

A SUBSTITUTE ORDINANCE BY CITY UTILITIES COMMITTEE

AN ORDINANCE AUTHORIZING: [i] THE ABANDONMENT OF A PUBLIC STREET KNOWN AS EMMETT STREET, LOCATED IN THE CITY OF ATLANTA, GEORGIA; [ii] THE EXECUTION BY THE MAYOR OF A QUITCLAIM DEED AND AMENDMENT TO AGREEMENT TO CONVEY THE PROPERTY TO THE ATLANTA DEVELOPMENT AUTHORITY AND/OR THE NORTHYARDS BUISNESS PARK LIMITED LIABILITY [OR DESIGNEE(S)] AND COMPENSATE THE CITY FOR THE CONVEYANCE; AND [iii] TO WAIVE CERTAIN PROVISIONS OF SECTION 138-5 OF THE CITY OF ATLANTA CODE OF ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta (“City”) received a formal petition from the abutting landowners, the Atlanta Development Authority (“ADA”) and Northyards Business Park Limited Liability Company (“LLC”), of certain property to abandon a street (“Emmett Street”) located in the City, from Kennedy Street north to North Avenue;

WHEREAS, ADA and LLC propose to develop the area (including Emmett Street and certain other abandoned properties (the “Other Abandoned Properties”) which were abandoned and conveyed to ADA and/or LLC by a prior Ordinance enacted by the City (Ordinance No. 00-0-1855)) into a business park, as a City-supported redevelopment project (the “Project”), pursuant to the English Avenue Redevelopment Plan approved by the City Council as part of an Atlanta Empowerment Zone initiative¹;

WHEREAS, Section 2-1578 of the City’s Code of Ordinances requires a petitioner for the abandonment of a street to remit payment to the City for the abandonment in the amount of the appraised value of the street to be abandoned;

WHEREAS, the ADA and LLC obtained an appraisal (“Appraisal”) of the Other Abandoned Properties and Emmett Street that established a collective value for them of \$438,000²;

¹The enactment of Ordinance No. 00-0-1855 authorized the execution of an Agreement (the “Agreement”) by the parties to initially reflect the terms of the purchase of the Other Abandoned Properties and Emmett Street. The parties executed the Agreement on January 30, 2001.

²The Appraisal established values for the Other Abandoned Properties and Emmett Street of:

1.	Strong Street	\$195,000
2.	Davis Street	\$36,000
3.	Gray Street	\$108,000
4.	North Avenue	\$33,000
Subtotal:		\$372,000
5.	Emmett Street	\$66,000
Total:		\$438,000



WHEREAS, the City's Director ("Purchasing Director") of its Bureau of Purchasing and Real Estate caused the Appraisal to be reviewed by the appropriate City representatives and determined that the Appraisal value of \$372,000 for the Other Abandoned Properties represented a fair price at which the City would negotiate to sell the Other Abandoned Properties to the ADA and LLC [or their designee(s)];

WHEREAS, the Purchasing Director also determined that the Appraisal value of \$66,000 for Emmett Street represented a fair price at which the City would negotiate the sale of Emmett Street to the ADA and LLC [or their designee(s)], upon petition to the City for, and legislative approval of, that action;

WHEREAS, in connection with the enactment of Ordinance No. 00-0-1855, and in lieu of the payment to the City of cash for the appraised value of the Other Abandoned Properties and Emmett Street, the ADA and LLC proposed to the City that they, or their agents, construct sidewalks and other improvements (collectively, the "Proposed Improvements") on and/or in the vicinity of the Other Abandoned Properties and Emmett Street, with an estimated construction value of \$491,000, and convey those Proposed Improvements to the City in exchange for the City's conveyance to the ADA and LLC [or their designee(s)] of the Other Abandoned Properties and Emmett Street³;

WHEREAS, after Ordinance No. 00-0-1855 was enacted, the parties further discussed the value of the Proposed Improvements in relation to the appraised value of the Other Abandoned Properties and Emmett Street and have agreed to modify this transaction by providing additional compensation to the City for the abandonment of Emmett Street;

WHEREAS, the parties determined that this modification to the transaction was necessary because a portion of the \$491,000 value of the Proposed Improvements represented expenditures that the ADA and LLC were already obligated to make under City Ordinances in connection with the Project and were not appropriate to include as a value in the total purchase price to be paid for the Other Abandoned Properties and Emmett Street⁴;

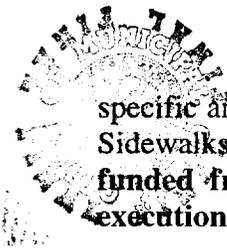
WHEREAS, accordingly, the ADA and LLC have now agreed to construct additional sidewalks ("Additional Sidewalks") with a value of up to \$123,000, but not less than \$66,000⁵, in the vicinity of the Project, in addition to constructing the Proposed Improvements;

WHEREAS, the parties have further agreed to convene a meeting among, the City, the ADA and LLC and The Northyards Community Fund (the "Board") to discuss and negotiate the

³This Agreement reflects the parties' initial intent concerning this transaction; the Agreement will now need to be amended to reflect the transaction as it is modified by this Ordinance.

