

BILL NO. R-15-10-04

RESOLUTION NO. _____

**A RESOLUTION APPROVING THE
ACQUISITION OF CERTAIN REAL
ESTATE FOR THE CITY OF FORT
WAYNE, DIVISION OF CITY
UTILITIES.**

WHEREAS, the City of Fort Wayne, Division of City Utilities, desires to acquire via eminent domain the property located at 1745 Taylor Street, Fort Wayne, Indiana, using the processes as defined by I.C. 32-24-2, Procedures for Cities and Towns; and

WHEREAS, the City of Fort Wayne, through its Board of Public Works, has approved the acquisition of the property pursuant to Board of Public Works Resolution Number 102-9-23-15-1, Exhibit "A," attached hereto and made a part hereof; and

WHEREAS, the compensation for the property is TWELVE THOUSAND AND 00/100 DOLLARS – (\$12,000.00); and

WHEREAS, Sec. 37-25 of the City of Fort Wayne Code of Ordinances, requires the Common Council approval of any acquisition, purchase or lease of real estate by the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. The acquisition of real estate by the City of Fort Wayne by its Division of City Utilities, located at 1745 Taylor Street, Fort Wayne

1 Indiana, specifically described in the Board of Public Works Resolution, Exhibit
2 "A," is hereby approved and agreed to. The appropriate officials of the City are
3 hereby authorized to execute all documents necessary to accomplish said
4 purchase.
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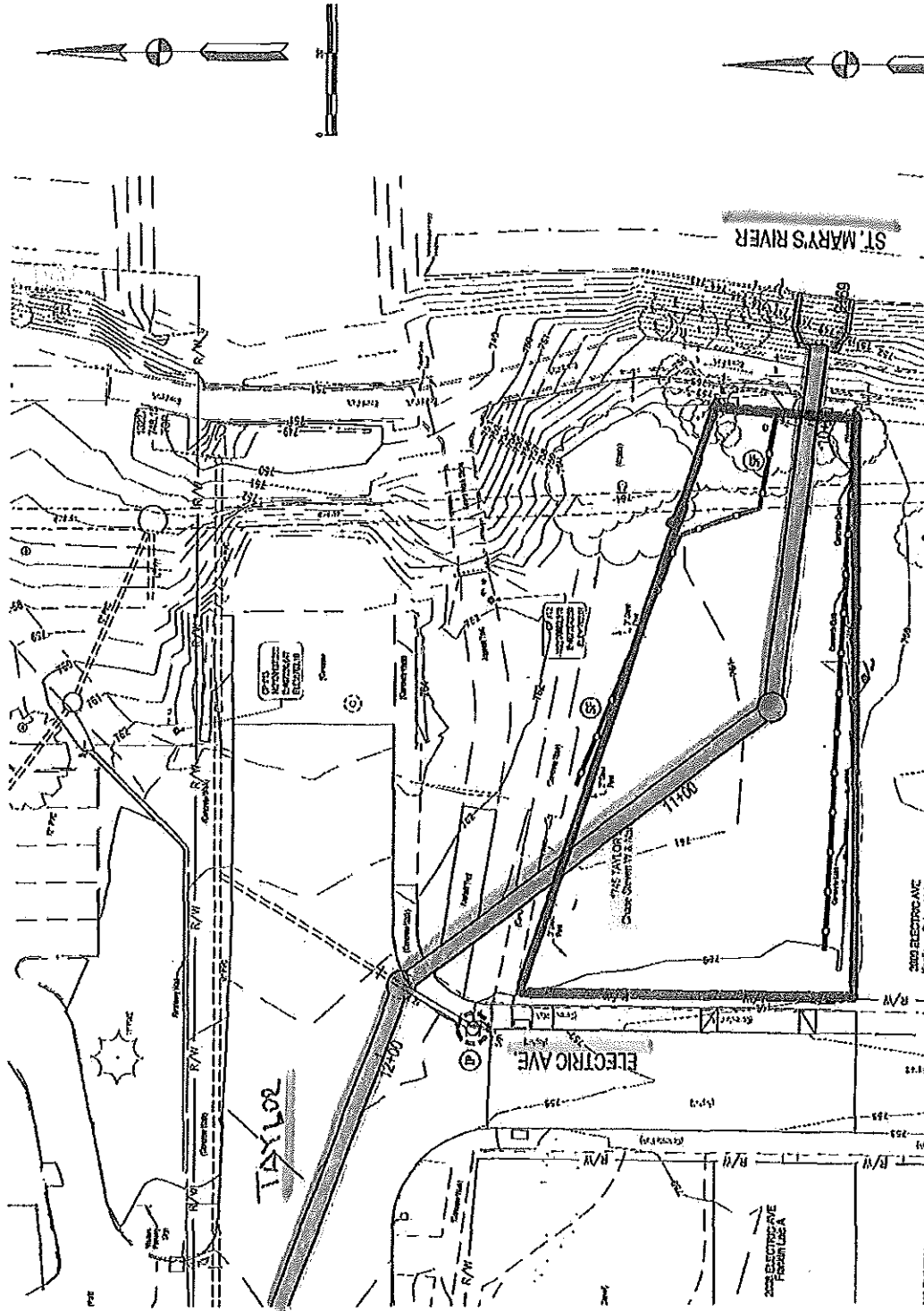
6 **SECTION 2.** This Resolution shall be in full force and effect from
7 and after its passage and any and all necessary approval by the Mayor.
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9 _____
10 Council Member

