



AGENDA STAFF MEMO

TO: Honorable Mayor and City Council Members
FROM: Sara Leaders, PE, Public Works Director
DATE: Submitted on April 4, 2025, for the April 14, 2025, Regular City Council Meeting

DocuSigned by:

Sara Leaders

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AGENDA ITEM: Consideration of a Resolution to Condemn Property Rights Needed for **Birmingham Road Middle Bridge Project (Project No. 0016581), Parcel 13;** 0.078 Acres of Fee Simple Right of Way; 1,274.842 Sq Ft of Permanent Easement for Construction and Maintenance of Drainage, Utilities, and Slopes; 615.901 Sq Ft of Temporary Construction Easement; and One (1) Driveway Easement. Owner: Walter Matthews, III and Lundee Matthews

SUMMARY:

The City is responsible for right-of-way acquisition for the Birmingham Road Middle Bridge project. The City has made a fair and reasonable offer based on the appraisal to acquire the right-of-way and easements necessary for the construction of the project on Parcel 13. The City was not able to agree to the terms requested by the property owner during negotiation. To move forward with the project, staff is recommending approval of the resolution to initiate condemnation proceedings on Parcel 13.

FUNDING AND FINANCIAL IMPACT:

The appraised value of the rights needed is \$26,100.00

ALTERNATIVES:

The project requires impacts to this parcel. There are no opportunities to further reduce impacts. Any further design changes would delay construction and increase total cost.

PROCUREMENT SUMMARY (if applicable)

REVIEW & APPROVALS:

Financial Review: Stacey Inglis, Deputy City Manager –

Legal Review: Chris Hamilton, Jarrard & Davis, LLP – April 3, 2025

Concurrent Review: Steven Krokoff, City Manager –

DocuSigned by:

Stacey Inglis

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DocuSigned by:

Steven Krokoff

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ATTACHMENT(S):

Resolution Authorizing Condemnation Action including Exhibit A
Declaration of Taking
Order of the City of Milton, Georgia to Condemn

SERVICE • TEAMWORK • OWNERSHIP • LEADERSHIP • RURAL HERITAGE

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A RESOLUTION AUTHORIZING ITS ATTORNEY TO EXERCISE THE CITY OF MILTON, GEORGIA’S POWERS OF EMINENT DOMAIN IN THE ACQUISITION OF CERTAIN INTERESTS IN PROPERTY SITUATED IN THE CITY OF MILTON, GEORGIA FOR PUBLIC ROAD AND/OR OTHER PUBLIC TRANSPORTATION PURPOSES

WHEREAS, pursuant to Article 9, Section 2, Paragraph 5 of the Georgia Constitution, municipalities may acquire real property in fee simple or in any lesser interest by eminent domain for public purposes; and

WHEREAS, the governing authority of the City of Milton, Georgia, a municipal corporation of the State of Georgia, has determined that the circumstances of this matter are such that there is a necessity for exercising its powers of eminent domain pursuant to O.C.G.A. Section 32-3-1 *et seq.* in the acquisition of certain interests in property for municipal road and/or other transportation purposes.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED, Ken Jarrard, City Attorney, or his designee, is ordered and directed to institute proceedings in rem pursuant to O.C.G.A. Section 32-3-1 *et seq.* in the Fulton County Superior Court in order to condemn that certain property and interest therein more particularly described in Exhibit “A” which is attached hereto and made a part hereof by reference as though fully set forth at this point, all to the use of the City of Milton, Georgia, said property now or formerly vested in Walter Matthews, III and Lundee Matthews, their successors or assigns. It is further resolved that payment of just and adequate compensation therefore be made to the person or persons, entity or entities entitled to such payment. The Mayor may sign any documents and/or pleadings required for proper filing under the aforementioned code sections including a Declaration of Taking and Order of the City Council.

RESOLVED this ____ day of _____ 2025.

Peyton Jamison, Mayor

Attest: _____
Tammy Lowit, City Clerk

(SEAL)

***** PARCEL 5 AREA 1 DANIELLE ENGLISH DE109 EASM'T. FOR CONST. AND MAINT. OF DRAINAGE AND SLOPES *****				
PNT	OFFSET/ DIST	STATION/ BEARING	ALIGNMENT	

DE49	28.28 L	111+17.25	Birmingham Road	
	23.01	N00°21'53.4"E		
DE91	50.87 L	111+12.87	Birmingham Road	
	10.82	S78°36'37.1"E		
DE92	50.86 L	111+23.69	Birmingham Road	
	33.30	S77°03'42.1"E		
DE94	49.92 L	111+56.97	Birmingham Road	
	45.80	S78°30'02.5"E		
DE95	49.77 L	112+02.77	Birmingham Road	
	22.25	S00°28'00.0"E		
DE50	28.00 L	112+07.31	Birmingham Road	
	43.63	N78°31'02.9"W		
DE96	28.12 L	111+63.69	Birmingham Road	
	46.44	N78°29'05.9"W		
DE49	28.28 L	111+17.25	Birmingham Road	
REQD EASMT = 1979.912 SF				
REQD EASMT = 0.045 ACRES				

PARCEL 5 AREA 2 DANIELLE ENGLISH				
DE53 REQ'D DRYW. EASM'T.				

