

RESOLUTION 21-40

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH FLORIDA RELATING TO THE ACQUISITION OF THAT CERTAIN PROPERTY LOCATED AT 15726, 15801, 15810 and 15812 FRONT BEACH ROAD WITHIN THE CITY FOR THE RELOCATION OF LIFT STATION 4 AND IMPROVEMENT OF THE CITY'S SEWER UTILITY SYSTEM AND FRONT BEACH ROAD SEGMENT 4.1 RIGHT OF WAY IMPROVEMENT PROJECTS; 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, IF NECESSARY, 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 for use of water pipes and sewerage and drainage purposes, 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 property or property interests reasonably necessary for expansion, construction, operation and maintenance of public streets, roads, and utility systems; 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 Front Beach Road Segment 4.1 (between Lullwater Drive and Hill Road) (the "ROW 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, as part of the improvement of Front Beach Road Segment 4.1, the City's current lift station #4 needs to be relocated to accommodate those corridor improvements, as well as and to meet future utility growth and current utility standards (the "Lift Station Project"); 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 Front Beach Road rights-of-way, and to relocation and expand the capacity of Lift Station #4, 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 property along and adjacent to Front Beach Road in certain parcels of property 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 ROW Project, and for the relocation, construction and expansion of the Lift Station Project, in accordance with the permitting requirements of state and local agencies, and the City determines that acquiring the Property for these Projects is necessary and in the best interests of the public, and serves a public purpose; and

WHEREAS, the City has considered alternative designs and property sites, costs, safety, environmental factors, and long term area planning in concluding that acquiring said property for the Projects is necessary and in the best interests of the public, and all other conditions precedent to acquiring said parcels have been or will be 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, funds have been budgeted for the acquisition of the Property for the Projects; and

WHEREAS, the City 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 interests necessary for the Front Beach Road 4.1 ROW Project and Lift Station 4 Project be acquired in the name of the CITY over and upon those certain parcels described in the attached composite Exhibit A. Once acquired, the Property will be used for transportation or utility purposes as described in the Exhibit, 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 and expansion of the ROW Project and Lift Station 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 Utilities Director or designate is authorized to have the construction plans for the Lift Station Project 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. The City CRA Manager or designate is authorized to have the construction plans for the ROW Project 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

THIS RESOLUTION shall become effective immediately upon passage.

PASSED in regular session this 10th day of December, 2020.

CITY OF PANAMA CITY BEACH

BY: 
Mark Sheldon, Mayor

ATTEST:



Lynne Fasone, City Clerk

EXHIBIT A

FEE SIMPLE (LIFT STATION SITE)

Located at 15810 Front Beach Road

Bay County Parcel ID: 33754-010-000

Apparent Owner: Gilmore Resorts, Inc.

DESCRIPTION OF LIFT STATION PARCEL NO. 4: COMMENCE AT THE SOUTHEASTERLY CORNER OF LOT 3 OF F.A. BLACK'S ORIGINAL PLAT LOCATED IN THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 3 SOUTH, RANGE 16 WEST, BAY COUNTY, FLORIDA; THENCE NORTH 57 DEGREES 56 MINUTES 26 SECONDS WEST ALONG THE NORTHERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 98 FOR 352.27 FEET TO THE NORTHWESTERLY LINE OF A PARCEL DESCRIBED IN BAY COUNTY OFFICIAL RECORDS BOOK 1812, PAGE 2165; THENCE NORTH 32 DEGREES 03 MINUTES 34 SECONDS EAST ALONG SAID NORTHWESTERLY LINE FOR 258.10 FEET TO THE POINT OF BEGINNING. THENCE SOUTH 57 DEGREES 56 MINUTES 26 SECONDS EAST FOR 71.89 FEET; THENCE NORTH 06 DEGREES 51 MINUTES 19 SECONDS EAST FOR 13.02 FEET; THENCE NORTH 21 DEGREES 18 MINUTES 59 SECONDS EAST FOR 27.95 FEET; THENCE NORTH 31 DEGREES 58 MINUTES 43 SECONDS EAST FOR 50.24 FEET; THENCE NORTH 68 DEGREES 02 MINUTES 36 SECONDS EAST FOR 37.21 FEET; THENCE NORTH 76 DEGREES 55 MINUTES 38 SECONDS EAST FOR 21.50 FEET TO THE NORTHEASTERLY LINE OF SAID PARCEL DESCRIBED IN BAY COUNTY OFFICIAL RECORDS BOOK 1812, PAGE 2165; THENCE NORTH 57 DEGREES 56 MINUTES 26 SECONDS WEST ALONG SAID NORTHEASTERLY LINE FOR 98.09 FEET TO SAID NORTHWESTERLY LINE OF A PARCEL DESCRIBED IN BAY COUNTY OFFICIAL RECORDS BOOK 1812, PAGE 2165; THENCE SOUTH 32 DEGREES 03 MINUTES 34 SECONDS WEST ALONG SAID NORTHWESTERLY LINE FOR 134.83 FEET TO THE POINT OF BEGINNING.

