

**RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF DETROIT FOR  
THE ACQUISITION OF PRIVATE PROPERTY, INCLUDING BY CONDEMNATION, FOR THE  
BENEFIT AND USE OF THE PUBLIC FOR THE DETROIT WATER AND SEWERAGE  
DEPARTMENT’S BRIGHTMOOR STORMWATER IMPROVEMENT PROJECT**

**By Council Member \_\_\_\_\_ :**

WHEREAS, the City of Detroit (the “City”) desires to further its efforts to protect its citizens by making its infrastructure more climate resilient through utilization of green stormwater infrastructure (“GSI”) designed to mitigate the effects of excess stormwater and untreated sewerage overflows to the Rouge River resulting in basement backups and street flooding during significant rain and snow events (“Brightmoor Stormwater Improvement Project”), and to provide other public purposes and benefits as set forth herein, which will involve the development and installation of GSI that will capture and filter stormwater runoff before it enters the City’s combined sewer; and

WHEREAS, this Resolution is requested by the Detroit Water and Sewerage Department; and

WHEREAS, the Detroit Water and Sewerage Department is a municipal utility; and

WHEREAS, the City Charter’s Declaration of Rights provides that the City shall provide for the public peace, health and safety of persons and property within its jurisdictional limits; and

WHEREAS, the Declaration of Rights further provides that the people of Detroit have a right to expect aggressive action by the City’s officers in seeking to advance, conserve, maintain and protect the integrity of the human, physical and natural resources of this city from encroachment and/or dismantlement; and

WHEREAS, the Declaration of Rights further provides that the people of Detroit have a right to expect city government to provide clean air and a sanitary, environmentally sound city; and

WHEREAS, pursuant to City Code 15-2-2, this Honorable Body must include in this Resolution of Necessity (or in a separate written report), among other things, a summary of the public uses and/or public purposes underlying the Brightmoor Stormwater Improvement Project; and

WHEREAS, the Brightmoor Stormwater Improvement Project is for the use, purpose, and/or benefit of the public by supporting and maintaining a healthy and sustainable environment, through the use of GSI methods designed to reduce stormwater and snowmelt runoff volume, remove pollutants, and reduce street and basement flooding in the Brightmoor neighborhood and surrounding community, and improve the water quality of the Rouge River; and

WHEREAS, to achieve the public purposes and benefits associated with the Brightmoor Stormwater Improvement Project, the City must acquire property through voluntary acquisitions and/or the taking of private property by eminent domain as permitted by law in accordance with

the Michigan Constitution and Michigan Uniform Condemnation Procedures Act, MCL 213.51 *et seq.* (“UCPA”); and

WHEREAS, the taking of such private property shall be considered necessary for public purposes and for the benefit and/or use by the public; and

WHEREAS, the Brightmoor Stormwater Improvement Project has identified certain parcels needed to facilitate the Brightmoor Stormwater Improvement Project within the area located between Greydale and Bentler Streets from W. Outer Drive to Lyndon and certain Detroit Land Bank Authority (“DLBA”) owned property located in adjacent neighborhoods (“Project Area”); and

WHEREAS, historic drainage pathways exist within the Project Area which allows the utilization of existing topographic relief to maximize surface catch flow opportunities; and

WHEREAS, the City’s National Pollutant Discharge Elimination System (“NPDES”) permit requires DWSD to significantly reduce combined sewer overflows by 2037; and

WHEREAS, the Brightmoor Stormwater Improvement Project will reduce sewerage overflows, improve water quality of the Rouge River, reduce basement water backups and street flooding; and

WHEREAS, the City intends that all parcels of property within the Project Area, be acquired by gift, purchase, condemnation, abandonment, or otherwise and a listing of parcels within the Project Area, as the City understands the property, is attached hereto as **Exhibit A**; and

WHEREAS, the most recent aggregate total of the State Equalized Value (SEV) for all of the parcels to be acquired within the Project Area is \$178,900; and

WHEREAS, the initial estimate of the total aggregate cost of acquiring all of the property within the Project Area, is \$1,400,000.00, which includes the estimated total aggregate of just compensation to be paid, including any contingencies (excluding any appraisal fees, attorney fees, expert fees, or other costs), and shall be paid from the Detroit Water and Sewerage Department’s Improvement and Extension Fund; and

WHEREAS, the initial estimate of the total aggregate relocation benefits to be paid in connection with the acquisitions for the Brightmoor Stormwater Improvement Project, including contingencies, is \$1,200,00.00, and shall be paid from the Detroit Water and Sewerage Department’s Improvement and Extension Fund; and

WHEREAS, an environmental assessment has not yet been conducted, but the City shall follow all applicable environmental laws and the City Code with respect to environmental conditions as may be required; and

WHEREAS, an allowance of funds for environmental site investigation and assessments, response activities, remedial actions, removal actions, and abatement in the aggregate amount of \$500,000.00 shall be paid from Detroit Water and Sewerage Department’s Improvement and Extension Fund; and

WHEREAS, the City finds that the Brightmoor Stormwater Improvement Project is a governmental function; and

