



**THE COUNCIL OF THE CITY OF BINGHAMTON  
STATE OF NEW YORK**

Date: October 4, 2023

Sponsored by Council Members: Resciniti, Friedman, Burns, Strawn, Scanlon, Scaringi

Introduced by Committee: Planning

**ORDINANCE**

*entitled*

AN ORDINANCE TO DECLARE THE CITY OF BINGHAMTON QUALIFIED FOR EXEMPTIONS FROM EMINENT DOMAIN PROCEDURE LAW (EDPL) HEARING REQUIREMENTS AND FOR THE MAYOR TO TAKE NECESSARY STEPS FOR THE CITY TO ACQUIRE PROPERTIES FOR THE MAIN STREET CORRIDOR STUDY AND SAFETY IMPROVEMENT PROJECT (P.I.N. 9754.37)

WHEREAS, Main Street (NYS Route 17C) within the City of Binghamton is an Urban Minor Arterial whose primary function is to serve large volumes of east-west traffic within and through the City of Binghamton; and

WHEREAS, after conducting a study, the City of Binghamton ("City") has identified safety deficiencies along an approximately 1.7-mile segment of Main Street (NYS Route 17C) between the Main Street intersections with Floral Avenue and Front Street ("Project Corridor"); and

WHEREAS, the study revealed a high pedestrian-vehicle crash rate, with an average of 12 crashes occurring annually during the 2011-2015 time period, with one fatal accident occurring in 2012; and

WHEREAS, Main Street (NYS Route 17C) within the Project Corridor is owned and maintained by the City; and

WHEREAS, the City is proposing to undertake a project to address and remedy the safety deficiencies that have been identified within the Project Corridor ("Project"); and

WHEREAS, the Project will involve pedestrian safety improvements within the Project Corridor, including: replacement and installation of new ADA compliant curb ramps, sections of sidewalks, sidewalk bumpouts, stormwater sewer inlets, and crosswalk striping; upgrading of all signalized intersections to include pedestrian signals with pushbuttons and countdown timers; and minor pavement and drainage repairs in isolated areas; and

WHEREAS, the primary objectives/purposes of the Project are to: correct safety deficiencies with the Project Corridor using cost effective vehicular, pedestrian and bicycle accident reduction measures; maintain or improve overall traffic conditions while implementing

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the proposed safety benefits; and implement the proposed safety improvements in accordance with the City's master plan for the Main Street Corridor; and

WHEREAS, it will be necessary for the City to acquire real property interests from third parties for the purpose of accomplishing the aforementioned safety improvements; and

WHEREAS, four (4) of the tax map parcels in which the City must acquire real property interests in order to accomplish the Project are Tax Map Parcel No. 143.75-1-8 (Map 1 Parcel), Tax Map Parcel 143.75-1-23 (Map 4 Parcel), Tax Map Parcel 160.40-1-45 (Map 8 Parcel), and Tax Map Parcel 160.40-1-27 (Map 9 Parcel), all of which are situated in the City of Binghamton; and

WHEREAS, the location and size of the proposed fee interest area to be acquired in the Map 1 Parcel is an approximately 36 square feet triangular shaped area at the northwest corner of the intersection of Main Street and Emma Street; and

WHEREAS, the specific purpose for acquiring the fee interest in and to a portion of the Map 1 Parcel is to replace the existing sidewalk with sidewalk that includes an ADA compliant curb ramp; and

WHEREAS, the location and size of the proposed fee interest area to be acquired in the Map 4 Parcel is an approximately 47 square feet narrow, rectangular shaped area abutting Main Street at the northeast corner of the intersection of Main Street and Matthews Street; and

WHEREAS, the specific purpose for acquiring the fee interest in and to a portion of the Map 4 Parcel is to replace the existing sidewalk, a portion of which previously was constructed outside of the City's property boundary line; and

WHEREAS, the location and size of the proposed fee interest area to be acquired in the Map 8 Parcel is an approximately 134 square feet rectangular shaped area at the southwest corner of the intersection of Main Street and Front Street; and

WHEREAS, the specific purpose for acquiring the fee interest in and to a portion of the Map 8 Parcel is to replace the existing sidewalk, a portion of which previously was constructed outside of the City's property boundary line; and

WHEREAS, the location and size of the proposed fee interest area to be acquired in the Map 9 Parcel is an approximately 111 square feet triangular shaped area at the northeast corner of the intersection of Main Street and Front Street; and