PNT	OFFSET/ DIST	STATION/ BEARING	ALIGNMENT	

DE92	50.86 L	111+23.69	Birmingham Road	
	31.54	N84°12'07.9"E		
DE136	60.14 L	111+53.83	Birmingham Road	
	10.70	S05°47'52.1"E		
DE94	49.92 L	111+56.97	Birmingham Road	
	33.30	N77°03'42.1"W		
DE92	50.86 L	111+23.69	Birmingham Road	
REQD EASMT = 168.667 SF				
REQD EASMT = 0.004 ACRES				

PARCEL 12 AREA 4 BURNINGHAM INVESTMENTS LP				
DE126 REQ'D TEMP. EASM'T.				

PNT	OFFSET/ DIST	STATION/ BEARING	ALIGNMENT	

***** PARCEL 13 TRACT 1 WALTER MATTHEWS, III & LUNDEE MATTHEWS DE24 REQ'D R/W *****				
PNT	OFFSET/ DIST	STATION/ BEARING	ALIGNMENT	

DE5	31.78 R	106+08.73	Birmingham Road	
	98.42	S80°27'08.3"E		
DE6	29.32 R	107+08.19	Birmingham Road	
	24.58	S31°48'16.3"E		
DE10	47.26 R	107+24.99	Birmingham Road	
	16.49	S58°11'43.7"W		
DE9	58.53 R	107+12.95	Birmingham Road	
	25.22	N31°48'16.3"W		
DE8	40.13 R	106+95.71	Birmingham Road	
	51.83	N78°40'44.8"W		
DE140	40.13 R	106+43.88	Birmingham Road	
ARC LENGTH = 18.45				
CHORD BEAR = N79°12'46.9"W				
LNTH CHORD = 18.45				
RADIUS = 989.87				
DEGREE = 5.79°				
DE7	40.13 R	106+24.69	Birmingham Road	
	17.52	N51°44'58.7"W		
DE5	31.78 R	106+08.73	Birmingham Road	
REQD R/W = 1198.392 SF				
REQD R/W = 0.028 ACRES				
REMAINDER = +/- -----				

***** PARCEL 13 AREA 1 WALTER MATTHEWS, III & LUNDEE MATTHEWS DE127 REQ'D TEMP. EASM'T. *****				
PNT	OFFSET/ DIST	STATION/ BEARING	ALIGNMENT	

DE5	31.78 R	106+08.73	Birmingham Road	
	17.52	S51°44'58.7"E		
DE7	40.13 R	106+24.69	Birmingham Road	
	12.60	S79°22'56.6"E		
DE131	40.13 R	106+37.79	Birmingham Road	
	16.31	S11°11'51.9"W		
DE119	56.44 R	106+37.73	Birmingham Road	
	31.36	N47°36'35.0"W		
DE118	39.73 R	106+09.89	Birmingham Road	
	8.03	N01°22'52.3"E		
DE5	31.78 R	106+08.73	Birmingham Road	
REQD EASMT = 273.788 SF				
REQD EASMT = 0.006 ACRES				

***** PARCEL 13 AREA 2 WALTER MATTHEWS, III & LUNDEE MATTHEWS DE128 REQ'D TEMP. EASM'T. *****				
PNT	OFFSET/ DIST	STATION/ BEARING	ALIGNMENT	

DE132	40.13 R	106+68.74	Birmingham Road	
	26.97	S78°40'44.8"E		
DE8	40.13 R	106+95.71	Birmingham Road	
	25.22	S31°48'16.3"E		
DE9	58.53 R	107+12.95	Birmingham Road	
	35.43	N59°53'39.9"W		
DE121	47.13 R	106+79.41	Birmingham Road	
	10.67	N78°40'44.8"W		
DE120	47.13 R	106+68.74	Birmingham Road	
	7.00	N11°19'15.2"E		
DE132	40.13 R	106+68.74	Birmingham Road	
REQD EASMT = 342.113 SF				
REQD EASMT = 0.008 ACRES				

PCL 13:
TTL: 5.443+/- AC Per Plat
- Tract 1: 0.028 +/- AC
- Tract 2: 0.050 +/- AC
Remainder: 5.365+/- AC

