

RESOLUTION NO. 147-24

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

Thomas F. Carney, Jr., Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

Exhibit "A"

LEGAL DESCRIPTION : PERMANENT EASEMENT PARCEL 2A

A PARCEL OF LAND LYING WITHIN A PORTION OF LOT 23, OCEAN BREEZE ESTATES, RECORDED IN PLAT BOOK 18, AT PAGE 36, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID LANDS LYING WITHIN A PORTION OF SECTION 16, TOWNSHIP 46 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF LOT 23 AS SHOWN ON SAID PLAT; THENCE SOUTH 00°57'26" EAST, FOR 6.00 FEET TO THE POINT OF BEGINNING. THENCE NORTH 89°14'29" EAST ALONG THE SOUTH RIGHT-OF-LINE FOR THOMAS STREET AS NOW LAID OUT AND IN USE, RECORDED IN DEED BOOK 560, AT PAGE 122, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, FOR 80.45 FEET; THENCE SOUTH 00°45'30" EAST, FOR 6.00 FEET; THENCE SOUTH 89°14'29" WEST, FOR 80.43 FEET; THENCE NORTH 00°57'26" WEST, FOR 6.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAIN 483 SQUARE FEET, MORE OR LESS.

SURVEYOR'S NOTES:

1. DATA SHOWN HEREON WAS COMPILED FROM OTHER INSTRUMENTS AND DOES NOT CONSTITUTE A FIELD SURVEY AS SUCH.

2. THE BEARINGS SHOWN HEREON ARE BASED ON THE NORTH RIGHT-OF-WAY LINE FOR THOMAS STREET, PLAT BOOK 18, PAGE 36, PALM BEACH COUNTY, FLORIDA, BEARING SOUTH 89°14'29" WEST.

LEGEND:

DB = Deed Book
ORB = Official Records Book
PB = Plat Book
PBCR = Palm Beach County Records
PG. = Page
R/W = Right-of-Way

FOR THE FIRM: WGI

BY: Kelsey Smith DATE: 3/16/24
KELSEY SMITH
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA LICENSE NO. 7096

(NOT A SURVEY-DESCRIPTION AND SKETCH ONLY)

PROJECT: THOMAS STREET
PUMP STATION

TASK:
PERMANENT EASEMENT PARCEL 2A

PREPARED BY:



2035 Vista Parkway, West Palm Beach, FL 33411
Phone No. 866.909.2220 www.wginc.com
Cert No. 6091 - LB No. 7055

CAD 617401_ESMT 2A.DWG

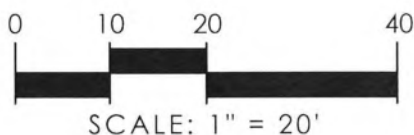
DRAWN/DESIGNED MRG

CHECKED/QC JS

JOB NO. 6174.01

DATE 01/11/22

SHEET:
1 of 2



LOT 24-A
OCEAN BREEZE ESTATES
(PB 18, PG. 36, PBCR)
(DB 671, PG. 218)

LOT 24
OCEAN BREEZE ESTATES
(PB 18, PG. 36, PBCR)
(ORB 26890, PG. 390 & 393)
(ORB 28113, PG. 1493)

26' R/W
PB 18, PG. 36
ORB. 8646, PG. 1883

POINT OF COMMENCEMENT
NORTHWEST
CORNER LOT 23
PER PLAT

15' LOT 23-A
OCEAN BREEZE ESTATES
(PB 18, PG. 36, PBCR)
(DB 671, PG. 218)

POINT OF
BEGINNING

YACHT BASIN
OCEAN BREEZE ESTATES
(PB 18, PG. 36, PBCR)
(DB 552, PG. 267)
(DB 671, PG. 218)
(DB 964, PG. 516)

S00°57'26"E
6.00'

S89°14'29"W
NORTH RIGHT-OF-WAY LINE
THOMAS STREET
(BASIS OF BEARINGS)

SOUTH RIGHT-OF-WAY LINE
THOMAS STREET

N89°14'29"E 80.45'

THOMAS ST.
PB. 18, PG. 36
DB. 560, PG. 122

N00°57'26"W
6.00'

S89°14'29"W 80.43'
NORTH 6.00' OF LOT 23
ADDITIONAL R/W
(DB 560, PG. 122, PBCR)