WHEREAS, this Resolution of Necessity is to take immediate effect.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. This Honorable Body finds that the following conditions exist that make the Brightmoor Stormwater Improvement Project necessary and finds the following public benefits and purposes associated with or anticipated from the Brightmoor Stormwater Improvement Project:
  - a. The City desires to further its efforts to protect its citizens by making its infrastructure more climate resilient through providing more capacity to its sewer system by the utilization of GSI designed to capture stormwater and snowmelt and divert it to the Rouge River thereby reducing basement backups, street flooding and improving the water quality in the Rouge River; and
  - b. The Brightmoor Stormwater Improvement Project will mitigate the negative impacts of climate change by addressing the increased volume of intense rain and snowmelt experienced today which exceeds the combined system's capacity resulting in street and basement flooding; and
  - c. The City's NPDES permit requires DWSD to significantly reduce combined sewer overflows by 2037.
2. This Honorable Body finds that the Brightmoor Stormwater Improvement Project is for the following public purposes, uses and/or benefits:
  - a. The reduction of excess stormwater in the combined sewer system which will reduce street flooding and basement backups in the Project Area and surrounding communities; and
  - b. The mitigation of excess stormwater and untreated sewerage overflows to the Rouge River; and
  - c. The improvement of the Rouge River water quality; and
  - d. Implementation of an innovative green solution to alleviate the burden on existing infrastructure, supporting, and maintaining a healthy and sustainable city, improvement of air quality and beautification of the neighborhood.

3. This Honorable Body hereby declares the Brightmoor Stormwater Improvement Project is a public use, for the public purpose, and that its development is necessary and essential to the interest of the public peace, health, safety, and welfare of the City and to provide means and methods for mitigating street and basement flooding.
4. This Honorable Body hereby declares that the GSI installations are a public improvement.
5. This Honorable Body hereby declares that the Brightmoor Stormwater Improvement Project is for the purposes of the City's incorporation, including that it will promote the public health and safety, the protection of the City's natural resources, and promote clean air and a sanitary, environmentally sound city, consistent with the City Charter's Declaration of Rights; and
6. This Honorable Body hereby declares that, as a result of the foregoing findings, certain and expeditious assembly of land for the Brightmoor Stormwater Improvement Project through the City's power of eminent domain is necessary and in the best interest of the City and the public and is essential to the public health and welfare of the City.
7. This Honorable Body hereby declares that the acquisition of property for the Brightmoor Stormwater Improvement Project is necessary to protect the health, safety, and welfare of the public and, in the event the City incurs any response costs when the property are acquired, all necessary steps consistent with law shall be taken by the City to fully recover and/or to mitigate any costs or damages which may have been required of the City as a result of any response activity associated with such property.
8. The City hereby declares its intention that all property necessary for the development of the Brightmoor Stormwater Improvement Project within the Project Area and be acquired by gift, purchase, condemnation, abandonment, or otherwise and a listing of parcels within the Project Area, as the City understands the property, is attached hereto as **Exhibit A**.
9. The City is hereby authorized to make offers to purchase the property within the Project Area and surrounding neighborhood to initiate negotiations for the purchase of such property, and to enter into agreements, including, but not limited to letters of intent, option agreements, purchase agreements, and/or transfer agreements, in connection with the acquisition of such property. The City is further authorized to purchase or be assigned any existing option agreements for such properties.
10. The City is hereby authorized to make payments and reimbursement and provide relocation assistance to all displaced persons (as defined by City Code 15-1-1 and

15-1-6) who vacate property for use in the Brightmoor Stormwater Improvement Project.

11. The City shall comply with City Code, Chapter 15.
12. If the City is unable to purchase property within the Project Area from property owners through voluntary negotiations, the Corporation Counsel for the City is hereby directed to institute and bring to an appropriate conclusion, the necessary condemnation proceedings on behalf of the City in the Third Judicial Circuit for the County of Wayne to acquire such property and terminate any underlying interest therein, through the exercise of the City's power of eminent domain, pursuant to 1980 PA 87, as amended MCL 213.51 *et. seq.*, as amended, and other applicable laws.
13. The Corporation Counsel and/or their designee are authorized to file declarations of taking as required by the UCPA for any eminent domain action with respect to the acquisition of properties within the Project Area and adjacent neighborhoods for the Brightmoor Stormwater Improvement Project.
14. The Corporation Counsel and/or their designee are authorized to accept deeds and/or property within the Project Area and surrounding neighborhood and to authorize the requisite documents related to the acquisition of payment for such property.
15. The City Treasurer is directed to prorate all taxes and assessments to the date of closing, in accordance with local custom for acquisition of fee title, on all property acquired for the Brightmoor Stormwater Improvement Project.
16. A copy of this Resolution shall be transmitted by the City Clerk to the Planning and Development Department, to the Board of Assessors, and to the department or agency for whose use the property is being acquired so the Board of Assessors may determine whether, in fact, such property has been acquired by the City and, therefore, is exempt from taxation.
17. The Chief Financial Officer and/or its designee shall record all judgments, court orders, deeds, mortgages, discharges, and other instruments ("instruments") with the County of Wayne Register of Deeds in order to perfect title for private property taken by the City and shall forward a copy of such instruments to the Board of Assessors, who shall change the assessment roll of the City to show such property as being exempt from taxation.
18. The Chief Financial Officer and/or its designee is authorized to honor applications and/or vouchers for the payment of the estimated just compensation deposited with

the City Treasurer or their designee when deeds and/or the requisite documents related to the acquisition are presented in advance of any trial related to property within the Project Area.

19. It is hereby found and determined that certain other official action may be taken by the City with respect to, among other things, addressing title issues to provide the City with marketable title to the acquired property.
20. This Honorable Body hereby declares that the Brightmoor Stormwater Improvement Project is a governmental function and an essential service.
21. This Resolution is to take immediate effect.