UTILITY AND ACCESS EASEMENT

Located at 15810 Front Beach Road
Bay County Parcel ID: 33754-010-000
Apparent Owner: Gilmore Resorts, Inc.

A perpetual easement in and the right to excavate for, install, bury, construct, maintain, repair, alter, access and operate its sanitary sewer, potable water, and reuse water utilities, as the same shall be located or relocated by said CITY, together with the right to allow the attachment of and also the right to install, maintain and use such junctions, manholes, drains, and connectors as may be necessary or convenient in connection therewith, upon, under and across the following described land in Bay County, to wit:

DESCRIPTION OF INGRESS, EGRESS AND UTILITY EASEMENT:
COMMENCE AT THE SOUTHEASTERLY CORNER OF LOT 3 OF F.A. BLACK'S ORIGINAL PLAT LOCATED IN THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 3 SOUTH, RANGE 16 WEST, BAY COUNTY, FLORIDA; THENCE NORTH 57 DEGREES 56 MINUTES 26 SECONDS WEST ALONG THE NORTHERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 98 FOR 322.27 FEET TO THE NORTHWESTERLY LINE OF A PARCEL DESCRIBED IN BAY COUNTY OFFICIAL RECORDS BOOK 3986, PAGE 2021 AND THE POINT OF BEGINNING. THENCE NORTH 32 DEGREES 03 MINUTES 34 SECONDS EAST ALONG SAID NORTHWESTERLY LINE FOR 158.00 FEET TO THE NORTHEASTERLY LINE OF SAID PARCEL DESCRIBED IN BAY COUNTY OFFICIAL RECORDS BOOK 3986, PAGE 2021; THENCE SOUTH 57 DEGREES 56 MINUTES 26 SECONDS EAST ALONG SAID NORTHEASTERLY LINE FOR 10.00 FEET; THENCE NORTH 32 DEGREES 03 MINUTES 34 SECONDS EAST FOR 100.10 FEET; THENCE NORTH 57 DEGREES 56 MINUTES 26 SECONDS WEST FOR 40.00 FEET TO THE NORTHWESTERLY LINE OF A PARCEL DESCRIBED IN BAY COUNTY OFFICIAL RECORDS BOOK 1812, PAGE 2165; THENCE SOUTH 32 DEGREES 03 MINUTES 34 SECONDS WEST ALONG SAID NORTHWESTERLY LINE FOR 258.10 FEET TO SAID NORTHERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 98; THENCE SOUTH 57 DEGREES 56 MINUTES 26 SECONDS EAST ALONG SAID NORTHERLY RIGHT OF WAY LINE FOR 30.00 FEET TO THE POINT OF BEGINNING.

TOGETHER with all rights and privileges necessary or convenient for the full enjoyment and use thereof including the rights of ingress and egress to and from said easement.

