



## AGENDA STAFF MEMO

**TO:** Honorable Mayor and City Council Members  
**FROM:** Sara Leaders, PE, Public Works Director  
**DATE:** Submitted on April 3, 2025, for the April 14, 2025, Regular City Council Meeting

DocuSigned by:

*Sara Leaders*

4D62B6BB0E9A487...

**AGENDA ITEM:** Consideration of a Resolution to Condemn Property Rights Needed for **Bethany Road at Providence Road Roundabout Project (Project No. PW-12), Parcel 08;** 2,544.82 Square Feet (0.058 Acres) of Permanent Easement for Construction and Maintenance of Utilities and Slopes and Site Improvements. Owner: Jose Salvatierra and Marisol Salvatierra

### SUMMARY:

The City is responsible for right-of-way acquisition for the Bethany Road at Providence Road Roundabout project. The City has made a fair and reasonable offer based on the appraisal to acquire the permanent easement necessary for the construction of the project on Parcel 08. The City Attorney's office has advised that due to title issues with the property, the City will likely never be able to close the acquisition and has recommended eminent domain for title reasons. To move forward with the project, staff is recommending approval of the resolution to initiate condemnation proceedings on Parcel 08.

### FUNDING AND FINANCIAL IMPACT:

The appraised value of the rights needed is \$14,500.00

### 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 2, 2025

**Concurrent Review:** Steven Krokoff, City Manager –

DocuSigned by:

*Stacey Inglis*

BD7A72CDEFA440F...

DocuSigned by:

*Steven Krokoff*

9E6DD808EBB74CF...

### ATTACHMENT(S):

Declaration of Taking  
Order authorizing condemnation action  
Resolution including Exhibit A

SERVICE • TEAMWORK • OWNERSHIP • LEADERSHIP • RURAL HERITAGE

2006 Heritage Walk, Milton, GA 30004 | 678.242.2500 | facebook.com/thecityofmiltonga | info@miltonga.gov | www.miltonga.gov



## **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/or 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 O.C.G.A. §§ 22-3-140; and

**WHEREAS**, said interests in property and easements are for public purposes upon, across, and over the tract of land in said city, 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/or 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 \$14,500.00 as just and adequate compensation to be paid for said right-of-way and/or 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 Bethany Road at Providence Road (Project No.: PW-12) for the City of Milton at Fulton County tax parcel identification number 22 445008880156 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: 2,544.82 Square Feet of Permanent Easement for Construction and Maintenance of Utilities and Slopes

Owner: Jose Salvatierra and Marisol Salvatierra

Potentially Interested Parties: David T. Hamilton; T.E. Lawrence a/k/a Thomas E. Lawrence, Jr. a/k/a Thomas E. Lawrence; Dana Bunker; Georgia Department of Revenue; U.S. Department of the Treasury – Internal Revenue Service; Kobra Properties; Fulton County Tax Commissioner; Investa Services, LLC Servicer for Christiana Trst. Custodian for GSRAN-Z

**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**  
222 Webb Street  
Cumming, Georgia 30040  
678-455-7150 (telephone)  
678-455-7149 (facsimile)

Attorneys for City of Milton, Georgia

STATE OF GEORGIA  
COUNTY OF FULTON

RESOLUTION NO. \_\_\_\_\_

**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.* and O.C.G.A. Section 22-3-140 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.* and O.C.G.A. Section 22-3-140 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 Jose Salvatierra and Marisol Salvatierra, 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)

PRELIMINARY