11 APPROVED AS TO FORM AND LEGALITY
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14 _____
15 Carol Helton, City Attorney
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EXHIBIT 1, PAGE 2



PROPOSED STORM SEWER & OUTFALL

BOUNDARY OF LOTS 1 & 2 IN ELECTRIC
ADDITION TO CITY OF FORT WAYNE
PLAT BOOK 5, PAGE 64

200 TAYLOR ST
General Electric Company

SEE ABOVE LEFT

**A RESOLUTION OF THE BOARD OF PUBLIC WORKS
OF THE CITY OF FORT WAYNE, INDIANA,
CONFIRMING THE AMOUNT OF DAMAGES AWARDED
IN RESOLUTION 102-8-19-15-2
OF THE BOARD OF PUBLIC WORKS
ACQUIRING CERTAIN REAL PROPERTY
FOR USE BY THE CITY OF FORT WAYNE, INDIANA,
FOR THE CONSTRUCTION OF THE
TAYLOR-HALE SEWER SEPARATION, PHASE TWO, PROJECT**

RESOLUTION NUMBER 102-9-23-15-1

WHEREAS, the Board of Public Works ("Board") of the City of Fort Wayne, Indiana ("City") adopted Resolution Number 102-7-22-15-2 on July 22, 2015; and

WHEREAS, Resolution Number 102-7-22-15-2 initiated eminent domain proceedings under Indiana Code (I.C.) 32-24-2 to acquire the fee simple interest in certain real property for the installation of a storm drainage system on, across, and under portions of the one (1) real property listed in the attached Exhibit "A" as part of the Taylor-Hale Sewer Separation, Phase Two, Project ("Project"); and

WHEREAS, in accordance with I.C. 32-24-2-6, the Board published notice of said proceedings, as well as the date and time of the first remonstrance hearing, in local newspapers of general circulation for two (2) consecutive weeks following July 22, 2015; and

WHEREAS, the Board held the first remonstrance hearing on August 12, 2015 at 10:00 o'clock A.M., being no sooner than ten (10) days following the last published notice of said hearing in accordance with I.C. 32-24-2-6, at which time the Board was willing to receive and hear remonstrance from persons interested in or affected by the Project and acquisition; and

WHEREAS, there was no written or verbal remonstrance against the Project or the acquisition of the fee simple interest in the subject property presented by any persons interested in or affected by the Project; and

WHEREAS, the Board adopted Resolution Number 102-8-19-15-2 on August 19, 2015, wherein the Board confirmed said acquisition and set the initial damage award for the affected property owners; and

WHEREAS, in accordance with I.C. 32-24-2-8, the Board published notice of said confirmation and damage award, as well as the date and time of the second remonstrance hearing, in local newspapers of general circulation for three (3) consecutive weeks following August 19, 2015; and

WHEREAS, the Board held the second remonstrance hearing on September 16, 2015 at 10:00 o'clock A.M., being no sooner than ten (10) days following the last published notice of said hearing in accordance with I.C. 32-24-2-8, at which time the Board was willing to receive and hear remonstrance from persons against said damage awards; and

WHEREAS, there was no written or verbal remonstrance against said damage award presented at the September 16, 2015 remonstrance hearing.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC WORKS OF THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:

1. That the Board finds public benefit and utility in the installation of the storm drainage system on, across, and under portions of the one (1) property listed in the attached Exhibit "A" as part of the project.

2. That the Board finds that the acquisition of the fee simple interest in the one (1) property listed in the attached Exhibit "A" is necessary to protect the public health, safety, and welfare.

3. That the Board finds the appraised value of the fee simple interest, listed in the attached Exhibit "A," to be an accurate and fair market value for the fee simple interest in the subject property.

4. That, in accordance with I.C. 32-24-2-10, the Board hereby AFFIRMS the damage award in the Attached Exhibit "A" which was initially awarded in Resolution 102-8-19-15-2.

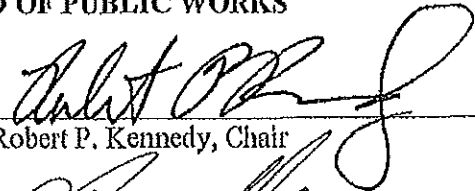
This Resolution shall be in full force and effect from and after its adoption by the Board of Public Works of the City of Fort Wayne, Indiana.