PROVIDED always that in undertaking such excavation, installation, burial, construction, maintenance, repair, alteration or operation, the said CITY, its successors and assigns, shall be obligated to restore the surface of said property to as good or better condition as immediately preceding such undertaking; and

PROVIDED that the fee owner, their successors and assigns shall make no use of or improvement on the above-described land inconsistent with the easement granted herein, the City agreeing that construction of an asphalt paved road or parking lot shall not be considered an inconsistent use.

TEMPORARY RIGHT OF WAY CONSTRUCTION EASEMENT

Located at 15801 Front Beach Road
City Parcel 742W
Apparent Owner: Gilmore Resorts, Inc.

A temporary, non-exclusive construction easement to occupy and use, subject to all of the terms and conditions hereof, the following described land situated in Bay County, Florida, to wit:

15801 FRONT BEACH ROAD – TEMPORARY CONSTRUCTION EASEMENT "WEST TRACT"

COMMENCE AT A POINT MARKING THE SOUTHEASTERLY CORNER OF LOT 3, BLACK'S ORIGINAL PLAT, A SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 36 OF THE PUBLIC RECORDS OF BAY COUNTY, FLORIDA (POINT BEING ON THE NORTHERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 98) THENCE SOUTH 57 DEGREES 56 MINUTES 34 SECONDS EAST, ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR A DISTANCE OF 13.41 FEET TO THE POINT OF BEGINNING; THENCE LEAVING SAID NORTHERLY RIGHT OF WAY LINE PROCEED NORTH 32 DEGREES 03 MINUTES 16 SECONDS EAST, FOR A DISTANCE OF 20.03 FEET; THENCE SOUTH 57 DEGREES 56 MINUTES 34 SECONDS EAST, FOR A DISTANCE OF 34.00 FEET; THENCE SOUTH 32 DEGREES 03 MINUTES 16 SECONDS WEST, FOR A DISTANCE OF 20.03 FEET TO THE AFORESAID NORTHERLY RIGHT OF WAY LINE; THENCE NORTH 57 DEGREES 56 MINUTES 34 SECONDS WEST, ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR A DISTANCE OF 34.00 FEET TO THE POINT OF BEGINNING.
CONTAINING 681.88 SQUARE FEET.

The premises may be occupied and used by City solely for sloping, grading, tying in, harmonizing and reconnecting existing features of the Grantor's property with the highway improvements which are to be constructed together with incidental purposes related hereto during the period beginning with the date first above written and continuing until completion of the transportation project, but not later than the last day of (month and year the construction is anticipated to be completed) (the "Temporary Construction Easement").

The Temporary Construction Easement may be used by the City, its employees, agents, licensees, invitees, contractors and subcontractors in connection with the construction of the Front Beach Road Segment 4.1 Improvement Project. However, in no event, shall the City, its employees, agents, licensees, invitees, contractors and subcontractors utilize the Temporary Construction Easement for the storage of construction materials, vehicles, supplies, tools and equipment; the erection of temporary construction buildings, storage sheds and shelters; or erection of barriers and security fences or walls.

TEMPORARY RIGHT OF WAY CONSTRUCTION EASEMENT

Located at 15801 Front Beach Road

City Parcel 742E

Apparent Owner: Gilmore Resorts, Inc.

A temporary, non-exclusive construction easement to occupy and use, subject to all of the terms and conditions hereof, the following described land situated in Bay County, Florida, to wit:

'EAST TRACT'