LOT 23
OCEAN BREEZE ESTATES
(PB 18, PG. 36, PBCR)
(DB 560, PG. 122)
(ORB 30767, PG. 1036)
(ORB 31445, PG. 801)

S00°45'30"E
6.00'

(NOT A SURVEY-DESCRIPTION AND SKETCH ONLY)

PROJECT: THOMAS STREET
PUMP STATION

TASK:
PERMANENT EASEMENT PARCEL 2A

PREPARED BY:



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CAD 617401_ESMT 2A.DWG

DRAWN/DESIGNED MRG

CHECKED/QC JS

JOB NO. 6174.01

DATE 01/11/22

SHEET:
2 of 2

Exhibit "B"

LEGAL DESCRIPTION : TEMPORARY EASEMENT PARCEL 2B

A PARCEL OF LAND LYING WITHIN A PORTION OF LOT 23, OCEAN BREEZE ESTATES, RECORDED IN PLAT BOOK 18, AT PAGE 36, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID LANDS LYING WITHIN A PORTION OF SECTION 16, TOWNSHIP 46 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF LOT 23 AS SHOWN ON SAID PLAT; THENCE SOUTH 00°57'26" EAST, FOR 12.00 FEET TO A POINT ON A LINE 6.00 FEET SOUTH OF AND PARALLEL TO THE SOUTH RIGHT-OF-LINE FOR THOMAS STREET AS NOW LAID OUT AND IN USE, RECORDED IN DEED BOOK 560, AT PAGE 122, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, THENCE NORTH 89°14'29" EAST ALONG SAID PARALLEL LINE, FOR 17.43 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 89°14'29" EAST ALONG SAID PARALLEL LINE, FOR 63.00 FEET; THENCE SOUTH 00°45'30" EAST, FOR 8.00 FEET; THENCE SOUTH 89°14'29" WEST, FOR 63.00 FEET; THENCE NORTH 00°45'30" WEST, FOR 8.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAIN 504 SQUARE FEET, MORE OR LESS.

SURVEYOR'S NOTES:

1. DATA SHOWN HEREON WAS COMPILED FROM OTHER INSTRUMENTS AND DOES NOT CONSTITUTE A FIELD SURVEY AS SUCH.

2. THE BEARINGS SHOWN HEREON ARE BASED ON THE NORTH RIGHT-OF-WAY LINE FOR THOMAS STREET, PLAT BOOK 18, PAGE 36, PALM BEACH COUNTY, FLORIDA, BEARING SOUTH 89°14'29" WEST.

LEGEND:

DB = Deed Book
ORB = Official Records Book
PB = Plat Book
PBCR = Palm Beach County Records
PG. = Page
R/W = Right-of-Way

FOR THE FIRM: WGI

BY: Kelsey Smith DATE: 3/18/24
KELSEY SMITH
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA LICENSE NO. 7096

(NOT A SURVEY-DESCRIPTION AND SKETCH ONLY)

PROJECT: THOMAS STREET
PUMP STATION

TASK:

TEMPORARY EASEMENT PARCEL 2B

PREPARED BY:



2035 Vista Parkway, West Palm Beach, FL 33411
Phone No. 866.909.2220 www.wginc.com
Cert No. 6091 - LB No. 7055

CAD 617401_ESMT 2B.DWG

DRAWN/DESIGNED KMS

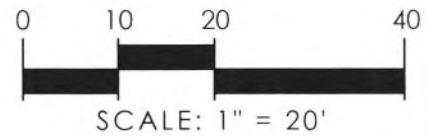
CHECKED/QC KMS

JOB NO. 6174.01

DATE 02/16/24

SHEET:

1 of 2



LOT 24-A
OCEAN BREEZE ESTATES
(PB 18, PG. 36, PBCR)
(DB 671, PG. 218)

LOT 24
OCEAN BREEZE ESTATES
(PB 18, PG. 36, PBCR)
(ORB 26890, PG. 390 & 393)
(ORB 28113, PG. 1493)

NORTH RIGHT-OF-WAY LINE
THOMAS STREET
(BASIS OF BEARINGS)
S89°14'29"W

26' R/W
PB 18, PG. 36
ORB. 8646, PG. 1883

POINT OF
COMMENCEMENT
NORTHWEST
CORNER LOT 23
PER PLAT

6.00' PROPOSED
EASEMENT
S00°57'26"E
12.00'