WHEREAS, the specific purpose for acquiring the fee interest in and to a portion of the Map 9 Parcel is to replace the existing sidewalk with sidewalk that includes an ADA compliant curb ramp; and

WHEREAS, fee title to the Map 1 Parcel currently is vested in Gurshan Properties, LLC.; and

WHEREAS, fee title to the Map 4 Parcel currently is vested in James M Spear; and

WHEREAS, fee title to the Map 8 Parcel currently is vested in Lucky 13 Acquisitions, LLC.; and

WHEREAS, fee title to the Map 9 Parcel currently is vested in 4 Main Street LLC; and

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WHEREAS, in accordance with the provisions of Article 3 of the New York Eminent Domain Procedure Law ("EDPL") and the Uninform Relocation Assistance and Real Property Assistance Act of 1973 and its implementing regulations, the City has caused to be appraised the real property interests that it seeks to acquire in and to portions of the Map 1 Parcel, Map 4 Parcel, Map 8 Parcel and Map 9 Parcel, has had such appraisals reviewed by an independent appraiser, has established the highest approved appraisal amounts as the amounts that it believes represents just compensation to be paid for the acquisition of such real property interests, and has communicated to the owners of the Map 1 Parcel, Map 4 Parcel, Map 8 Parcel and Map 9 Parcel written offers to purchase such real property interests for one hundred percentum of the just compensation amounts so established; and

WHEREAS, the respective owners of the Map 1 Parcel, Map 4 Parcel, Map 8 Parcel and Map 9 Parcel have not accepted the City's offers to purchase the aforementioned real property interests that are needed to accomplish the Project, as a consequence of which it is necessary to acquire such real property interests by means of EDPL Article 4 acquisition proceedings; and

WHEREAS, EDPL Article 2 requires, as a condition precedent to acquiring title by means of an EDPL Article 4 acquisition proceeding, that the City conduct a public hearing to inform the public and to review the public use to be served by the proposed Project and the impact on the environment and residents of the locality where the proposed Project will be constructed unless such Project is exempt from the EDPL Article 2 hearing requirements in accordance with EDPL §206; and

WHEREAS, the City is of the opinion that the Project and the subject real property acquisitions qualify for exemptions from the EDPL Article 2 public hearing requirement on the basis of exemptions provided pursuant to EDPL 206(A) and (D); and

WHEREAS, EDPL §206 (A) provides that the City will be exempt from compliance with the provisions of Article 2 when, pursuant to other state, federal, or local law or regulation it considers and submits factors similar to those enumerated in EDPL §204 (B) to a state, federal, or local government agency, board, or commission before proceeding with the acquisition and obtains a license, a permit, a certificate of public convenience of necessity, or other similar approval from such agency, board, or commission; and

WHEREAS, the factors enumerated in subdivision (B) of EDPL §204 are: (1) the public use, benefit or purpose to be served by the proposed public Project; (2) the approximate location for the proposed public Project and the reasons for the selection of that location; (3) the general effect of the proposed Project on the environment and residents of the locality; and (4) such other factors as it considers relevant; and

WHEREAS, the proposed Project is a Locally Administered Federal Aid Transportation Project administered by the City; and

WHEREAS, the proposed Project is being progressed by the City, with oversight by the New York State Department of Transportation ("NYSDOT"), in accordance with the

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requirements of the NYSDOT "Procedures for Locally Administered Federal Aid Projects" manual ("LPM"), the NYSDOT "Project Development Manual" ("PDM") and other applicable NYSDOT regulations and policies; and

WHEREAS, in order to progress to the Project through scoping, design and acquisition phases, as established by NYSDOT, it was necessary for the City to obtain NYSDOT and Federal Highway Administration ("FHWA") approval that the City has satisfied the requirements of FHWA and NYSDOT, as set forth in the LPM, PDM and other applicable statutes, regulations and policies; and

WHEREAS, in order to obtain FHWA and NYSDOT approval of the Project, it was necessary for the City to submit to NYSDOT and FHWA a document known as an Initial Project Scoping/Final Design Report ("Design Report") addressing, among other things, the location and details of the Project, as well as information and documentation demonstrating compliance with the provisions of the National Environmental Policy Act of 1969 ("NEPA") and the New York State Environmental Quality Review Act ("SEQR"); and

