

00-1207

(Do Not Write Above This Line)

AN ORDINANCE BY CITY UTILITIES COMMITTEE

AN ORDINANCE TO AMEND ORDINANCE NO. 95-0-0504 CONCERNING THE COMPLETION OF PROJECTS DESIGNATED AS PART OF THE 1994 BOND AND SEWER CAPITAL IMPROVEMENT PROJECTS; TO AUTHORIZE THE CITY ATTORNEY OR HER DESIGNEE TO WHERE NECESSARY, UTILIZE CONDEMNATION PROCEEDINGS PURSUANT TO THE DECLARATIONS OF TAKING METHOD AUTHORIZED BY ARTICLE 7 OF CHAPTER 3 OF TITLE 22 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED TO ACQUIRE TITLE TO RIGHTS-OF-WAY, EASEMENTS AND OTHER RELATED PROPERTY INTERESTS NECESSARY TO COMPLETE THE SEWER INFRASTRUCTURE PROJECTS AS PREVIOUSLY AUTHORIZED FOR THE TRANSPORTATION INFRASTRUCTURE PROJECTS; AND FOR OTHER PURPOSES.

ADOPTED BY

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 8/7/00

Referred To: City Utilities

Date Referred

Referred To:

Date Referred

Referred To:

Committee City Utilities
 Date 8-13-00
 Chair Chair Muller
 Referred to cc

Committee City Utilities
 Date 8-13-00
 Chair Chair Muller
 Action: Fav, Adv, Hold (see rev. side)
 Other:
 Member [Signature]
[Signature]
[Signature]
 Refer To

Committee _____
 Date _____
 Chair _____
 Action: Fav, Adv, Hold (see rev. side)
 Other: _____
 Members _____
 Refer To _____

Committee _____
 Date _____
 Chair _____
 Action: Fav, Adv, Hold (see rev. side)
 Other: _____
 Members _____
 Refer To _____

Committee _____
 Date _____
 Chair _____
 Action: Fav, Adv, Hold (see rev. side)
 Other: _____
 Members _____
 Refer To _____

FINAL COUNCIL ACTION
 2nd Reading
 1st & 2nd Readings
 3rd Reading
 Consent Vote
 V Vote
 RC Vote

CERTIFIED

CERTIFIED
 SEP 5 2000

CERTIFIED
 SEP 0 5 2000
 Rhonda Daughlin Johnson
 MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED
 SEP 7 2000
 [Signature]



**AN ORDINANCE
BY CITY UTILITIES COMMITTEE**

AN ORDINANCE TO AMEND ORDINANCE NO. 95-O-0504 CONCERNING THE COMPLETION OF PROJECTS DESIGNATED AS PART OF THE 1994 BOND AND SEWER CAPITAL IMPROVEMENT PROJECTS; TO AUTHORIZE THE CITY ATTORNEY, OR HER DESIGNEE, TO, WHERE NECESSARY, UTILIZE CONDEMNATION PROCEEDINGS PURSUANT TO THE DECLARATIONS OF TAKING METHOD AUTHORIZED BY ARTICLE 7 OF CHAPTER 3 OF TITLE 22 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED TO ACQUIRE TITLE TO RIGHTS-OF-WAY, EASEMENTS, AND OTHER RELATED PROPERTY INTERESTS NECESSARY TO COMPLETE THE SEWER INFRASTRUCTURE PROJECTS AS PREVIOUSLY AUTHORIZED FOR THE TRANSPORTATION INFRASTRUCTURE PROJECTS; AND FOR OTHER PURPOSES.

WHEREAS, Ordinance 95-O-0504, adopted by the Atlanta City Council on June 19, 1995, and approved by the Mayor on June 25, 1995, authorized the Mayor, his designee, or the Purchasing Agent to negotiate with property owners to acquire necessary rights-of-way and temporary or permanent construction easements and other related property interests necessary to complete the infrastructure projects identified in Ordinance 95-O-0504, a copy of which is attached as hereto Exhibit "A" and incorporated by reference; and

WHEREAS, Ordinance 95-O-050 included findings that made it necessary to proceed with the declaration of taking as a method of condemnation, as authorized by O.C.G.A. Section 32-3-4, for construction of the infrastructure improvement projects listed in Ordinance 95-O-0504 which involved public roads or public transportation purposes; and