THOMAS ST.
PB. 18, PG. 36
DB. 560, PG. 122

SOUTH RIGHT-OF-WAY LINE
THOMAS STREET
S89°14'29"W

15' LOT 23-A
OCEAN BREEZE ESTATES
(PB 18, PG. 36, PBCR)
(DB 671, PG. 218)

N89°14'29"E
17.43'

POINT OF
BEGINNING

N89°14'29"E 63.00'
N00°45'30"W 8.00'
S00°45'30"E 8.00'
S89°14'29"W 63.00'

NORTH 6.00' OF LOT 23
ADDITIONAL R/W
(DB 560, PG. 122, PBCR)

YACHT BASIN
OCEAN BREEZE ESTATES
(PB 18, PG. 36, PBCR)
(DB 552, PG. 267)
(DB 671, PG. 218)
(DB 964, PG. 516)

LOT 23
OCEAN BREEZE ESTATES
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(NOT A SURVEY-DESCRIPTION AND SKETCH ONLY)

PROJECT: THOMAS STREET
PUMP STATION

TASK:
TEMPORARY EASEMENT PARCEL 2B

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DRAWN/DESIGNED KMS

CHECKED/QC KMS

JOB NO. 6174.01

DATE 02/16/24

SHEET:

2 of 2

EXHIBIT “C”

THOMAS STREET STORMWATER PUMP STATION REPLACEMENT PROJECT

HEALTH/SAFETY

The City of Delray Beach (City) owns and operates the Thomas Street Pump Station located at 1101 Thomas Street in Delray Beach, Florida. This pump station currently provides stormwater pumping for the 50-acre drainage basin including Thomas Street, Vista Del Mar Drive, and part of Andrews Avenue and Lowry Street. As discussed more-fully below, this project (“Project”) will replace the existing stormwater pump station located on Thomas Street with a new higher capacity stormwater pump station which will be able to remove stormwater from Thomas Street and the surrounding area in Delray Beach, Florida more effectively and efficiently. As the ponding/accumulation of stormwater can cause hazards for vehicles, contain bacteria, and attract mosquitoes, this Project will improve the health and safety of the residents of Delray Beach, Florida.

The design of the Project was prepared in conformance with all applicable engineering standards.

COST

The City of Delray Beach (“City”) has estimated and considered the cost of the project but determined that the benefits of more effectively and efficiently removing stormwater from Thomas Street and the surrounding area outweigh the costs. During the design of this project, reasonable efforts were made to minimize the areas of easements to be acquired through Eminent Domain.

ALTERNATE ROUTES

The Project will replace an existing stormwater pump station which is located within existing right of way for Thomas Street. The existing stormwater pump station is proximate to the edge of the right of way and a new location is not feasible without interfering with the use of Thomas Street for vehicle traffic. The permanent easement is needed to perform construction activities for the new stormwater pump station and maintenance, as well as for potential future replacement activities. The temporary easement is needed for the temporary relocation of an air conditioning unit(s) and a pool pump to allow for construction of the replacement stormwater pump station. This equipment must be located near the house which they service in order to be connected to the existing air conditioning and pool systems. For these reasons, there is virtually no flexibility as to the location of the permanent or temporary easements.

LONG RANGE PLANNING

The City of Delray Beach Stormwater Master Plan, completed by ADA Engineering in February 2019, proposed capacity increases and other major infrastructure improvements to meet South Florida Water Management District and Level of Service criteria for both current and 30-year Sea Level Rise tidal conditions.

The Thomas Street Pump Station is a vital lifeline for approximately 800 residents living in the 50 acre drainage basin. The original pump station was built in the 1970s and has reached the end of its designed useful life (about 50-years). The original pump capacity was designed for a 25-year, 3-day storm event at the time it was designed, which was 18,000 gallons per minute (GPM). A higher pump capacity is required to meet current South Florida Water Management District Level of Service criteria for both current and 30-year Sea Level Rise and tidal conditions. The existing pump station has no backup generator, and its sole power source comes from overhead powerlines, which can render the pump station out of service during frequent outages in peak hurricane season. Finally,

the existing pump station does not provide any water quality improvements to the stormwater prior to discharge to the Intracoastal Waterway.

A new 85,000 GPM stormwater pump station will be constructed with an upgraded drainage network, backup generator, diesel fuel tank, buried underground powerlines and onsite water treatment facility. The City intends to construct and install the new expanded stormwater pump station in the same location as the existing pump station. The development of this Project is in conformance with the City's efforts to improve the health, safety, and well-being of its residents by reducing accumulations of stormwater. Given the rising sea levels and storms caused by climate change and the effect on accumulation of stormwater, the replacement of the Thomas Street stormwater pump station with one that more effectively and efficiently pumps stormwater shows the City is seeking to solve long range problems with this Project.

ENVIRONMENTAL IMPACTS

The Project is not expected to have any significant environmental impacts. Any modest environmental impacts will be positive by virtue of reducing stormwater and associated bacteria.

Following is an explanation of the need for the acquisition of certain easements for the Thomas Street Stormwater Pump Station Replacement Project:

ACQUISITION OF PERMANENT EASEMENT PARCEL 2A

The permanent easement ("Permanent Easement") designated as Parcel 2A is reasonably needed for the following purposes and uses: to access a stormwater pump station and appurtenant facilities and equipment (the "Equipment") located on property adjacent to Parcel 2A in order to install, operate, maintain, service, construct, remove, relocate, repair, replace, expand, tie into, and inspect the Equipment. City shall be authorized to perpetually use the property in, on, over, under and across the area of Parcel 2A for such purposes and uses. However, the Equipment shall not be located in the area of Parcel 2A except temporarily during the activities described herein.

Parcel 2A shall also be used for the purpose of removing and moving certain improvements of the property owners in the area of Parcel 2A, including an air conditioning unit(s) and a pool pump ("Improvements") to the area of a Temporary Construction Easement designated as Parcel 2B and reconnecting said improvements to Owners' air conditioning and pool systems all at City's expense.

Although, the owners of the property subject to Parcel 2A, and their heirs, successors, and assigns' (collectively, "Owners") activities shall not interfere with the City's use of Parcel 2A, this Permanent Easement shall be non-exclusive. Subsequent to the expiration of the temporary easement designated as Parcel 2B, City shall relocate, if practicable, or replace with a like unit(s), if not, the Improvements back to materially the same location in Parcel 2A as before they were relocated. Subsequent to the expiration of the temporary easement designated as Parcel 2B, Owners shall be permitted to maintain the Improvements in the area of Parcel 2A in the location and manner depicted in Exhibit "1", attached hereto and incorporated herein. Additionally, Owners shall be permitted to replace the Improvements provided they are replaced with a like sized unit(s) in the same location. City shall have the unrestricted right to remove or relocate the improvements in the event the easement area is required in the future (after the expiration of Parcel 2B) for equipment or personnel to access the easement area for the purposes defined herein. In the event of the need for such future use of Parcel 2A, City shall provide

advanced reasonable written notice of the removal or relocation, except in an emergency situation. In the event of an emergency situation, City shall provide written notice as soon as reasonably possible. If, after the expiration of Parcel 2B, City has to temporarily relocate any improvements within Parcel 2A, City shall be responsible for the relocation and restoration of said improvements upon the conclusion of its use of Parcel 2A. All such relocations shall be within the area of Parcel 2A unless City subsequently acquires an additional temporary easement or other right to use property of Owners for the purpose of such relocation. This provision setting forth limitations and obligations of City shall be a covenant running with the land.

ACQUISITION OF TEMPORARY EASEMENT PARCEL 2B

The temporary easement ("Temporary Easement") designated as Parcel 2B is reasonably needed for the following limited purposes and uses: access and all related construction activities reasonably required for the relocation of the Improvements described above in the area of Parcel 2A to the area of Parcel 2B and connection of same to the existing air conditioning and pool systems. The Temporary Easement shall be non-exclusive, provided, however, that Owners' (as defined above) use of the property during the easement period shall not interfere with the City's continuing use of the area of Parcel 2B as described above. This Temporary Easement shall expire upon the earlier of the acceptance of the construction of the project for the Stormwater Pump Station by the City or three (3) years from the date of the deposit of funds pursuant to an Order of Taking entered in any proceeding for its acquisition.

PLOT DATE: Mar 20, 2024 - 2:40pm XREFS: \\C30\\TSPSCS01_MD01.dwg \\C30\\TSPSCS01_BM01.dwg \\REF\\20210907_Sheetplis.dwg IMAGES: F:_REF_DATA\\PBCO\\Aerials\\2022\\East.sld

