

AN ORDINANCE BY COUNCILMEMBER JOYCE M. SHEPERD AUTHORIZING THE MAYOR OR HIS DESIGNEE TO NEGOTIATE AND PURCHASE TEMPORARY CONSTRUCTION EASEMENTS AND FEE SIMPLE TITLE OF REAL PROPERTY NECESSARY FOR CONSTRUCTION OF AN APPROXIMATE 2.5 MILE PORTION OF THE BELTLINE TRAIL IN THE SOUTHWEST CORRIDOR; TO AUTHORIZE THE ACQUISITION OF SAID REAL PROPERTY INTERESTS, WHERE NECESSARY, THROUGH THE EXERCISE OF EMINENT DOMAIN PURSUANT TO THE DECLARATION OF TAKING METHOD; TO AUTHORIZE THE CITY ATTORNEY OR HER DESIGNEE TO INSTITUTE SAID PROCEEDINGS IN ORDER TO ACQUIRE THE PROPERTY FOR PUBLIC TRANSPORTATION USE, INCLUDING THE ENGAGEMENT OF OUTSIDE COUNSEL; FOR THE PAYMENT OF JUST AND ADEQUATE COMPENSATION TO THE APPLICABLE PROPERTY OWNER; ALL AMOUNTS TO BE CHARGED TO AND PAID FROM TIGER V GRANT FUNDS; TO WAIVE CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

Workflow List:

Atlanta City Council	Completed	03/05/2014 5:25 PM
Finance/Executive Committee	Pending	
Mayor's Office	Pending	

HISTORY:

03/03/14	Atlanta City Council	REFERRED WITHOUT OBJECTION
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RESULT:	REFERRED WITHOUT OBJECTION	Next: 3/12/2014 1:00 PM
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Certified by Presiding Officer	Certified by Clerk
Mayor's Action <i>See Authentication Page Attachment</i>	

LEGISLATION HISTORY – BLUE BACK

CITY COUNCIL
ATLANTA, GEORGIA

14-O-1145

SPONSOR SIGNATURES


Joyce Sheperd, Councilmember, District 12

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WHEREAS, pursuant to the Redevelopment Powers Law, O.C.G.A. §36-44-1, *et seq.* and Ordinance 05-O-1733 (the “BeltLine Ordinance”), adopted by the City Council of the City (the “City Council”) on November 7, 2005 and approved by the Mayor of the City on November 9, 2005, The Atlanta Development Authority (“ADA), now d/b/a “Invest Atlanta,” was designated as the redevelopment agency with respect to the City’s Tax Allocation District Number Six - BeltLine (the “BeltLine TAD”) and the BeltLine Ordinance further authorized and approved the BeltLine Redevelopment Plan (the “Redevelopment Plan”) to be implemented within the BeltLine TAD; and

WHEREAS, Atlanta BeltLine, Inc. (“ABI”) was formed by Invest Atlanta to perform certain of Invest Atlanta’s redevelopment responsibilities with respect to the BeltLine TAD and to serve as the implementation agent for Invest Atlanta pursuant to that certain Services Agreement between Invest Atlanta and ABI dated May 27, 2008, as amended (the “ADA/ABI Agreement”); and

WHEREAS, the Southwest Trail is a vital component part of the Atlanta BeltLine’s 33-mile trail network; and

WHEREAS, the City has committed to provide local funds and has applied for, has received, and anticipates receiving future federal funds to complete portions of the Connect Atlanta Plan, the Atlanta BeltLine Subarea Master Plans and the Atlanta Streetcar Expansion Strategy including the Atlanta BeltLine Transit Component (collectively referred to herein as the “Project”); and

WHEREAS, the Project has been developed through collaboration between and amongst the City, ABI and ADA, referred to as the “Local Funding Partners”; and

WHEREAS, the Southwest Corridor Trail includes shared use trails, trailheads and access points, preserves the future transit corridor, and will run from Allene Avenue north to Lawton Street, where it will transition to the existing West End Trail for a few blocks, then return to the rail corridor near Ralph Abernathy Boulevard and run north to Lena Street and Washington Park, where it will terminate at the existing Westside Trail, a PATH Foundation trail; and

WHEREAS, the City of Atlanta has been awarded an \$18 Million grant from the U.S. Department of Transportation’s (“DOT”) Transportation Investment Generating Economic Recovery (“TIGER V Grant”) for the construction of the Southwest Corridor Trail; and

