

**ORDINANCE NO. 9812-25**

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA, CONDITIONALLY VACATING ALL OF THE RIGHT OF WAY OF SOUTH GARDEN AVENUE ABUTTING LOTS 6-11 TOGETHER WITH THAT PORTION ABUTTING THE VACATED 15 FOOT ALLEY LYING BETWEEN LOTS 10 AND 11 OF COURT SQUARE SUBDIVISION AS RECORDED IN PLAT BOOK 5, PAGE 53 OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA; PROVIDING FOR CONDITIONS PRECEDENT TO SAID VACATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the southern portion of Garden Ave. (referred to herein as the "Subject Property") is right of way that was dedicated to the Public by Plat according to the Court Square Subdivision Plat recorded in Plat Book 5, Page 53 of the Public Records of Pinellas County, Florida; and

WHEREAS, the City of Clearwater (the "City") has maintained significant, permanent improvements within this platted right of way for more than the statutorily described period in Fla. Stat. § 95.361, such that the City has become the fee simple owner of the land where those improvements are located and maintained; and

WHEREAS, the City of Clearwater Charter Section 2.01 (d)(5)(ii) states that "when the property declared surplus is vacated right-of-way in which the city owns the fee interest and the vacated right-of-way is abutted by a single property owner, no competitive bid shall be required; and the city may sell the property to the abutting property owner for not less than fair market value."; and

WHEREAS, the owner of real property abutting the right of way (the "Applicant") as described herein has formally requested that said right of way be vacated by the City; and

WHEREAS, the Clearwater City Council finds that, if certain conditions are met, this area will no longer be necessary for municipal use, and that satisfaction of said conditions will make it in the best interest of the City and the General Public to Vacate this portion of right of way, declare it surplus, and transfer interests to the Applicant; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEARWATER, FLORIDA:

**Section 1.** The Whereas Clauses above are adopted herein as the legal and factual predicate for the passage of this Ordinance.

**Section 2.** The right of way for the purposes of this Ordinance (depicted by sketch in Exhibit "A" which is incorporated herein and referred to as "Subject Property") is legally described as:

ALL OF THE RIGHT OF WAY OF SOUTH GARDEN AVENUE ABUTTING LOTS 6-11 TOGETHER WITH THAT PORTION ABUTTING THE VACATED 15 FOOT ALLEY LYING BETWEEN LOTS 10 AND 11 OF COURT SQUARE SUBDIVISION AS RECORDED IN PLAT BOOK 5, PAGE 53 OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA.

**Section 3.** The City of Clearwater hereby vacates, closes, abandons, and releases all rights, title, and interest to the Subject Property as dedicated right of way by Plat, subject to the occurrence of the following conditions precedent:

1. The Clearwater City Council shall declare the Property as Surplus in accordance with City ordinances, policies, and procedures, and such Declaration shall be made in conjunction with the approval of a Purchase and Sale Agreement with the Applicant.
2. The City and the Applicant shall enter into a Purchase and Sale Agreement that meets at least the following minimum requirements:
  - a. Provides for payment, at minimum, of fair market value, as established by an appraisal performed by a Florida-licensed appraiser, to be paid to the City in exchange for a Special Warranty Deed transferring the Subject Property;
  - b. Requires as a Seller's closing condition evidence of single ownership or functional equivalent of single ownership of all properties abutting the Subject Property;
  - c. Requires as a Seller's closing condition the Buyer's application for and subsequent receipt of a certificate of occupancy ("CO") in conjunction with certain improvements relating to the Subject Property, said improvements being further defined in the Purchase and Sale Agreement.
  - d. Reserves, retains, and/or otherwise provides for all the necessary easement interests as required to protect existing or planned public utilities and

infrastructure assets either by reservation within the Deed or by separate conveyance or agreement, including but not limited to water, sewer, drainage, gas, electric, communications, and any other utilities within the Subject Property or otherwise impacted by the overall development.

- e. Allows for the reasonable relocation of utilities at no expense to the City.
  - f. Buyer will develop the majority of the Subject Property to be part of a pedestrian friendly outdoor gathering space with a net increase in green space.
3. The City shall retain a blanket easement for public utilities over the Subject Property until such time that utilities are relocated, and any relocation of utilities shall be approved by the City in the City's sole discretion. The City shall require separate easements to be conveyed as necessary prior to reducing, releasing, abandoning and/or terminating this blanket easement reservation.
  4. The City Manager and City Attorney shall determine if the appropriate closing conditions have been met and shall approve the form of the Special Warranty Deed to be used for this transaction in accordance with the requirements of the Purchase and Sale Agreement and this Ordinance.
  5. Buyer will obtain the necessary building permits to construct an auditorium on the land east of the Subject Property on or before December 31, 2029.

**Section 4.** The City may continue full use of the Subject Property, including the collection of parking revenue, until such time as Seller issues a temporary construction easement as required by the forthcoming Purchase and Sale Agreement. The Seller shall not issue or be required to issue the temporary construction easement until the Seller has issued all building permits authorizing vertical construction of the auditorium. Once issued, the temporary construction easement shall permit the Buyer, prior to Closing, the right to use the Subject Property for construction related activities in support of the construction activities on the parcels to the east and west and to conduct construction activities on the Subject Property.

**Section 5.** The provisions of this Ordinance shall run with the land, and the City Clerk shall record this ordinance in the Public Records of Pinellas County, Florida, following adoption.

**Section 6.** This Vacation ordinance shall not take effect until an approved Deed is executed and recorded in the Public Records of Pinellas County, Florida.

PASSED ON FIRST READING

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PASSED ON SECOND AND FINAL  
READING AND ADOPTED

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CITY OF CLEARWATER

By:

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Bruce Rector  
Mayor

Approved as to form:

Attest:

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Jerrod Simpson  
Senior Assistant City Attorney

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Rosemarie Call  
City Clerk