WHEREAS, Ordinance 95-O-0504 authorized the City Attorney, or her designee, to utilize, where necessary, condemnation proceedings pursuant to the declaration of taking method authorized by O.C.G.A. § 32-3-4 to acquire title to rights-of-way, easements, and other related property interests necessary for the construction of the infrastructure improvement projects listed in Ordinance 95-O-0504 which involved public roads or public transportation purposes; and

WHEREAS, as requested by the City of Atlanta in its 2000 legislative package, Chapter 3 of Title 22 of the Official Code of Georgia Annotated was amended by Senate Bill 343 of the 2000 Georgia State Legislature to allow the declaration of taking method of condemnation to be used for acquisition of private property for, among other things, public sewage collection, treatment, and disposal system purposes as provided in Article 1 of chapter 3 of Title 32 of the Official Code of Georgia Annotated; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1: That a finding is hereby made that circumstances are such that it is necessary to proceed with the declarations of taking as a method of condemnation, as authorized by O.C.G.A.

§§22-3-140 and 32-3-4, for the construction and completion of the infrastructure improvement projects listed in Ordinance 95-O-0504 and previously approved by City Council and which involve public sewage collection, treatment, or disposal system purposes; that the City Attorney or her designee, is hereby authorized to institute condemnation proceedings pursuant to this declaration of taking method to acquire title to rights-of-way, easements, and other related property interests necessary for the construction of those projects listed in Ordinance 95-O-0504 and which involve public sewage collection, treatment, or disposal system purposes.

Section 2: That costs associated with this ordinance shall be charged to and paid from the appropriate accounts and centers of Funds 2J21, 2J24, 2J25, and 2J26 as previously approved by the City Council in Ordinance 95-O-0504.

Section 3: That all other parts of Ordinance 95-O-0504 adopted by the Atlanta City Council on June 19, 1995 and approved by the Mayor on June 25, 1995 shall remain unchanged by this amendment.

A true copy,

Rhonda Daughkin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

SEP 05, 2000
SEP 07, 2000



MUNICIPAL CLERK
ATLANTA, GEORGIA

AN ORDINANCE
BY: COUNCILMEMBER CLAIR MULLER

95- 0 -0504

AN ORDINANCE TO AMEND ORDINANCE NO. 94-0-1774 CONCERNING THE COMPLETION OF PROJECTS DESIGNATED AS PART OF THE 1994 BOND AND SEWER CAPITAL IMPROVEMENTS PROJECTS; TO WAIVE FURTHER PROVISIONS OF THE PROCUREMENT AND REAL ESTATE CODE OF THE CITY OF ATLANTA, PART 5, CHAPTER 5, SECTIONS 5-5202, 5-5211, 5-5212 AND 5-5215 OF ARTICLE O AND ARTICLE P, REGARDING REAL ESTATE ACQUISITIONS AND FURTHER AUTHORIZATION OF COUNCIL FOR CONDEMNATION PROCEEDINGS; TO AUTHORIZE TIMELY ACQUISITION OF TEMPORARY AND PERMANENT EASEMENTS FOR THE PURPOSE OF CONSTRUCTING INFRASTRUCTURE IMPROVEMENTS; TO AUTHORIZE THE MAYOR AND THE PURCHASING AGENT TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS AND TO USE ALL MEANS NECESSARY TO ACQUIRE NECESSARY RIGHTS-OF-WAY, EASEMENTS AND OTHER RELATED PROPERTY INTERESTS, UP TO AND INCLUDING CONDEMNATION PROCEEDINGS; TO AUTHORIZE THE CITY ATTORNEY, OR HIS DESIGNEE, TO INSTITUTE CONDEMNATION PROCEEDINGS PURSUANT TO THE DECLARATION OF TAKING METHOD AUTHORIZED BY O.C.G.A. SECTION 32-3-4, TO ACQUIRE TITLE TO RIGHTS-OF-WAY, EASEMENTS AND OTHER RELATED PROPERTY INTERESTS NECESSARY TO COMPLETE THE INFRASTRUCTURE IMPROVEMENT PROJECTS; TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION CASES; AND FOR OTHER PURPOSES.