WHEREAS, the City, in conjunction with its consultant, completed the Design Report for the Project and submitted same to NYSDOT for its review and approval; and

WHEREAS, NYSDOT completed its review of the Design Report, and on or about May 18, 2021, FHWA provided project approval to the City and issued design approval and an Authorization to Proceed With ROW Acquisitions; and

WHEREAS, in accordance with the provisions of 23 C.F.R. 771.118(c), and as required by the PDM, the City was required to undertake and complete an environmental review under NEPA; and

WHEREAS, in satisfaction of its duties to conduct an environmental review under NEPA, the City prepared a Federal Environmental Approval Sheet; and

WHEREAS, the proposed public Project is being progressed as a NEPA Class II action (Categorical Exclusion) in accordance with the NYSDOT Environmental Action Plan, 23 CFR 771.117(c), because it does not individually or cumulatively have a significant environmental impact and is one of the project types described in the "C" list as a Federally-funded project that receives less than \$5,000,000 of Federal funds; and

WHEREAS, on or about April 15, 2021, NYSDOT concurred with this classification, all of which is set forth in the Design Report; and

WHEREAS, the City is designated as the lead agency for purposes of the New York State Environmental Quality Review Act (hereinafter "SEQRA"); and

WHEREAS, the City classified the proposed Project as a Type II action per NYCRR Part 617.5(c)(2) (replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site,) and 617.5(c)(22) (installation of traffic control devices on existing streets, roads and highways) and has completed the SEQR review process; and

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WHEREAS, the City has considered the general effect of the proposed Project on the residents of the locality in which the proposed Project is to be undertaken and has included such analysis in the Design Report; and

WHEREAS, in the course of satisfying the requirements of the LPM and DPM, the City has considered and submitted to NYSDOT factors similar to those enumerated in EDPL §204(8), and NYSDOT and FHWA have issued their approvals of the Project; and

WHEREAS, the Project and the location, nature, duration and extent of the acquisition of the real property interests in and to portions of the Map 1 Parcel, Map 4 Parcel, Map 8 Parcel and Map 9 Parcel are de minimis in nature so that the public interest will not be prejudiced by the construction of the Project.

NOW THEREFORE, it is hereby:

RESOLVED, that the City of Binghamton has considered all relevant information pertaining to the proposed Project and has determined that the Project serves a legitimate public use, purpose and benefit, and that the project development process implemented by the City, as required by Federal and State statutes, regulations and policies, as well as the de minimis nature of the proposed acquisitions of fee interests in and to small, peripheral portions of the Map 1 Parcel, Map 4 Parcel, Map 8 Parcel and Map 9 Parcel in the City of Binghamton, qualify the City and the Project for exemptions from the hearing requirements of EDPL Article 2, pursuant to EDPL Section 206 (A) and (D); and be it further

RESOLVED, the City of Binghamton hereby authorizes the Mayor or his designee to take such steps, perform such acts and execute such documents as are necessary for the City to acquire the previously identified fee interests in and to portions of the Map 1 Parcel, Map 4 parcel, Map 8 Parcel and Map 9 Parcel in the City of Binghamton, New York, and to acquire all other real property interests that may be necessary in order to accomplish for the Project, including, but not limited to, acquisitions in accordance with any other provision of law, regulation or contract.

Introductory No. 023-127

Permanent No. 023-125

Sponsored by: City Council Members:  
Resciniti, Friedman, Burns, Strawn, Scanlon, Scaringi

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The within Ordinance was adopted by the Council of the City of Binghamton.

Date 10/4/23

Jamain Faulkner  
City Clerk

Date Presented to Mayor 10/5/23

Date Approved 10/5/23  
J M JWL

Mayor

	Ayes	Nays	Abstain	Absent
Councilwoman Resciniti	✓			
Councilwoman Riley		✓		
Councilwoman Friedman				✓
Councilman Burns	✓			
Councilman Strawn	✓			
Councilman Scanlon	✓			
Councilman Scaringi	✓			
<b>Total</b>	<b>5</b>	<b>1</b>	<b>0</b>	<b>1</b>

Code of the City of Binghamton

Adopted  Defeated

5 Ayes 1 Nays 0 Abstain 1 Absent

I hereby certify the above to be a true copy of the legislation adopted by the Council of the City of Binghamton at a meeting held on 10/4/23. Approved by the Mayor on 10/5/23. (X)