

RESOLUTION NO. 148-24

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, DECLARING THE ACQUISITION OF A PERMANENT EASEMENT, DESIGNATED AS PARCEL 1, 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 southern boundary of the property located at 202 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, designated as Parcel 1, on the property described in Exhibit “A”, attached hereto and incorporated herein; and

WHEREAS, the funds are available for the acquisition of the permanent easement designated as Parcel 1; 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 Parcel 1, 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 “B”, 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 designated as Parcel 1 on the property more fully described in Exhibit “A”, is 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 Parcel 1, are more fully described in Exhibit “B”; and

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

WHEREAS, the permanent easement on the property described in Exhibit “A” to be acquired through Eminent Domain as authorized by this Resolution, is 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 Parcel 1, 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 Easement described in Exhibit “A” is to be used for the following public use and purpose: a permanent 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 on the real property described in Exhibit “A”, 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 Exhibit “A”, 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 1

A PARCEL OF LAND LYING WITHIN A PORTION OF LOT 24, 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:

BEGIN AT THE SOUTHWEST CORNER OF LOT 24; THENCE NORTH 00°45'31" WEST, FOR 6.00 FEET; THENCE NORTH 89°14'29" EAST, FOR 3.60 FEET; THENCE NORTH 00°45'31" WEST, FOR 5.00 FEET; THENCE NORTH 89°14'29" EAST, FOR 14.56 FEET; THENCE SOUTH 00°45'31" EAST, FOR 5.00 FEET; THENCE NORTH 89°14'29" EAST, FOR 62.40 FEET; THENCE SOUTH 00°45'33" EAST, FOR 6.00 FEET TO THE NORTH RIGHT-OF-WAY LINE FOR THOMAS STREET AS SHOWN ON SAID PLAT; THENCE SOUTH 89°14'29" WEST ALONG SAID NORTH LINE, FOR 80.56 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAIN 556 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:
PERMANENT EASEMENT PARCEL 1

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 1.DWG

DRAWN/DESIGNED MRG

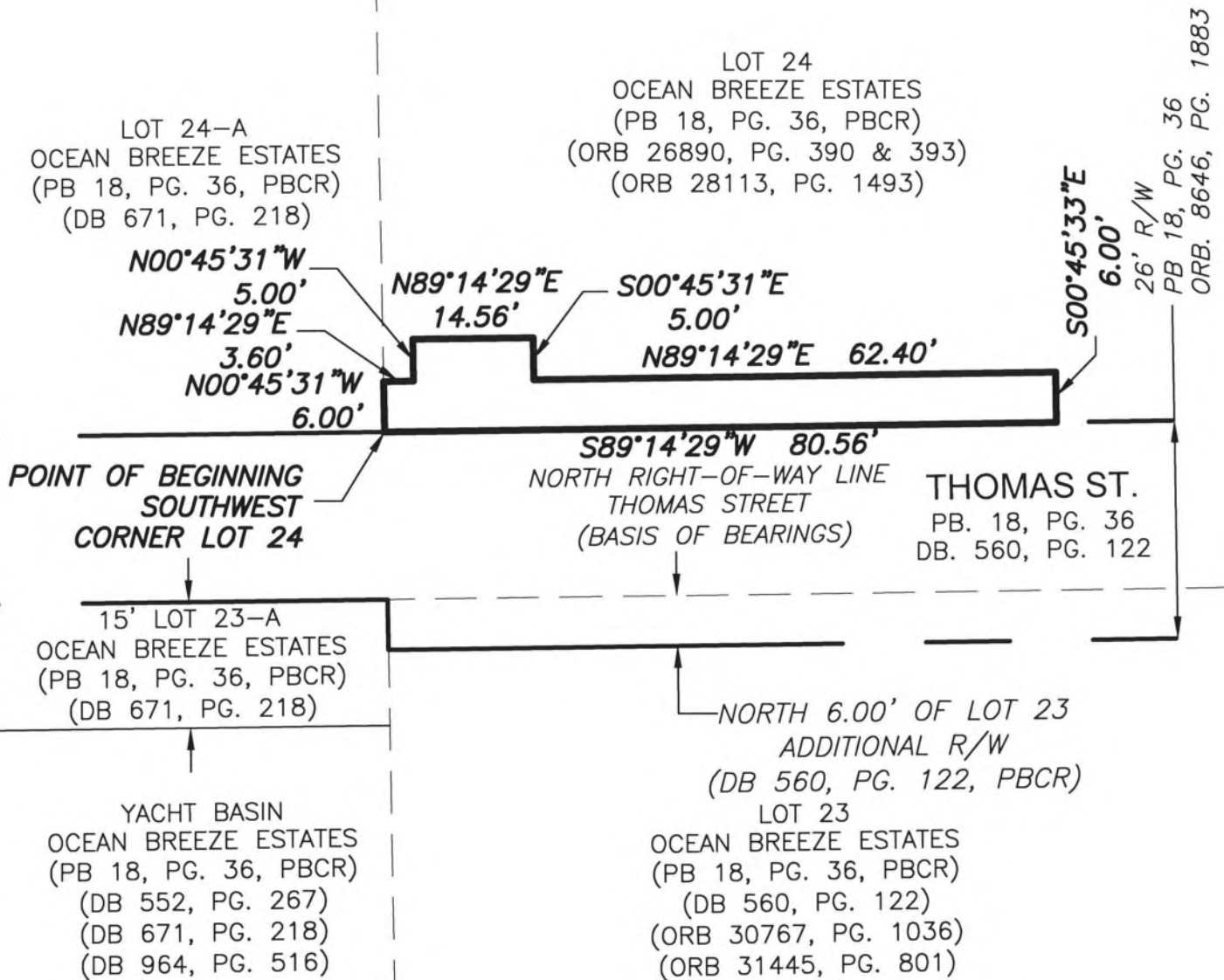
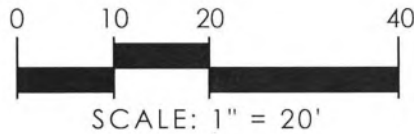
CHECKED/QC JS

JOB NO. 6174.01

DATE 01/11/22

SHEET:

1 of 2



(NOT A SURVEY-DESCRIPTION AND SKETCH ONLY)

PROJECT: THOMAS STREET
PUMP STATION

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SHEET:
2 of 2

EXHIBIT “B”

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. For these reasons, there is virtually no flexibility as to the location of the permanent easement.

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 a certain easement for the Thomas Street Stormwater Pump Station Replacement Project:

ACQUISITION OF PERMANENT EASEMENT PARCEL 1

The permanent easement ("Permanent Easement") designated as Parcel 1 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 1 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 1 for such purposes and uses. However, the Equipment shall not be located in the area of Parcel 1 except temporarily during the activities described herein.

Although the owners of the property subject to Parcel 1, and their heirs, successors, and assigns' (collectively, "Owners") activities shall not interfere with the City's use of Parcel 1, this Permanent Easement shall be non-exclusive. City shall have the unrestricted right to remove or relocate any improvements in the event the easement area is required in the future for equipment or personnel to access the easement area for the purposes defined herein. This provision setting forth limitations and obligations of City shall be a covenant running with the land.