

RESOLUTION 20-127

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH FLORIDA RELATING TO THE CONDEMNATION OF THAT CERTAIN PROPERTY LOCATED AT 17138 and 17140 FRONT BEACH ROAD WITHIN THE CITY FOR RIGHT OF WAY AND DRAINAGE PURPOSES TO SUPPORT THE IMPROVEMENT OF THE INTERSECTION OF STATE ROAD 79 AND FRONT BEACH ROAD; MAKING FINDINGS OF FACT PUBLIC PURPOSE AND NECESSITY; AND AUTHORIZING THE APPROPRIATE OFFICERS OF THE CITY TO TAKE THE APPROPRIATE ACTIONS TO SECURE THE ACQUISITION OF THE PROPERTY BY EMINENT DOMAIN PROCEEDINGS.

WHEREAS, the CITY OF PANAMA CITY BEACH, (the "CITY") is authorized by Chapter 166, Florida Statutes to condemn all necessary lands and property for the purpose of securing and utilizing transportation rights-of-way, and

WHEREAS, the CITY may acquire private or public property and property rights, including rights of access, air, view, and light, by gift, devise, purchase, or condemnation by eminent domain proceedings, as the City may deem necessary for any of the purpose of the Municipal Home Rule Powers Act, included, but not limited to, any lands reasonably necessary for expansion, construction, operation and maintenance of public streets and roads, and

WHEREAS, State Road 79 is a key north-south connector and evacuation route providing access to and from Panama City Beach Parkway to Front Beach Road; and

WHEREAS, Front Beach Road is a key east-west connector providing access from State Road 79 to State Road 392A and US Highway 98; and

WHEREAS, the City finds that the expansion and improvement of the rights-of-way along State Road 79 (between Panama City Beach Parkway and Front Beach Road) and Front Beach Road (between State Road 79 and Lullwater Drive) and the realignment of the intersection of State Road 79 and Front Beach Road (the "Project") is necessary and serves a public purpose to

improve the function and appearance of those corridors, and to allow for the installation and construction of sidewalks and additional traffic lanes in a safe and acceptable manner; and

WHEREAS, the CITY has determined that it is necessary, in the public interest, and serves a public purpose to make certain improvements to portions of the State Road 79 and Front Beach Road rights-of-way, and the City has determined that to do so it is necessary, in the public interest, and serves a public purpose that the CITY obtain title to certain portions of land along and adjacent to both State Road 79 and Front Beach Road in certain parcels of land situate, lying and being in Bay County, Florida, the legal descriptions of each parcel whereof being attached hereto as composite *Exhibit A* (the "Property"), and

WHEREAS, the City finds that the Property is necessary and essential for the realignment, construction and expansion of the Project, in accordance with the permitting requirements of state and local agencies, and the City determines that acquiring the Property for this Project is necessary and in the best interests of the public, and serves a public purpose; and

WHEREAS, the City, in consultation with the Florida Department of Transportation, has considered alternative designs and routes, cost, safety, environmental factors, and long term area planning in concluding that acquiring said property is necessary and in the best interests of the public, and all other conditions precedent to acquiring said parcels have been met, including, but not limited to, notifying appropriate state and local agencies that governmental permits have been obtained or that there is a reasonable probability that such permits will be obtained; and

WHEREAS, the acquisition of the Property is consistent with the City's Near Term Work Plan adopted by the City Council on August 9, 2018 by Resolution 18-128, and funds have been budgeted for this purpose; and

WHEREAS, the City has been unsuccessful in negotiating the voluntary purchase of the Property, and further has complied, or will have complied before filing a condemnation action, with the provisions of Section 73.015, Florida Statutes regarding presuit negotiation.

NOW THEREFORE BE IT RESOLVED, for the purposes aforesaid, the

City Council finds that:

1. The City Council hereby adopts as true and correct the foregoing Whereas clauses, and incorporates them as findings herein.
2. For the purposes aforesaid, it is necessary, practical, and in the best interest of the public and the CITY that the property necessary for the Panama City Beach Front Beach Road CRA Segment 3- State Road 79 Project be acquired as fee simple right of way in the name of the CITY over and upon those certain parcels heretofore described in the attached composite Exhibit A. Once acquired, the Property shall be used as transportation right of way for the realignment, improvement and expansion of the intersection of State Road 79 and Front Beach Road, for required drainage facilities and water retention areas necessitated by the improvement and expansion of State Road 79, and other municipal purposes.
3. The City, its officers, employees and attorneys, including designated outside counsel, be and are hereby authorized and directed to proceed to take the necessary steps to institute and prosecute such necessary actions and proceedings as may be proper for the acquisition of the fee simple right of way, in said land by eminent domain proceedings pursuant to Chapters 73 and 74, Florida Statutes, and otherwise and to prepare, sign, execute, serve, publish and file in the name of the City, all eminent domain papers, affidavits and pleadings and said attorneys are authorized to have prepared such other instruments and documents as may be necessary in connection herewith.
4. The City finds and determines that the property identified in Exhibit A is necessary for the public purpose of construction of the roadway project. The City authorizes the acquisition of the property identified and described in Exhibit A attached hereto, and by this reference made a part thereof. The City further authorizes the City Attorney, her staff or designated outside counsel to correct minor errors or scrivener's errors to said descriptions, if any, with regard to the condemnation proceeding without further action of this Council.
5. The City has determined for the purpose of defining the interest in property sought, that at any time whenever the term "fee simple right-of-way" is used in this Resolution, said term shall mean all rights to the subject property being acquired, subject to any abutters' rights to a roadway or other improvements constructed thereon as allowed by law.
6. The City Public Works Director or designate is authorized to have the construction plans updated, revised or corrected, and to utilize such

plans in the condemnation action, including committing to said plans, updates, revisions or corrections, without further action of this Council.
7. This Resolution supercedes and repeals Resolution 19-110.

THIS RESOLUTION shall become effective immediately upon passage.

PASSED in regular session this 11th day of June, 2020.

CITY OF PANAMA CITY BEACH

BY: _____


Mark Sheldon, Mayor

ATTEST:


Jo Smith, Interim City Clerk

EXHIBIT A

FEE SIMPLE RIGHT OF WAY

PARCEL NUMBERS: 32780-000-000, 32779-000-000
