

2005008

RESOLUTION NO. R-10-05

**Authorizing Acquisition of Property For
Right of Way and Easements**

Whereas, Sections 23 and 235 of the Alabama Constitution of 1901 authorize a municipality to acquire property for public use by paying just compensation; and

Whereas, Sections 11-47-170 and 11-47-171, 1975 Alabama Code, authorize a municipality to acquire land for public improvements, for any city purpose and when necessary or expedient for carrying out the full exercise of power granted by law; and

Whereas, Section 11-54-1, 1975 Alabama Code, authorizes a municipality to acquire land for industrial and economic development, including the provision of water, sewage, drainage, transportation, power and communication facilities and other similar facilities incidental to the use of land; and

Whereas, the City Engineer has determined that right of way and easements are needed for the Pioneer Street Drainage Project;

Now, Therefore, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GADSDEN, ALABAMA, as follows:

Section 1. It is hereby determined that it is necessary and desirable that the City of Gadsden acquire the real property (the "Property") described as follows:

Tract 1

A 15-foot wide easement, located in Lot 7 and Lot 8, Block J of the Miller Highlands subdivision as recorded in Plat Book D, Page 31, of the probate records of Etowah County, Alabama, more particularly described as lying 7.5 feet on each side of the following described centerline:

Commence at the southeast corner of said Lot 8; thence northerly, along the east boundary of said Lot 7 and 8, a distance of 92.2 feet, to the point of beginning of said centerline; thence deflect 89°50' left and run, along said centerline, a distance of 10.8 feet; thence deflect 26°30' left and run 37.9 feet; thence deflect 44°03' left and run 20.9 feet; thence deflect 17°22' left and run 55.9 feet, to the end of said easement, located on the south boundary of said Lot 8.

Tract 2

A 15-foot wide easement, located in Lot 9, Block J of the Miller Highlands subdivision as recorded in Plat Book D, Page 31, of the probate records of Etowah County, Alabama, more particularly described as lying 7.5 feet on each side of the following described centerline:

Commence at the northeast corner of said Lot 9; thence westerly, along the north boundary of said Lot 9, a distance of 54.3 feet, to the point of beginning of said centerline; thence deflect $87^{\circ} 34'$ left and run, along said centerline, a distance of 10.9 feet; thence deflect $30^{\circ} 27'$ right and run 46.5 feet, to the end of said easement, located on the south boundary of said Lot 9.

Tract 3

A 15-foot wide easement, located in Lot 31 & 32, Block 7 of the Rolling Green Park subdivision as recorded in Plat Book C, Page 239, of the probate records of Etowah County, Alabama, more particularly described as lying 7.5 feet on each side of the following described centerline:

Commence at the northwest corner of said Lot 32; thence easterly, along the north boundary of said Lot 32 a distance of 77.8 feet, to the point beginning of said centerline; thence deflect $140^{\circ} 40'$ right and run, along said centerline, a distance of 98.3 feet; thence deflect $33^{\circ} 07'$ left and run 7.8 feet, to the end of said easement, located on the west boundary of said Lot 31.

Section 2. The Mayor is authorized to execute appropriate certifications and to perform all necessary and/or desirable actions (including the execution of agreements regarding the acquisition of title) to comply with the City's land acquisition policies and procedures and any applicable federal or state laws, rules or regulations, in order to obtain fee simple title to the Property.

Section 3. The Mayor is authorized to employ qualified individuals or entities to negotiate on behalf of the City with the owners of the Property for obtaining title for such use.

Section 4. The Mayor is authorized to employ qualified individuals or entities to appraise the fair market value of each parcel of the Property.

Section 5. The Mayor is authorized to employ qualified legal counsel to assist in the acquisition of the Property, including closing of sales transactions and representation of the City in condemnation proceedings.

Section 6. If the parties are unable to reach agreement on the compensation to be paid, then the Property will be acquired by the City through condemnation. The City Attorney (or other retained legal counsel employed by the Mayor) is authorized to institute proceedings in any court of competent jurisdiction to acquire the Property for the City in accordance with the eminent domain laws of the State of Alabama.

Section 7. If condemnation is required to obtain title to the property, the Mayor is authorized to establish an amount based on the appraisal which constitutes just compensation, and to make written offer of just compensation. The Mayor is also authorized to acquire any uneconomic remnants which would be created as a result of the acquisition of this Property.

I hereby certify that this resolution was duly adopted by the City Council of Gadsden, Alabama, at a meeting held on January 18, 2005.



Iva Nelson, City Clerk