WHEREAS, an ordinance adopted by the Atlanta City Council on November 7, 1994, and approved by the Mayor on November 10, 1994, ("Ordinance number 94-0-1774") authorized the waiver of Section 5-5026 of the Procurement and Real Estate Code of the City to authorize the Mayor, or his designee, to enter into contracts for various surveying, geotechnical, design, acquisition, inspection and related services needed to accomplish the list of infrastructure improvement projects described by Exhibit "A" of said ordinance, a copy of which is attached hereto and made a part hereof; and

WHEREAS, Ordinance number 94-0-1774 authorized the Mayor to issue Notices to Proceed at the appropriate times for various surveying, geotechnical design, acquisition, inspection and related services needed to accomplish the list of projects; and

EXHIBIT "A"



WHEREAS, by Resolution adopted by the Council on November 7, 1994, and approved by the Mayor on November 10, 1994, the Mayor was authorized to execute a contract with Gaston-Thacker/OLH International, a joint venture, ("the Consultant") for FC-5892-94-A, for program management for the 1994 Public Improvement Program ("the Contract"); and

WHEREAS, pursuant to the said Contract, the Consultant, in coordination with the City and two other Co-Program Managers, O'Brien-Kreitzberg/ H. J. Russell Company, a joint venture, and Heery/ Mitchell, a joint venture, has the responsibility for all right-of-way acquisitions and easements for the infrastructure improvement projects previously approved by the City Council other than final acquisition of property interests which must be acquired by the exercise of eminent domain; and

WHEREAS, many of the streets and areas proposed for sewer system improvements for the infrastructure project pass beneath or are adjacent to hundreds of businesses and residential properties; and

WHEREAS, the acquisition of property interests for said infrastructure improvement projects on an expedited basis has been deemed vital;

WHEREAS, state law, O.C.G.A. Section 32-3-4, authorizes the use of declarations of taking as a method of condemnation whenever a municipality desires to take private property for public road purposes or for any other public transportation purposes; and

WHEREAS, use of declarations of taking as a method of condemnation would expedite the acquisition of title and possession of property interests necessary for the timely completion of the infrastructure projects which involve public road purposes or public transportation purposes; and

WHEREAS, state law requires a finding by a municipality that circumstances necessitate the use of declarations of taking before such method of condemnation can be used by a municipal government; and

WHEREAS, in order to acquire the necessary property interests, to complete the proposed infrastructure improvements in a timely fashion, and to expedite the condemnations process, it is also necessary to waive additional provisions in Articles O and P of the Procurement and Real Estate Code, Part 5, Chapter 5 of the Atlanta Code of Ordinances regarding acquisitions;



NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1: That the Mayor, his designee, or the Purchasing Agent, are hereby authorized to negotiate with the affected property owners to acquire the necessary rights-of-way and temporary or permanent construction easements and other related property interests necessary to complete the infrastructure projects previously approved by the City Council in Ordinance number 94-0-1774, adopted by the Council on November 7, 1994, and approved by the Mayor on November 10, 1994, a copy of said list of projects being attached hereto and incorporated herein by this reference as Exhibit "A."

Section 2: That the requirements of City Code Sections 5-5202, 5-5211 and 5-5215 of Articles O and P of the Procurement and Real Estate Code, are waived for all infrastructure improvement projects previously approved by the City Council in Ordinance number 94-0-1774 and described in this ordinance, Exhibit "A." The Purchasing Agent shall be authorized to make purchases of property on behalf of the City without further authorization of City Council.

Section 3: That the purchasing Agent is hereby authorized to obtain appraisals and to establish estimates of just compensation based thereon to be offered property owners in connection with the infrastructure improvement projects to provide reasonable compensation.

Section 4: That the City's outside Consultants and their subconsultants are authorized to settle those acquisitions of property at an amount not to exceed ten percent (10%) above the estimated just compensation. The outside Consultants and their subconsultants are authorized to offer an amount not to exceed \$250.00 more than the estimated just compensation in cases where the estimated just compensation is less than \$2,500.00. That the Purchasing Agent is authorized to administratively settle, without further authorization of City Council, those acquisitions which exceed these limitations which the City's Consultants cannot otherwise acquire. However, in no event shall the Purchasing Agent's authority to administratively negotiate or settle such acquisitions without Council authorization exceed: (a) 20% above the estimated just compensation of affected properties; or (b) \$500.00 in those cases where the estimated just compensation is less than \$2,500.00, or whichever is greater.

Section 5: That if negotiations with affected property owners are successful, the Mayor, his designee or the Purchasing Agent are authorized to accept and execute options with such owners at the agreed price on behalf of the City for the purchase of rights-of-way, easements and other property interests in connection with the infrastructure improvement projects without further authorization from City Council.

