03-O-

AN ORDINANCE

BY

03- O-1653

AN ORDINANCE AUTHORIZING THE MAYOR TO ACQUIRE PRIORITY 2 AND PRIORITY 3 PROPERTIES, IN ADDITION TO PRIORITY 1 PROPERTIES, FOR THE PURPOSES OF PROTECTING GREENWAYS ALONG SELECTED STREAM SEGMENTS PURSUANT TO THE GREENWAY ACQUISITION PLAN AND THE SUPPLEMENTAL ENVIRONMENTAL PROJECT UNDER THE COMBINED SEWER OVERFLOW CONSENT DECREE, CIVIL ACTION FILE NO. 1:95-CV-2550-TWT, AND FOR OTHER PURPOSES.

WHEREAS, Ordinance 01-O-0717, adopted by City Council on June 04, 2001 and approved by the Mayor on June 08, 2001, authorized the Mayor, to acquire property interests necessary to acquire Priority 1 Greenway properties along designated streams as defined in the Combined Sewer Overflow (CSO) Consent Decree, Civil Action File No. 1:95-CV-2550-TWT, and the Greenway Plan; and

WHEREAS, the CSO Consent Decree specifies a deadline for expenditure of $22.5 million in Greenway funds by March 31, 2007; and

WHEREAS, the City has expended approximately $3.8 million as of October, 2003 and acquired 273 acres within City boundaries; and

WHEREAS, a Greenway Acquisition Plan has been prepared according to the Consent Decree and approved by EPA/EPD which provides for circumstances under which Priorities 1, 2, and 3 properties are to be acquired; and

WHEREAS, the City has exhausted efforts to acquire Priority 1 properties on certain stream segments; and

WHEREAS, pursuant to the Greenway Plan and the Consent Decree, it is now appropriate to authorize the acquisition of Priority 2 and Priority 3 properties, in addition to Priority 1 properties, as specified in the Plan; and

WHEREAS, Ordinance 95-O-0504, adopted by City Council on June 19, 1995 and approved by the Mayor on June 25, 1995, authorized methods of negotiation to streamline the property acquisition process; a copy of this ordinance is attached as Exhibit B;

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

SECTION 1: Priority 2 and Priority 3 properties, in addition to Priority 1 properties, may be acquired as previously specified in the Consent Decree and Greenway Plan approved by EPA/EPD.

SECTION 2: That such acquisitions as set out in Section 1 above shall be made by the method and manner as if fully restated as previously authorized in Ordinance 01-O-0717, and further authorized in Ordinance 95-O-0504 Section 4 as stated below, but excluding the exercise of the power of eminent domain as set forth in Sections 7 through 9.

> "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 3: That all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

CITY COUNCIL
ATLANTA, GEORGIA

01- O-0717

AN ORDINANCE
BY

AN ORDINANCE FOR THE PURPOSE OF ACQUIRING AND MAINTAINING GREENWAY AREAS ALONG DESIGNATED STREAMS AS DEFINED IN THE COMBINED SEWER OVERFLOW (CSO) CONSENT DECREE; TO AUTHORIZE TIMELY ACQUISITION OF PROPERTIES; TO WAIVE PROVISIONS OF SECTIONS 2-1541, 2-1543, 2-1544 AND 2-1545 OF THE PROCUREMENT AND REAL ESTATE CODE OF THE CITY REGARDING REAL ESTATE ACQUISITIONS WHICH REQUIRE FURTHER AUTHORIZATION OF COUNCIL; TO AUTHORIZE THE MAYOR, THE PURCHASING AGENT, OR HIS OR HER DESIGNEEE, TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS ON BEHALF OF THE CITY AND TO USE ALL MEANS NECESSARY TO ACQUIRE THE NECESSARY PROPERTY INTERESTS; TO AUTHORIZE THE PURCHASING AGENT TO OBTAIN THE LEGAL DESCRIPTIONS, TITLE REPORTS, APPRAISALS AND LAND SURVEYS NECESSARY TO NEGOTIATE AND ACQUIRE TITLE TO THE GREENWAY PROPERTIES; AND FOR OTHER PURPOSES.

