

**AN ORDINANCE BY  
COUNCILMEMBER CLETA WINSLOW  
AS SUBSTITUTED BY CITY UTILITIES COMMITTEE**

**08-O-0189**

**AUTHORIZING THE PURCHASE AND ACQUISITION OF PERMANENT AND TEMPORARY CONSTRUCTION EASEMENTS AND THE NECESSARY RIGHTS-OF-WAY FROM VARIOUS PROPERTY OWNERS FOR THE COMPLETION OF THE RALPH DAVID ABERNATHY BOULEVARD STREETScape, LOWERY BOULEVARD STREETScape, AND HARRIS HOMES STREETScape; AND TO PROVIDE ADDITIONAL FUNDING SOURCES FOR PROJECTS LISTED IN ORDINANCE NUMBERS 07-O-1898, 07-O-0457, 07-O-0451, 07-O-0456; TO AUTHORIZE THE MAYOR TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS AND TO USE ALL MEANS NECESSARY TO ACQUIRE NECESSARY PROPERTY INTERESTS UP TO AND INCLUDING CONDEMNATION PROCEEDINGS; TO AUTHORIZE THE CITY ATTORNEY TO INSTITUTE CONDEMNATION PROCEEDINGS PURSUANT TO THE DECLARATION OF TAKING METHOD AUTHORIZED BY O.C.G.A. SECTION 32-3-4; TO AUTHORIZE THE WAIVER OF SECTIONS 2-1541(d), 2-1542 AND 2-1545(d) OF THE CODE OF ORDINANCES; TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION PROCEEDINGS; AND FOR OTHER PURPOSES.**

**WHEREAS**, it is necessary to acquire permanent and temporary construction easements and necessary rights-of-way from various property owners for roadway improvements for the Ralph David Abernathy Boulevard Streetscape, Lowery Boulevard Streetscape, and Harris Homes Streetscape; and

**WHEREAS**, additional funding sources for the previously authorized projects, Cascade Mays, Phase 2, Simpson Road Streetscape, Greenbriar Parkway Streetscape, Headland Drive Streetscape, Barge Road Intersection Improvement, Lakewood Heights Streetscape, Perry Road Streetscape, Phase 2, Bolton Road Streetscape, Marietta Boulevard Streetscape, Cheshire Bridge Streetscape 2, North Highland Streetscape, Phase 2, East Atlanta Village, Jesse Hill Bridge (Butler Street Bridge), Powers Ferry Road Bridge, Mitchell Street Bridge, Piedmont Avenue Bridge and the Unpaved Streets Program, including Tell Road and Miller Avenue, may be required from the Quality of Life Bond Program Third Bond Issuance; and

**WHEREAS**, State Law, O.C.G.A. 32-3-4 authorizes the use of Declaration 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 Declaration of Taking as a method of condemnation would expedite the acquisition of easement rights and possession of property interests necessary for the timely completion of these projects which involve road and transportation improvements; and

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

**WHEREAS**, in order to complete the proposed construction and roadway improvements in a timely fashion the requirements of Sections 2-1541 (d) and 2-1545 of the Procurement and Real Estate Code, which require further authorization of council for acquisition of permanent and temporary easements and necessary rights-of-way described in this ordinance, are waived.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS, as follows:**

**SECTION 1:** That the Chief Procurement Officer or authorized designee is hereby authorized to negotiate with the affected property owners to acquire temporary or permanent construction easements and the necessary rights-of-way, and other related property interests necessary to complete construction of Ralph David Abernathy Boulevard Streetscape, Lowery Boulevard Streetscape, and Harris Homes Streetscape Cascade Mays, Phase 2, Simpson Road Streetscape, Greenbriar Parkway Streetscape, Headland Drive Streetscape, Barge Road Intersection Improvement, Lakewood Heights Streetscape, Perry Road Streetscape, Phase 2, Bolton Road Streetscape, Marietta Boulevard Streetscape, Cheshire Bridge Streetscape 2, North Highland Streetscape, Phase 2, East Atlanta Village, Jesse Hill Bridge (Butler Street Bridge), Powers Ferry Road Bridge, Mitchell Street Bridge, Piedmont Avenue Bridge and the Unpaved Streets Program, including Tell Road and Miller Avenue.

**SECTION 2:** That the Declaration of Taking as a method of condemnation be utilized to expedite the acquisition of easement rights and possession of property interests necessary for the timely completion of these projects which involves road and transportation improvements.

**SECTION 3:** That in order to complete the proposed projects in a timely fashion the requirements of Sections 2-1541 (d) and 2-1545 (d) of the Procurement and Real Estate Code, which require further authorization of council for acquisition of permanent and temporary easements and necessary rights-of-way described in this ordinance, are waived.

**SECTION 4:** That the Chief Procurement Officer or authorized designee is hereby authorized to obtain reports, appraisal reports, land surveys, legal descriptions, environmental reports, and to negotiate with the affected property owners.

**SECTION 5:** That when the Chief Procurement Officer's negotiations with the owners are unsuccessful, to institute necessary legal action through condemnation or any other method provided by law to acquire the property interests needed to complete the Ralph David Abernathy Boulevard Streetscape, Lowery Boulevard Streetscape, and Harris Homes Streetscape Cascade Mays, Phase 2, Simpson Road Streetscape, Greenbriar Parkway Streetscape, Headland Drive Streetscape, Barge Road Intersection Improvement, Lakewood Heights Streetscape, Perry Road Streetscape, Phase 2, Bolton Road Streetscape, Marietta Boulevard Streetscape, Cheshire Bridge Streetscape 2, North Highland Streetscape, Phase 2, East Atlanta Village, Jesse Hill Bridge (Butler Street Bridge), Powers Ferry Road Bridge, Mitchell Street Bridge, Piedmont Avenue Bridge and the Unpaved Streets Program, including Tell Road and Miller Avenue.

**SECTION 6:** That the City of Atlanta's outside consultants and their sub-consultants are authorized to settle those acquisitions of property at an amount not to exceed ten percent (10%) above the estimated just compensation.

**SECTION 7:** That the Chief Procurement Officer is authorized to administratively settle, without further authorization of city council, those acquisitions which exceed these limitations which the City of Atlanta's consultants cannot otherwise acquire. However, in no event shall the Chief Procurement Officer's authority to administratively negotiate or settle such acquisitions without council authorization exceed twenty percent (20%) above the estimated just compensation of affected properties.

**SECTION 8:** 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. The provisions of Section 2-1542 requiring further authorization for condemnations are hereby waived.

**SECTION 9:** That the City Attorney, or her designee, is authorized to monitor and supervise the closing transactions with affected property owners in connection with these construction and roadway improvements, with the assistance of the City of Atlanta consultants and sub-consultants.

**SECTION 10:** That all costs associated with this ordinance shall be charged to and paid from the Quality of Life Bond Program Third Bond Issuance.

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

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