COMMENCE AT A POINT MARKING THE SOUTHEASTERLY CORNER OF LOT 3, BLACK'S ORIGINAL PLAT, A SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 36 OF THE PUBLIC RECORDS OF BAY COUNTY, FLORIDA (POINT BEING ON THE NORTHERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 98) THENCE SOUTH 57 DEGREES 56 MINUTES 34 SECONDS EAST, ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR A DISTANCE OF 99.91 FEET TO THE POINT OF BEGINNING; THENCE LEAVING SAID NORTHERLY RIGHT OF WAY LINE PROCEED NORTH 32 DEGREES 03 MINUTES 16 SECONDS EAST, FOR A DISTANCE OF 16.59 FEET; THENCE SOUTH 57 DEGREES 56 MINUTES 34 SECONDS EAST, FOR A DISTANCE OF 34.00 FEET; THENCE SOUTH 32 DEGREES 03 MINUTES 16 SECONDS WEST, FOR A DISTANCE OF 16.59 FEET TO THE AFORESAID NORTHERLY RIGHT OF WAY LINE; THENCE NORTH 57 DEGREES 56 MINUTES 34 SECONDS WEST, ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR A DISTANCE OF 34.00 FEET TO THE POINT OF BEGINNING.
CONTAINING 497.6312 SQUARE FEET.

The premises may be occupied and used by City solely for sloping, grading, tying in, harmonizing and reconnecting existing features of the Grantor's property with the highway improvements which are to be constructed together with incidental purposes related hereto during the period beginning with the date first above written and continuing until completion of the transportation project, but not later than the last day of (month and year the construction is anticipated to be completed) (the "Temporary Construction Easement").

The Temporary Construction Easement may be used by the City, its employees, agents, licensees, invitees, contractors and subcontractors in connection with the construction of the Front Beach Road Segment 4.1 Improvement Project. However, in no event, shall the City, its employees, agents, licensees, invitees, contractors and subcontractors utilize the Temporary Construction Easement for the storage of construction materials, vehicles, supplies, tools and equipment; the erection of temporary construction buildings, storage sheds and shelters; or erection of barriers and security fences or walls.

FEE SIMPLE RIGHT OF WAY

Located at 15726 Front Beach Road

City Parcel 105

APPARENT OWNER: Gilmore Girls of PCB, LLC

15726 FRONT BEACH ROAD ~ RIGHT OF WAY TAKEN

A PARCEL OF LAND LYING AND BEING IN SECTION 20, TOWNSHIP 3 SOUTH, RANGE 16 WEST, BAY COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A POINT MARKING THE SOUTHWEST CORNER OF PROPERTY RECORDED IN OFFICIAL RECORDS BOOK 3765, PAGE 640 OF THE PUBLIC RECORDS OF BAY COUNTY, FLORIDA, (POINT BEING ON THE NORTHERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 98 - FRONT BEACH ROAD - 100' RIGHT OF WAY) AND PROCEED SOUTH 57 DEGREES 56 MINUTES 34 SECONDS EAST, ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR A DISTANCE OF 196.68 FEET TO THE POINT OF BEGINNING; THENCE LEAVING SAID NORTHERLY RIGHT OF WAY LINE PROCEED NORTH 59 DEGREES 26 MINUTES 32 SECONDS EAST, FOR A DISTANCE OF 22.02 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF POWELL ADAMS ROAD (66' RIGHT OF WAY); THENCE SOUTH 32 DEGREES 21 MINUTES 03 SECONDS WEST, ALONG SAID WESTERLY RIGHT OF WAY LINE, FOR A DISTANCE OF 19.55 FEET TO THE AFORESAID NORTHERLY RIGHT OF WAY LINE; THENCE NORTH 57 DEGREES 56 MINUTES 34 SECONDS WEST, ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR A DISTANCE OF 10.03 FEET TO THE POINT OF BEGINNING. CONTAINING 98.00 SQUARE FEET.

TEMPORARY RIGHT OF WAY CONSTRUCTION EASEMENT

Located at 15812 Front Beach Road
City Parcel 743E
Apparent Owner: 15812FBR, LLC

A temporary, non-exclusive construction easement to occupy and use, subject to all of the terms and conditions hereof, the following described land situated in Bay County, Florida, to wit:

