

DETERMINATION AND FINDINGS

EMINENT DOMAIN PROCEDURE LAW SECTION 204 DETERMINATION AND FINDINGS OF THE TOWN OF MOREAU

INTRODUCTION

The Town of Moreau (“Town”) is authorized and empowered by the provisions of Section 130 (15) of the Town Law to promote the health, safety, and general welfare of the community. In furtherance of this, the Town Board may establish or extend a sewer district pursuant to Articles 12 or 12-A of the Town Law. The Town is authorized to purchase, in the manner provided by law, or by acquisition in the manner provided by the Eminent Domain Procedure Law, any lands or rights thereon, required for any public purpose under Section 64 of the Town Law. The purpose of Sewer District No. 1, Extension No. 5 (“Sewer Project”) is for the health, safety, environmental protection and economic growth of the community. The public interest will be served by the Project.

PUBLIC NOTICE

On January 4, 2021, the Town of Moreau, pursuant to Section 201 of the New York State Eminent Domain Procedure Law, held a public hearing regarding the acquisition of easements for the installation of sewer mains and other associated infrastructure required for the construction of Sewer District No.1, Extension No. 5. The Town served legal notice of the date and time of the public hearing on the property owners by certified mail, return receipt requested on December 11, 2020, by personal service, and by published notice as required by law in the Post Star Newspaper on December 11, 12, 13, 14 and 15, 2020. The affidavits of service and affidavit of publication are included in the public hearing record.

The purpose of the public hearing was to inform the public, review the public use to be served by the project and the impact on the environment and residents, and to hear comments from the public pertaining to the Eminent Domain Procedure Law for Sewer District 1, Extension. 5.

Based on the information obtained by the Town, comments at the public hearing, record material furnished at the public hearing, which are all incorporated herein by reference, the Town adopts the Determination and Findings as follows:

PUBLIC USE, BENEFIT OR PURPOSE TO BE SERVED BY THE PROPOSED PUBLIC PROJECT

The Town of Moreau is authorized and empowered by the provisions of Section 130 (15) of the Town Law to promote the health, safety, and general welfare of the community. In furtherance of this statutory mandate, the Town Board may establish or extend a sewer district pursuant to Articles 12 or 12-A of the Town Law.

On April 30, 2019, the Town of Moreau resolved and determined that the public interest would be served by the establishment of Sewer District No. 1, Extension No. 5 (“Sewer Project”), that the project was approved, that the improvements be constructed, and that the necessary easements and lands be acquired for the project.

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The installation of sewer mains and other associated infrastructure is for public use and is a necessary component for the sewer district extension.

The proposed Sewer Project is for the betterment of the public. The purpose of the improvement is to enhance sewage conveyance within Sewer District No. 1, Extension No. 5, promote the health and general welfare of the public, protect the environment, and promote economic growth within the Town.

APPROXIMATE LOCATION FOR THE PROPOSED PUBLIC PROJECT AND THE REASONS FOR THE SELECTION OF THIS LOCATION

The public project will involve the construction of a low-pressure sewer system which includes a pump station, sewer service connections and sewer main. The locations of the public project are located along the Route 9 corridor, north of the Adirondack Northway (I-87) Exit 17 to approximately 1,500 feet south of Butler Road within the Town of Moreau.

In addition, certain sewer mains and other associated infrastructure need to be installed on various parcels of real property owned by private citizens; the proposed project requires the acquisition of both construction and permanent easements on approximately 70 parcels. The Town has obtained easements for 68 parcels. The owners of the subject parcels ("Subject Property") from whom consent has not been obtained for the construction and permanent easements are set forth below by address and section/block and lot numbers:

2-68 Butler Road 63.-4-1.11

1535-1541 Route 9 63.-1-14.1

The real properties sought to be acquired for the construction and permanent easements represent the minimal amount of real property required for this public improvement project. The location of the Sewer Project has been determined by the Town to be the most cost-effective long-term solution and is based upon sound and accepted engineering principles.

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GENERAL EFFECT OF THE PROPOSED PROJECT ON THE ENVIRONMENT AND RESIDENTS OF THE LOCALITY

The proposed project will not have a negative impact on the environment and the residents of the locality. The Town has previously issued a negative declaration in connection with the creation of Sewer District No. 1, Extension No. 5 and hereby incorporates its determination herein by reference. There will be no negative general effect on the environment with the acquisition of the parcels by eminent domain.

OTHER FACTORS CONSIDERED RELEVANT

Following a public hearing on June 26, 2018, the Town Board approved the creation of the Sewer District No. 1, Extension No. 5. The approval was granted subject to costs not exceeding \$16 million and contingent on landowner approval and subject to approval by the Office of the State Comptroller. Voter approval was obtained on August 26, 2018, by a public referendum, and Office of State Comptroller approval was granted on April 9, 2019.

Furthermore, the Town's decision to construct a low-pressure sewer system minimizes the trench depth necessary for the installation of the underground pipes and allows the option to use trenchless methods. This method limits the surface disruption and eliminates the need for extensive restoration of the real property.

CONCLUSION

The Town of Moreau finds that there is a public use, benefit, and purpose for the acquisition of the Subject Property and determines to proceed with acquisition pursuant to the EDPL. Copies of the Determination and Findings are available without cost upon written request to: Town Clerk, Town of Moreau, 351 Reynolds Road, Moreau, New York 12828.

TOWN OF MOREAU TOWN BOARD

Dated: March 30, 2021
Moreau, New York