WHEREAS, the Mayor entered into a Consent Decree, on behalf of the City, with the United States EPA, the Georgia EPD, the Chattahoochee Riverkeeper organizations and a private citizen committing the City to a program of activities designed to improve water quality in Metro Atlanta streams, the Chattahoochee River, and the South River; and

WHEREAS, the activities specified by the Consent Decree included a Supplemental Environmental Project (SEP) consisting in part of the City of Atlanta Greenway Acquisition Project; and

WHEREAS, a Greenway Acquisition Plan has been prepared according to the Consent Decree and submitted to EPA/EPD for approval; and

WHEREAS, according to the Consent Decree, the City is supposed to begin implementation of the Plan expeditiously so as to acquire and maintain greenway areas along designated streams; and

WHEREAS, preparing, managing, implementing and completing the Greenway Acquisition Plan, acquiring properties and conservation easements included within the Greenway

EXHIBIT A

Acquisition Plan, restoring acquired properties in the Greenway Acquisition Plan to suitable condition, and paying the cost of all real property acquisitions in the scope of the Greenway Acquisition Plan (the "Greenway properties") are necessary and essential activities to fulfill the City's obligations under the Consent Decree; and

WHEREAS, the City has engaged the services of Consultants, and their subcontractors, to assist the City with the acquisition of the Greenway properties and to implement and complete the Greenway Acquisition Project.

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

SECTION 1: That the Mayor, or his designee, or the Purchasing Agent, is hereby authorized to negotiate with affected property owners to acquire the property interests necessary to complete the Greenway Acquisition Plan on behalf of the City.

SECTION 2: That the requirements of Sections 2-1541, 2-1543, 2-1544 and 2-1545 of the Procurement and Real Estate Code which require further authorization of Council are waived for acquisition of Greenway properties. The Purchasing Agent is hereby authorized to purchase the Greenway properties on behalf of the City without further authorization from Council as provided in this Ordinance.

SECTION 3: That the Purchasing Agent is authorized to obtain appraisals and surveys and to establish estimates of just compensation based thereon to be offered property owners in connection with the Greenway properties so as to provide reasonable compensation.

SECTION 4: That the City's consultants and their subcontractors are authorized to administratively settle acquisitions of Greenway properties at or below estimate compensation.

SECTION 5: That the Purchasing Agent is hereby authorized to take the necessary actions to acquire the Greenway properties including but not limited to obtaining title reports, legal descriptions, and negotiating with property owners as provided in this Ordinance.

SECTION 6: That if negotiations with Greenway property owners are successful, the Mayor, his designee, or the purchasing agent is authorized to accept and execute options with such property owners at the agreed price on behalf of the City for the purchase of necessary property interest for Priority I acquisitions without further authorization from the Council of the City of Atlanta, Georgia.

SECTION: 7: That Priority II and III acquisitions require further authorization from the Council of the City of Atlanta, Georgia.

SECTION 8: That the City Attorney is hereby authorized to take the necessary actions to monitor and supervise the closing transactions with affected Greenway property owners in cooperation with the City's consultants.

SECTION 9: That given the narrow window of opportunity to accomplish the necessary acquisitions of Greenway properties, the Mayor, or his designee, the Purchasing Agent, and all appropriate City departments are urged to incorporate flexibility, and to act expeditiously in accomplishing the necessary activities specified in this Ordinance.

SECTION 10: That all costs associated with the activities specified in this Ordinance shall be charged to and paid from the appropriate Fund, Account, and Center Numbers **3P02 571001 T31102549999; 3P02 524001 T31102549999.**

A true copy,

Rhonda Daughtie Johnson

Municipal Clerk, CMC

ADOPTED as amended by the Council JUN 04, 2001
APPROVED by the Mayor JUN 08, 2001

OMC – Amendment Incorporated by tcp 6/11/01

MUNICIPAL CLERK
ATLANTA, GEORGIA

AN ORDINANCE
BY: COUNCILMEMBER CLAIR MULLER

95- O -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 "B"

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-_____.

A true copy
Municipal Clerk, CMC

ADOPTED as amended June 19, 1995
APPROVED by the Mayor June 25, 1995