WHEREAS, the TIGER V Grant will fund right-of-way acquisition, design, site preparation and demolition, trail & sidewalk construction, vertical connections, retaining walls, lighting & signage, utilities and landscaping for the Southwest Corridor Trail; and

WHEREAS, in connection with construction and development of the Southwest Trail, spanning 2.5 miles in southwest Atlanta, it is necessary for the City and ABI to acquire certain easements,

property, and rights-of-way from private property owners; and

WHEREAS, in accordance with Section 5.6 of the Services Agreement between the City and ABI, authorized by Atlanta City Council Resolution 13-R-3314, adopted by City Council on July 15, 2013 and approved by the Mayor by operation of law on July 21, 2013, ABI is charged with Acquisition of Land and Easements for the Project; and

WHEREAS, the City therefore desires to engage ABI, as its agent, to oversee and contract for the planning and design and construction of the Project as defined herein below; and,

WHEREAS, Georgia law authorizes the use of a declaration of taking as a method of condemnation, if necessary, whenever a municipality is required to take private property for public transportation purposes (O.C.G.A. §32-3-4); and

WHEREAS, Georgia 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 (O.C.G.A. §32-3-6); and

WHEREAS, use of declaration of taking as a method of condemnation would expedite the acquisition of property rights necessary for the completion of this Project which involves transportation improvements; and

WHEREAS, in order to meet the schedule deadlines imposed by the U.S. DOT's TIGER V Grant Program for receipt of federal funds for acquisition of all necessary property interests in connection with the Project the declaration of taking method must be used for property acquisition; and

WHEREAS, the City wishes to authorize acquisition and construction of the Southwest Corridor Trail in compliance with all grants and in an expeditious manner.

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

Section One: That the Mayor or his designee is authorized to negotiate with each property owner to purchase and acquire temporary construction easements and/or fee simple title to the real property set forth in Exhibit "A", attached hereto and incorporated herein by reference, to undertake the Southwest Corridor Trail portions of the Connect Atlanta Plan, the Atlanta BeltLine Subarea Master Plans and the Atlanta Streetcar Expansion Strategy including the Atlanta BeltLine Transit Component (collectively referred to herein as the "Project") for public transportation purposes

Section Two: The Mayor, or his designee, is authorized to acquire the property interests at an amount not to exceed twenty percent (20%) or five hundred dollars, whichever is greater, than the fair market value of the property established by an appraisal, if such is in the best interests of the City to avoid the costs and expense of litigation.

Section Three: When the Mayor or his designee is unable to obtain title to the interests set forth in Exhibit "A" as authorized in Section One of this Ordinance, the exercise of eminent domain is authorized such that the City obtains title to said interests by the deadline set forth in the TIGER V Grant agreement. The City Council finds that the declaration of taking method (O.C.G.A. §32-3-1 et seq.) is necessary and shall be utilized as the sole condemnation method to obtain good and marketable title to any property or property right as set forth in Exhibit "A" hereto for the timely completion of the public transportation Project for public use, and without further authorization from the City Council.

Section Four: That in accordance with Section 5.6 of the Services Agreement between the City and ABI, authorized by Atlanta City Council Resolution 13-R-3314, adopted by City Council on July 15, 2013 and approved by the Mayor by operation of law on July 21, 2013, Atlanta BeltLine, Inc. is authorized to negotiate with the property owners to acquire land and easements for the Project.

Section Five: That the City Attorney be and is authorized to engage the services of outside counsel, where necessary, to acquire any property right deemed necessary in connection with this Project, whether pursuant to Section One or Section Three of this Ordinance.

Section Six: All costs related to the acquisition of property for the Project, as authorized by this Ordinance will be charged to and paid from:

TIGER V Grant Funds

Section Seven: That Part II, Chapter, 2, Article X, Division 14, Subdivision II and Code section 2-1517 of the City of Atlanta Code of Ordinances are waived to the extent such sections apply, such that all authorizations granted by this Ordinance are granted without the need for prior or further authorization of the City Council so that the property for the Project can be acquired in a timely fashion to meet all funding requirements of the Tiger V Grant agreement.

Section Eight: The Mayor or his designee is authorized to execute all right-of-way contracts with the Georgia Department of Transportation in connection with the Project

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