PARCEL 13 AREA 3 WALTER MATTHEWS, III & LUNDEE MATTHEWS
DE129 EASM'T. FOR CONST. AND MAINT. OF DRAINAGE UTILITIES & SLOPES

PNT	OFFSET/ DIST	STATION/ BEARING	ALIGNMENT

DE6	29.32 R	107+08.19	Birmingham Road
	65.78	S78°31'53.3"E	
DE11	29.49 R	107+73.97	Birmingham Road
	28.02	S11°19'15.2"W	
DE12	57.51 R	107+73.97	Birmingham Road
	50.04	N66°51'26.6"W	
DE10	47.26 R	107+24.99	Birmingham Road
	24.58	N31°48'16.3"W	
DE6	29.32 R	107+08.19	Birmingham Road
REQD EASMT = 1274.842 SF			
REQD EASMT = 0.029 ACRES			

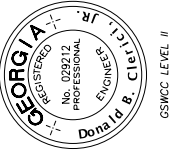
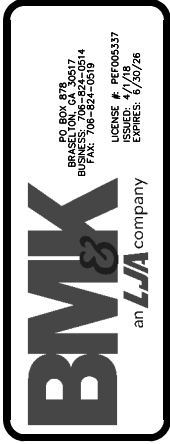
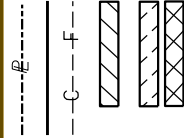
***** PARCEL 13 AREA 4 WALTER MATTHEWS, III & LUNDEE MATTHEWS DE48 REQ'D DRYW. EASM'T. *****				
PNT	OFFSET/ DIST	STATION/ BEARING	ALIGNMENT	

DE131	40.13 R	106+37.79	Birmingham Road	
ARC LENGTH = 5.85				
CHORD BEAR = S78°50'54.5"E				
LNTH CHORD = 5.85				
RADIUS = 989.88				
DEGREE = 5.79°				
DE140	40.13 R	106+43.88	Birmingham Road	
	24.86	S78°40'44.8"E		
DE132	40.13 R	106+68.74	Birmingham Road	
	7.00	S11°19'15.2"W		
DE120	47.13 R	106+68.74	Birmingham Road	
	9.33	S11°19'15.2"W		
DE133	56.46 R	106+68.74	Birmingham Road	
	30.68	N78°40'44.8"W		
DE119	56.44 R	106+37.73	Birmingham Road	
	16.31	N11°11'51.9"E		
DE131	40.13 R	106+37.79	Birmingham Road	
REQD EASMT = 501.217 SF				
REQD EASMT = 0.012 ACRES				

***** PARCEL 14 ROBERT LANCE TRIEFUS & CALEB NEGRON DE26 REQ'D R/W *****				
PNT	OFFSET/ DIST	STATION/ BEARING	ALIGNMENT	

DE15	29.66 R	108+33.61	Birmingham Road	
	42.25	S78°19'56.0"E		
DE13	29.91 R	108+75.86	Birmingham Road	
	27.60	S11°19'15.2"W		
DE17	57.51 R	108+75.86	Birmingham Road	
	5.13	N78°40'44.8"W		
DE16	57.51 R	108+70.73	Birmingham Road	
	46.41	N41°47'53.5"W		
DE15	29.66 R	108+33.61	Birmingham Road	
REQD R/W = 654.355 SF				
REQD R/W = 0.015 ACRES				
REMAINDER = +/- -----				

PROPERTY AND EXISTING R/W LINE
REQUIRED R/W LINE
CONSTRUCTION LIMITS
& MAINTENANCE OF SLOPES
EASEMENT FOR CONSTR OF SLOPES
EASEMENT FOR CONSTR OF DRIVES



DATE

REVISIONS

CITY OF MILTON
PUBLIC WORKS DEPARTMENT
RIGHT OF WAY MAP

PROJECT NO.:
COUNTY:
LAND LOT NO.:
LAND DISTRICT:
GMD
DATE

SH 7 OF 11

DRAWING No.:
60-007

EXHIBIT “A”

DECLARATION OF TAKING

WHEREAS, the City of Milton, Georgia, has made and passed a Resolution finding that the circumstances in connection with acquiring certain interests in property and easements for public road or other transportation purposes are such that it is necessary to acquire title, estate, or interest in the lands fully described in said order to condemn contained in the Resolution, a certified copy/duplicate original of which is attached to this Declaration as Appendix A to Exhibit “A,” and made a part hereof, under O.C.G.A. §§ 32-3-1 *et seq.*, and

WHEREAS, said interests in property and easements are for public purposes upon, across, and over the tract of land in said county, as fully described in the attachment hereto identified as Appendix B to Exhibit “A,” and made a part hereof; and

WHEREAS, the City of Milton, Georgia, has caused an investigation and report to be made by a competent land appraiser upon which to estimate the sum of money to be deposited in the Court as just and adequate compensation for the right-of-way and easements, referenced above, a copy of the appraiser’s sworn statement being attached hereto identified as Appendix C to Exhibit “A,” and made a part hereof; and

WHEREAS, in consequence of the sworn statement, Appendix C to Exhibit “A,” the City of Milton, Georgia estimates \$26,100.00 as just and adequate compensation to be paid for said right-of-way and easements, as fully described in Appendix B to Exhibit “A” which is attached hereto and made a part hereof and now deposits said sum in the Court to the use of the persons entitled thereto.

NOW, THEREFORE, the premises considered, the City of Milton, Georgia, under authority of the Official Code of Georgia Annotated §§ 32-3-1 *et seq.* and O.C.G.A. § 22-3-140

hereby declares that the property and interests as described in Appendix B to Exhibit “A,” which is attached hereto and made a part hereof of this Declaration, is taken for purposes of locating, constructing, maintaining, repairing, replacing, extending, expanding, and/or installing infrastructure for a public road or other transportation purposes.

PEYTON JAMISON, Mayor

ATTEST:

TAMMY LOWIT, City Clerk

APPROVED AS TO FORM:

/s/ Christopher J. Hamilton

Christopher J. Hamilton

Georgia Bar No. 320853

Priya M. Patel

Georgia Bar No. 869743

JARRARD & DAVIS, LLP

222 Webb Street

Cumming, Georgia 30040

(678) 455-7150 – telephone

(678) 455-7149 – facsimile

Attorneys for Condemnor

**ORDER OF THE CITY OF MILTON, GEORGIA TO CONDEMN PROPERTY FOR
PURPOSES OF CONSTRUCTING AND IMPROVING A PUBLIC TRANSPORTATION
PROJECT**

WHEREAS, the City of Milton, Georgia, through its Mayor and City Council, has laid out and determined to construct and improve Birmingham Road at Chicken Creek Tributary Bridge Replacement Project (Project ID: 0016581) for the City of Milton at Fulton County tax parcel identification number 22 470004060439 being more fully described and shown in the description and drawing attached as Appendix B to the Declaration of Taking (Exhibit “A” to the Petition for Condemnation).

WHEREAS, the tract of property and other rights as herein described and as listed below shown of record as owned by the person named herein, all as described and shown in Appendix B to the Declaration of Taking (Exhibit “A” to the Petition for Condemnation) incorporated herein by reference and made a part of this Order are essential for the construction of said project:

Property/Rights: 0.078 Acres of Fee Simple Right of Way; 1,274.842 Square Feet of Permanent Easement for Construction and Maintenance of Drainage, Utilities, and Slopes; 615.901 Square Feet of Temporary Construction Easement; and One (1) Driveway Easement

Owner: Walter Matthews, III and Lundee Matthews

Potentially Interested
Parties: Mortgage Electronic Registration Systems, Inc. as nominee for Amtrust Mortgage Corporation; JPMorgan Chase Bank, National Association; Mortgage Electronic Registration Systems, Inc. as nominee for Quicken Loans, LLC; Sawnee Electric Membership Corporation; Birmingham Road Estates

NOW THEREFORE, in accordance with O.C.G.A. § 32-3-6(b)(6) and (c), it is hereby found by the City of Milton that the circumstances are such that it is necessary that the property as described in Appendix B to Exhibit “A” of the Declaration of Taking be acquired by condemnation

under the provisions of O.C.G.A. § 32-3-1 *et seq.* for public road purposes or other transportation purposes.

IT IS ORDERED that City of Milton proceed to acquire the title, estate, or interest in the lands hereinafter described in Appendix B of the Declaration of Taking (Exhibit “A” to the Petition for Condemnation) by condemnation under the provisions of said Code, and City Attorney Ken Jarrard or his designees are authorized and directed to file condemnation proceedings, including a Declaration of Taking, to acquire said title, estate, or interest in said lands and to deposit in the Court the sum estimated as just compensation all in accordance with the provisions of said law.

SO ORDERED by the City of Milton, Georgia, this ____ day of _____ 2025.

PEYTON JAMISON, Mayor

ATTEST:

TAMMY LOWIT, City Clerk

APPROVED AS TO FORM:

/s/Christopher J. Hamilton

Christopher J. Hamilton
Georgia Bar No. 320853
Priya M. Patel
Georgia Bar No. 869743

JARRARD & DAVIS, LLP

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Cumming, Georgia 30040
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Attorneys for City of Milton, Georgia