⁴The parties have agreed, for the purposes of this transaction, that a total of \$123,000 (the "Agreed Deficiency") is not properly included in the \$491,000 value attributed to the Proposed Improvements.

⁵The parties have further agreed, for the purposes of this transaction, that the minimum value of monies to be dedicated to the construction of the Additional Sidewalks will be the appraised value of Emmett Street (\$66,000).



specific amount of monies that will be expended by the ADA and LLC on the Additional Sidewalks, no portion of the aforementioned public works improvements shall be funded from the Northyards Business Park Community Fund as related to the execution of this agreement;⁶

WHEREAS, ADA and LLC successfully obtained title or Purchase Agreements to all property abutting Emmett Street, and have petitioned the City for the abandonment of Emmett Street;

WHEREAS, a copy of petitioner's proposal and plat identifying Emmett Street is attached as Exhibit 1;

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

Section 1. That Emmett Street, as described on Exhibit 1 attached, is declared by the City to be no longer useful or necessary for public use and convenience and is abandoned.

Section 2. That the City is authorized to convey by Quitclaim Deed Emmett Street to the ADA and/or LLC [or their designee(s)] after the following have occurred:

- a) The City's Bureau of Purchasing and Real Estate and Department of Public Works have confirmed that the ADA and LLC have satisfied all conditions precedent under City Ordinance Nos. 2-1578 and 138-5, Ordinance No. 00-0-1855 and this Ordinance; and
- b) The City, the ADA and LLC and the Board have agreed to the portion of the Agreed Deficiency that will be dedicated by the ADA and LLC to the construction of the Additional Sidewalks; and
- c) The City, the ADA and LLC and the Board have agreed to the Board's obligations in spending any portion, if any, of the Agreed Deficiency not dedicated to the construction of the Additional Sidewalks on public improvement projects in the vicinity of the Project; and
- d) An Amendment to the Agreement has been executed by the

⁶The purpose of this meeting will be to determine what portion of the Agreed Deficiency above the appraised value of Emmett Street (\$66,000) will be dedicated by the ADA and LLC to the construction of the Additional Sidewalks. It is the intent of the parties to this transaction that, if less than the full amount of the Agreed Deficiency is dedicated to the construction of the Additional Sidewalks, the remainder will be retained by the Board in a trust account and will be used to fund other public improvement projects in the vicinity of the Project. The parties' determination as to what portion of the Agreed Deficiency will be dedicated to the construction of the Additional Sidewalks will be included in an Amendment to the Agreement.



ADA and LLC: [i] setting forth the portion of the Agreed Deficiency that will be dedicated by the ADA and LLC to the construction of the Additional Sidewalks; [ii] addressing the remaining portion, if any, of the Agreed Deficiency that will be retained by the Board in a trust account to be used by the Board to fund other public improvement projects in the vicinity of the Project; [iii] providing for the conveyance to the City of the necessary rights of way or other necessary real property interests concerning the Additional Sidewalks; and

- e) Containing any additional terms and conditions that the parties may agree to concerning this transaction, as contemplated by this Ordinance.

Section 3. That all reservations within Emmett Street for existing public or private utility easements will remain in effect for the purpose of entering Emmett Street to operate, maintain, or replace the utility facilities. These easements will remain in effect until such time that the utilities are abandoned, removed or relocated, at which time the easements will expire.

Section 4. That the Mayor is authorized to execute and deliver a Quitclaim Deed conveying Emmett Street to the ADA and LLC [or their designee(s)] upon satisfaction of the conditions set forth in this Ordinance.

Section 5. That the advertisement portion of the fees set forth in Section 138-5(a)(5) of the City's Code of Ordinances will be paid by the ADA and LLC to the City prior to the delivery of the Quitclaim Deed and the appraisal cost portion of the fees set forth in that Ordinance are waived by the City.

Section 6. That the City Attorney is directed to prepare an Amendment to the Agreement and Quitclaim Deed containing terms and conditions appropriate and/or legally required for this transaction, as contemplated by this Ordinance and Ordinance No. 00-0-1855, for execution by the Mayor and ADA and LLC [or their designee(s)], to be approved by the City Attorney as to form.

Section 7. That the Amendment to the Agreement and Quitclaim Deed will not become binding upon City and City will incur no liability under them until the Mayor has executed them, they have been attested to by the Municipal Clerk, and delivered to the ADA and LLC, or their designee(s).

Section 8. That all code sections, ordinances, and parts of code sections and ordinances in conflict with this Ordinance are waived.