Section 6: That the City Attorney, or his designee, is authorized to monitor

and supervise the closing transactions with affected property owners in connection with the infrastructure improvement projects, with the assistance of the Consultant and its subconsultants.

Section 7: That if the affected property owners reject the options, and negotiations fail with such owners, the Mayor or his designee, with the assistance of the City Attorney, or his designee, is authorized to use all means necessary and within his power, up to and including condemnation, to acquire the necessary rights-of-way, easements and other related property interests, without further authorization from City Council. The provisions of Section 5-5212 requiring further authorization for condemnations are hereby waived.

Section 8: That a finding is hereby made that circumstances are such that it is necessary to proceed with the declarations of taking as a method of condemnation, as authorized by O.C.G.A. Section 32-3-4, for the construction and completion of the infrastructure improvement projects listed in Exhibit "A" hereto and previously approved by the City Council and which involve public road purposes or public transportation purposes; that the City Attorney, or his designee, is hereby authorized to institute condemnation proceedings pursuant to this declaration of taking method authorized by O.C.G.A. Section 32-3-4, to acquire title to rights-of-way, easements, and other related property interests necessary for the construction of those projects listed in Exhibit "A" hereto, as previously approved by the City Council and which involve public road purposes or public transportation purposes.

Section 9: That the City Attorney is authorized to engage the services of outside counsel, where necessary, to handle condemnation proceedings, without further authorization from City Council.

Section 10: That given the narrow window of opportunity to accomplish the necessary acquisitions and construction, the Mayor, his designee, and all the appropriate City of Atlanta departments are urged to incorporate flexibility, and to act expeditiously in accomplishing the necessary activities, up to and including contracting with outside firms and organizations, to assist in achieving the overall goals and objectives of the infrastructure improvement projects.

Section 11: That costs associated with this ordinance shall be charged to and paid from the appropriate Fund, Account, and Center.

Section 12: That all other parts of Ordinance Number 94-0-1774, adopted by the Council on November 7, 1994 and approved by the Mayor on November 10, 1994 shall remain unchanged by this amendment.

0-95-_____

1994 Public Improvement Program List

STREETS AND BRIDGES

GO-01	Mitchell Street Viaduct Over CSX & Norfolk-Southern Railroads
GO-02	Hollywood Road Bridge Over Proctor Creek
GO-03	Montgomery Ferry Road Bridge Over Norfolk-Southern Railroad
GO-04	Spring Street Viaduct Over CSX & Norfolk-Southern Railroads
GO-05	Lakewood Avenue Bridge Over Norfolk-Southern Railroad
GO-06	Wall Street Viaduct Over Lower Wall Street
GO-07	Brownlee Road Bridge Over Utoy Creek
GO-08	Tell Road Bridge Over Camp Creek Tributary
GO-09	Macon Drive Bridge Over South River
GO-10	Stone Road Bridge Over North Fork Camp Creek
GO-37	Roxboro Road Widening
GO-38	Greenbriar Parkway Reconstruction
GO-39	Campbellton Road Widening, Phase I
GO-45	Bankhead Highway Widening
GO-46	Glenwood Avenue Relocation
GO-47	Howell Mill Road Widening
GO-48	Northside Drive Intersection Improvements
GO-50	Freeway Lighting, Phases II - IV
GO-51	Mechanicsville Streets
GO-52	Peopletown Streets
GO-53	Atlanta University Streets
GO-54	Butler Street & Auburn Avenue Streets
GO-55	Vine City & Ashby Street Streets
GO-56	Summerhill Streets
GO-57	Old Fourth Ward Streets
GO-58	Pittsburgh Streets
GO-59	Castleberry Hill Streets
GO-60	Washington Park Streets
GO-61	English Avenue Streets
GO-62	Ashview Heights Streets
GO-63	Home Park Streets
GO-64	Adair Park Streets
GO-65	MLK/Fairburn Road Realignment
GO-66	Hill Street Concrete Plant

STORMWATER DRAINAGE FACILITIES

GO-11	Federal Prison Creek Drainage Improvements
GO-12	Proctor Creek Basin Improvements
GO-13	Indian Creek Drainage Improvements
GO-14	Nancy Creek Streambank Protection
GO-15	Proctor Creek - Streambank Protection