15812 FRONT BEACH ROAD – TEMPORARY CONSTRUCTION EASEMENT ‘EAST TRACT’

COMMENCE AT A POINT MARKING THE SOUTHEASTERLY CORNER OF LOT 3, BLACK’S ORIGINAL PLAT, A SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 36 OF THE PUBLIC RECORDS OF BAY COUNTY, FLORIDA (POINT BEING ON THE NORTHERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 98) THENCE NORTH 57 DEGREES 56 MINUTES 34 SECONDS WEST, ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR A DISTANCE OF 211.09 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 57 DEGREES 56 MINUTES 34 SECONDS WEST, FOR A DISTANCE OF 34.00 FEET; THENCE NORTH 32 DEGREES 03 MINUTES 16 SECONDS EAST, FOR A DISTANCE OF 19.17 FEET; THENCE SOUTH 57 DEGREES 56 MINUTES 34 SECONDS EAST, FOR A DISTANCE OF 34.00 FEET; THENCE SOUTH 32 DEGREES 03 MINUTES 16 SECONDS WEST, FOR A DISTANCE OF 19.17 FEET TO THE POINT OF BEGINNING.
CONTAINING 651.84 SQUARE FEET.

The premises may be occupied and used by City solely for sloping, grading, tying in, harmonizing and reconnecting existing features of the Grantor's property with the highway improvements which are to be constructed together with incidental purposes related hereto during the period beginning with the date first above written and continuing until completion of the transportation project, but not later than the last day of (month and year the construction is anticipated to be completed) (the “Temporary Construction Easement”).

The Temporary Construction Easement may be used by the City, its employees, agents, licensees, invitees, contractors and subcontractors in connection with the construction of the Front Beach Road Segment 4.1 Improvement Project. However, in no event, shall the City, its employees, agents, licensees, invitees, contractors and subcontractors utilize the Temporary Construction Easement for the storage of construction materials, vehicles, supplies, tools and equipment; the erection of temporary construction buildings, storage sheds and shelters; or erection of barriers and security fences or walls.

TEMPORARY RIGHT OF WAY CONSTRUCTION EASEMENT

Located at 15812 Front Beach Road
City Parcel 743W
Apparent Owner: 15812FBR, LLC

A temporary, non-exclusive construction easement to occupy and use, subject to all of the terms and conditions hereof, the following described land situated in Bay County, Florida, to wit:

"WEST TRACT"

COMMENCE AT A POINT MARKING THE SOUTHEASTERLY CORNER OF LOT 3, BLACK'S ORIGINAL PLAT, A SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 36 OF THE PUBLIC RECORDS OF BAY COUNTY, FLORIDA (POINT BEING ON THE NORTHERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 98) THENCE NORTH 57 DEGREES 56 MINUTES 34 SECONDS WEST, ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR A DISTANCE OF 286.09 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 57 DEGREES 56 MINUTES 34 SECONDS WEST, FOR A DISTANCE OF 34.00 FEET; THENCE NORTH 32 DEGREES 03 MINUTES 16 SECONDS EAST, FOR A DISTANCE OF 24.67 FEET; THENCE SOUTH 57 DEGREES 56 MINUTES 34 SECONDS EAST, FOR A DISTANCE OF 34.00 FEET; THENCE SOUTH 32 DEGREES 03 MINUTES 16 SECONDS WEST, FOR A DISTANCE OF 24.67 FEET TO THE POINT OF BEGINNING.
CONTAINING 838.72 SQUARE FEET.

The premises may be occupied and used by City solely for sloping, grading, tying in, harmonizing and reconnecting existing features of the Grantor's property with the highway improvements which are to be constructed together with incidental purposes related hereto during the period beginning with the date first above written and continuing until completion of the transportation project, but not later than the last day of (month and year the construction is anticipated to be completed) (the "Temporary Construction Easement").

The Temporary Construction Easement may be used by the City, its employees, agents, licensees, invitees, contractors and subcontractors in connection with the construction of the Front Beach Road Segment 4.1 Improvement Project. However, in no event, shall the City, its employees, agents, licensees, invitees, contractors and subcontractors utilize the Temporary Construction Easement for the storage of construction materials, vehicles, supplies, tools and equipment; the erection of temporary construction buildings, storage sheds and shelters; or erection of barriers and security fences or walls.