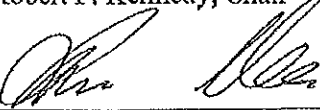
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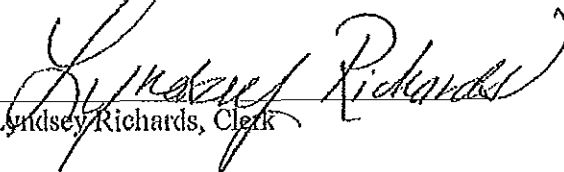
APPROVED this 23rd day of September, 2015.

BOARD OF PUBLIC WORKS

By: 
Robert P. Kennedy, Chair

By: 
Kumar Menon, Member

By: 
Mike Avila, Member

Attest: 
Lindsey Richards, Clerk

Prepared by: DeWayne J. Nodine, City of Fort Wayne, Program Manager, Capital Project Services

ACKNOWLEDGEMENT

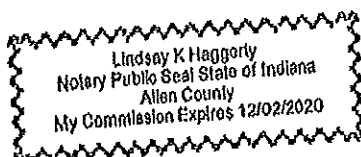
STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

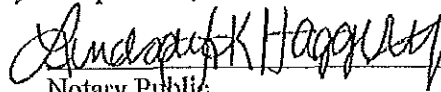
Before me, a Notary Public, in and for said County and State personally appeared Robert P. Kennedy, Kumar Menon, and Mike Avila, as Members of the Board of Public Works of the City of Fort Wayne, and Lindsey Richards, Clerk of the Board of Works, and acknowledged the execution of the foregoing contract as and for their voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 23rd day of September, 2015.

My Commission Expires:

12/02/2020




Notary Public

Resident of Allen County

Lindsay K Haggerty
Printed Name of Notary

EXHIBIT "A"

Page 1 of 2

PROPERTY OWNER NAMES AND MAILING ADDRESSES:

Landowners: Steven W. & Martha L. Chase
Mailing Address: Steven W. & Martha L. Chase
21411 Campbell Road
Spencerville, IN 46788-9653

Alternate Address: Steven W. Chase
PO Box 153
Bellefontaine, OH 43311

AFFECTED PROPERTY ADDRESS: 1745 Taylor Street, Fort Wayne, Indiana 46802

PARCEL TAX I.D. NUMBER: 02-12-10-329-001.000-074

LEGAL DESCRIPTION OF REAL PROPERTY TO BE ACQUIRED:

Lot Number 1 and Lot Number 2 in Electric Addition to the City of Fort Wayne
as recorded in Plat Record 5, page 84, (per latest deed recorded as Document
Number 970039898 in the Office of the Recorder of Allen County, Indiana)

INTEREST TO BE ACQUIRED: Fee simple for all of both lots

DAMAGES TO BE AWARDED: \$12,000.00 (Twelve thousand dollars & Zero cents)

PROPOSED STOPS SERVED BY OUTFALL

BOUNDARY OF LOT 1 & 2 IN ELECTRIC
ADDITION TO CITY OF FORT WAYNE
PLAT BOOK 5: PAGE 84

2200 TAYLOR ST
BOSTON, MA 02118

Interoffice Memo

Date: October 2, 2015
To: Common Council Members
From: DeWayne Nodine, Program Manager – Capital Project Services – Telephone: 427-1330
RE: Acquisition of Real Estate at 1745 Taylor Street, Fort Wayne, Indiana 46802

Council Introduction Date: October 13, 2015—Council District #: 5

Background & supporting information:

City Utilities needs to acquire the empty parcel of land at 1745 Taylor Street for construction of the Taylor-Hale Sewer Separation Phase Two Project with an outfall into the St. Mary's River. This specific property is critical to the project because it was determined to be the best option of those considered since this route is through an empty, undeveloped, parcel that is not in productive use. Also, this land may have potential as a vehicle parking lot for users of the pedestrian trail, if the City ever wanted to pursue such a project.

City Utilities first contacted the husband of the couple which owns this parcel in late March of this year to discuss the project and the effect on this property. At that time, the husband stated he would prefer that the City purchase the entire property, versus an easement, because having the new storm outfall located in the middle of the parcel "will destroy any future use for him." The staff agreed with this assessment and proceeded accordingly. The husband stopped communicating with City Utilities staff after a telephone call with him on May 6, which sounded positive. Between May 15 and June 12, multiple telephone messages were left in an effort to work with this owner, but none were returned. As a result, eminent domain proceedings under I.C. 32-24-2 (Procedures for Cities and Towns) were commenced after the owner did not respond to a formal written offer by City Utilities to purchase the property.

The acquisition price is \$12,000.00, which is the value indicated by the appraisal and review appraisal obtained. A map is attached to this memo highlighting this property along with a copy of the third (final) resolution in the eminent domain proceedings approved by the Board of Public Works on September 23, 2015.

Implications of not being approved:

This project is contained in the City's Long-Term Control Plan to reduce the amount of storm water in the sanitary sewer system. If this project is not constructed, the City shall be in violation of the Consent Decree.

Justification if prior approval is being requested: Not applicable

Funding source: Sewer Revenue

Attachments:

- Map and Board of Public Works Resolution

CC: Matthew Wirtz, Dan Brenner, Diane Brown, Dawn Ritchie, Project file