1994 Public Improvement Program List

SEWER SYSTEM IMPROVEMENTS

- | | |
|---------|-------------------------------------------------|
| WSRE 1 | North Fork Peachtree Trunk |
| WSRE 2 | South Fork Peachtree Trunk |
| WSRE 3 | Orme Street Trunk Relief Phases I, II, III & IV |
| WSRE 4 | Peachtree Interceptor Sanitary Sewer |
| WSRE 5 | Lloyd Street Trunk Sewer |
| WSRE 6 | Shadowlawn Basin Sewer Replacements |
| WSRE 7 | Fairmont/Glidden CSO |
| WSRE 8 | Brotherton Trunk Replacement |
| WSRE 9 | Butler Street Trunk Reconstruction |
| WSRE 10 | Mineral Springs Trunk Sewer |
| WSRE 11 | Pine Meadows Sewer Reconstruction |
| WSRE 12 | Nancy Creek Force Main |
| WSRE 13 | Tenth Street Trunk Sewers - SSES |
| WSRE 14 | Atlantic Steel Sewer |
| WSRE 15 | Utoy Creek Basin, Combined Sewer Separation |

EXHIBIT 1 (11/7/94 Amendment)

95-0-0504

(Do Not Write Above This Line)

AN ORDINANCE BY:

AN ORDINANCE TO AMEND ORDINANCE NO. 94-1774 CONCERNING THE COMPLETION OF PROJECTS DESIGNATED AS PART OF THE 1994 BOND AND SEWER CAPITAL IMPROVEMENTS PROJECTS; TO WAIVE FURTHER PROVISIONS OF THE PROCUREMENT AND REAL ESTATE CODE OF THE CITY OF ATLANTA, PART 5, CHAPTER 5, SECTIONS 5-5202, 5-5211, 5-5212 AND 5-5215 OF ARTICLE O AND ARTICLE P, REGARDING REAL ESTATE ACQUISITIONS AND FURTHER AUTHORIZATION FOR CONDEMNATION PROCEEDINGS; TO AUTHORIZE TIMELY ACQUISITION OF TEMPORARY AND PERMANENT EASEMENTS FOR THE PURPOSE OF CONSTRUCTING INFRASTRUCTURE IMPROVEMENTS; TO AUTHORIZE THE MAYOR AND THE PURCHASING AGENT TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS AND TO USE ALL MEANS NECESSARY TO ACQUIRE NECESSARY RIGHTS-OF-WAY, EASEMENTS AND OTHER RELATED PROPERTY INTERESTS, UP TO AN INCLUDING CONDEMNATION PROCEEDINGS; TO AUTHORIZE THE CITY ATTORNEY, OR HIS DESIGNEE, TO INSTITUTE CONDEMNATION PROCEEDINGS PURSUANT TO THE DECLARATION OF TAKING METHOD AUTHORIZED BY O.C.G.A. SECTION 32-3-4, TO ACQUIRE TITLE TO RIGHTS-OF-WAY, EASEMENTS AND OTHER RELATED PROPERTY INTERESTS NECESSARY TO COMPLETE THE INFRASTRUCTURE IMPROVEMENT PROJECTS; TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION CASES; AND FOR OTHER PURPOSES.

ADOPTED BY JUN 19 1995 COUNCIL

As Amended

- CONSENT REFER
REGULAR REPORT REFER
ADVERTISE & REFER
1st ADOPT 2nd READ & REFER

Date Referred 4/13/95
Referred To: Ex CU & Finance

First Reading

Committee
Date
Chair
Refer to

Committee EXECUTIVE
Date 4/10/95
Chair

Action: Fav, Adv, Held (see rev. side)
Other:

Members Held 9/24/95

Refer To

Committee EXECUTIVE
Date 5/31/95
Chair

Action: Fav, Adv, Held (see rev. side)
Other: As Further Amended

Members

Refer To

Finance and C.V.

Committee EXECUTIVE
Date 5/8/95
Chair Chair Don Muller

Action: Fav, Adv, Held (see rev. side)
Other: AS AMENDED

Members

Refer To

FINANCE & C.V.

Committee Finance
Date 6-1-95
Chair

Action: Fav, Adv, Held (see rev. side)
Other: 95 Further Amended

Members

Refer To

C.V.

COUNCIL ACTION

- 2nd
1st & 2nd
3rd Readings
Consent
V Vote
ARC Vote

CERTIFIED

CERTIFIED JUN 19 1995
Morris S. Anderson
COUNCIL PRESIDENT

CERTIFIED JUN 19 1995
Delicia Parks
MUNICIPAL CLERK OF COUNCIL

MAYOR'S ACTION

APPROVED JUN 25 1995
[Signature]