNATED AS PARCELS 2A AND 2B, NECESSARY FOR THE CONSTRUCTION OF A NEW EXPANDED STORMWATER PUMP STATION FACILITY WITHIN THE THOMAS STREET RIGHT-OF-WAY LYING WEST OF SEABREEZE AVENUE, TO BE FOR A PUBLIC USE AND PURPOSE; AUTHORIZING THE EMPLOYMENT OF APPRAISERS AND OTHER EXPERTS; AUTHORIZING THE FILING OF EMINENT DOMAIN PROCEEDINGS IN THE EVENT PRESUIT NEGOTIATIONS ARE UNSUCCESSFUL; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach (the “City”) provides stormwater management services for the residents of Delray Beach; and

WHEREAS, the City has an existing stormwater pump station facility located in the Thomas Street right-of-way lying west of Seabreeze Avenue, that abuts the northern boundary of the property located at 142 Seabreeze Avenue (the “Property”); and

WHEREAS, the City intends to construct and install a new expanded stormwater pump station facility in the same location as the existing pump station (the “Project”); and

WHEREAS, in order to complete the Project, the City requires the acquisition of a permanent easement and a temporary easement, designated as Parcels 2A and 2B, on the property described in Exhibits “A” and “B”, attached hereto and incorporated herein; and

WHEREAS, the funds are available for the acquisition of the permanent easement and temporary easement designated as Parcels 2A and 2B; and

WHEREAS, in the event presuit negotiations with the owners of the Property are unsuccessful, the City is authorized to exercise its authority of Eminent Domain pursuant to Chapters 73 and 74, and Sections 166.401 and 166.411, Florida Statutes, as amended; and

WHEREAS, in determining to proceed with the construction and improvement of the Project, and determining the Project’s location, including Parcels 2A and 2B, the City has considered the required factors pursuant to Florida law, including safety, costs, alternate routes or methodologies, long range plans, and the environment, as applicable to these parcels, more fully described in Exhibit “C”, attached hereto and incorporated herein; and

WHEREAS, after considering the factors as set forth above, the City Commission has determined that the acquisition of the permanent easement and temporary easement designated as Parcels 2A and 2B on the property more fully described in Exhibits “A” and “B”, are necessary for the construction and improvement of the Project, and is for a public use and purpose deemed to be in the best interest of the City; and

WHEREAS, the proposed uses and purposes of Parcels 2A and 2B, and the duration of Parcel 2B are more fully described in Exhibit “C”, attached hereto and incorporated herein; and

WHEREAS, the construction limits shall not extend beyond the limits as outlined in Exhibits “A” and “B”; and

WHEREAS, the permanent easement and temporary easement on the property described in Exhibits “A” and “B” to be acquired through Eminent Domain as authorized by this Resolution, are not being acquired for the purpose of abating or eliminating public nuisances, slum, or blighted conditions, and are subject to any applicable conveyance restrictions pursuant to Florida law, to the extent they may apply; and

WHEREAS, in order to accomplish the acquisition of Parcels 2A and 2B, the City Attorney, using outside counsel to the extent deemed appropriate, is authorized to take legal action, including the filing of Eminent Domain Proceedings, and to employ real estate appraisers and other experts deemed necessary to accomplish this purpose; and

WHEREAS, the City Commission deems approval of this Resolution to be in the best interest of the health, safety, and welfare of the residents and citizens of the City of Delray Beach and the public at large.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are hereby affirmed and ratified.

Section 2. The Easements described in Exhibits “A” and “B” are to be used for the following public use and purpose: a permanent easement and a temporary easement necessary for the construction and improvement of the Project.

Section 3. The City Attorney, using outside counsel to the extent deemed appropriate, is authorized and directed to proceed to take all necessary steps, including the hiring of accountants, appraisers, or other experts and witnesses, for the City to acquire in its own name by donation, purchase, or Eminent Domain Proceedings, the permanent easement and temporary easement on the real property described in Exhibits “A” and “B,” and prepare all papers, pleadings, and other instruments required for that purpose, and to see that all Eminent Domain Proceedings are prosecuted to judgment.

Section 4. The City Attorney, using outside counsel to the extent deemed appropriate, is hereby further authorized and directed to take such further actions as are reasonably required to fully accomplish the purposes herein above directed, including correcting minor errors in the description of any real property described in Exhibits “A” and “B”, so long as the property does not change, that may be necessary to fully accomplish those purposes.

Section 5. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED in regular session on the \_\_\_\_ day of \_\_\_\_\_, 2024.

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

\_\_\_\_\_  
Mayor

Approved as to form and legal sufficiency:

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Lynn Gelin, City Attorney