A true copy,
Rhonda Dauphin Johnson
Municipal Clerk, CMC

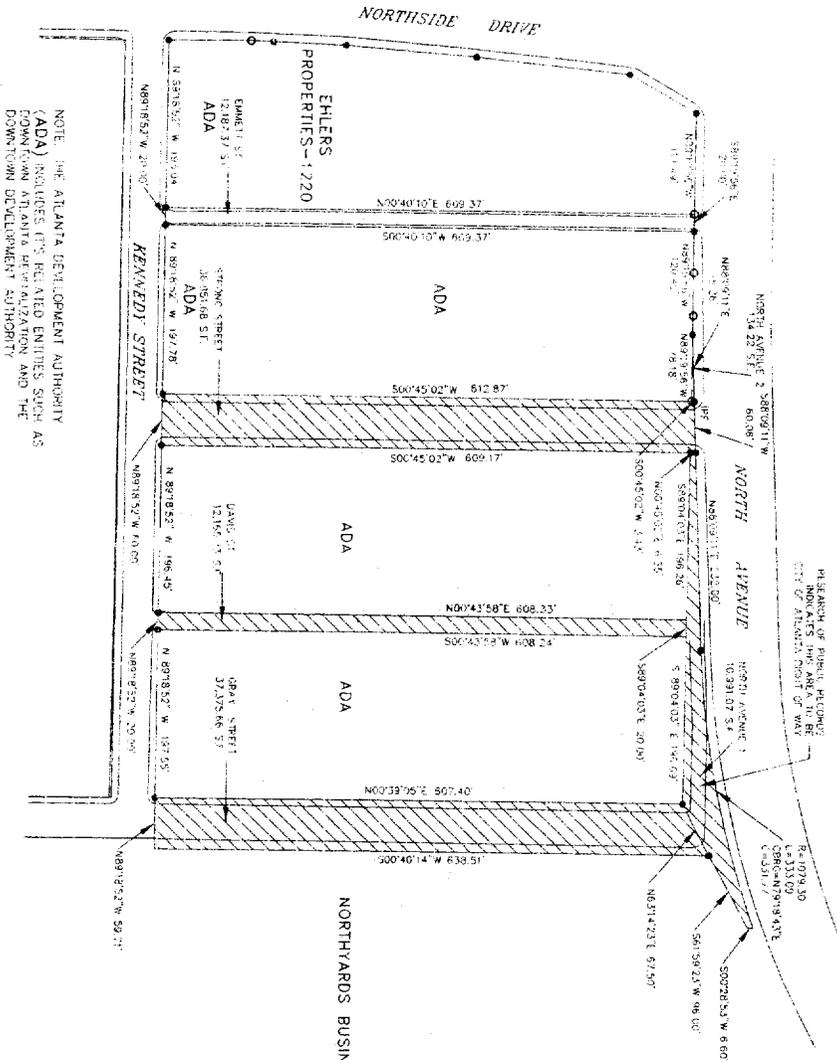
ADOPTED as amended by the Council
APPROVED by the Mayor

FEB 05, 2001
FEB 13, 2001



Exhibit 1
Legal Description and Plat
Emmett Street

For a POINT OF BEGINNING commence at a point formed by the intersection of the westerly right of way of Emmett Street and the northerly right of way line of Kennedy Street; thence run $N00^{\circ}40'10''E$ along the westerly right of way line of Emmett Street 609.37' to the southerly right of way line of North Avenue; thence $S89^{\circ}19'56''E$ 20.00' to the easterly right of way line of Emmett Street; thence $S00^{\circ}40'10''W$ along the easterly right of way line of Emmett Street 609.37' to the northerly right of way line of Kennedy Street; thence $N89^{\circ}18'52''W$ 20.00' to the POINT OF BEGINNING. Containing 12,187.37 SQ. FT.



RESEARCH OF PUBLIC RECORDS INDICATES THIS AREA TO BE CITY OF ATLANTA TRACT OF LAND



NO.	DATE	DESCRIPTION	BY
1	10-12-06	INCLUDE STRONG STREET	LWC
2	11-05-06	COMMENTS	LWC
3	11-16-06	COMMENTS	LWC
4	01-23-07	COMMENTS	CWM



STREET ABANDONMENT- NO. 1

LOCATED AT
 L.L. 82nd of the 14th DISTRICT
 CITY OF ATLANTA
 FULTON COUNTY, GEORGIA



R.P.H. PARTNERSHIP & ASSOCIATES, INC.
 ENGINEERS & SURVEYORS
 ATLANTA, GEORGIA
 770-447-0041

DATE: 12-3-09 SCALE: 1"=100' JOB NO: 5655 SHEET: 1 OF 1



RCS# 2611
2/05/01
6:02 PM

Atlanta City Council

Regular Session

01-O-0034

Abandonment of Emmett Street in Land
Lot 82 -Quitclaim Deed & