



Cover Memorandum/Staff Report

File #: 24-1390

Agenda Date: 10/15/2024

Item #: 6.B.

TO: Mayor and Commissioners
FROM: Lynn Gelin, City Attorney
DATE: October 15, 2024

RESOLUTION NO. 212-24: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AUTHORIZING JASON KAUFMAN, P.E., ENGINEERING DIVISION MANAGER OF THE DEPARTMENT OF PUBLIC WORKS TO BIND THE CITY OF DELRAY BEACH IN EMINENT DOMAIN PROCEEDINGS BEFORE THE COURT IN THE 15TH JUDICIAL CIRCUIT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Recommended Action:

Review and Approve Resolution 212-24

Background:

The City of Delray Beach (the "City") owns and operates the Thomas Street Pump Station located on the Thomas Street right-of-way west of Seabreeze Avenue 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. 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.

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 an 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 "Project"). In order to complete the Project, the City requires the acquisition of a permanent easement and a temporary easement on the property located at 142 Seabreeze Avenue, and a permanent easement on the property located at 202 Seabreeze Avenue (collectively referred to as the "Easements" and the "Property").

On May 7, 2024, the City Commission approved Resolutions 91-24 and 93-24, authorizing the City to exercise its eminent domain authority pursuant to Chapters 73 and 74, and Sections 166.401 and 166.411, Florida Statutes, to acquire the Easements in the event negotiations were unsuccessful. Negotiations were unsuccessful and the City Commission adopted Resolutions 147-24 and 148-24, reaffirming and readopting Resolutions 91-24 and 93-24 in their entirety with the accompanying exhibits attached thereto.

On July 22, 2024, the City filed a Petition to exercise its rights of eminent domain to acquire the Easements. On September 19, 2024, the Court entered an Order specially setting an evidentiary hearing for October 31, 2024, at 10:00 a.m. to hear the City's Petition for an Order of Taking. At the evidentiary hearing, the City must present evidence regarding the design and construction of the

Project, including the use of the property to be taken. Staff recommends the City Commission adopt Resolution 212-24, authorizing Jason Kaufman, P.E. Engineering Division Manager of the Department of Public Works of the City of Delray Beach to bind the City by testifying at the evidentiary hearing on the City's Petition for an Order of Taking for the acquisition of the Easements for the Project.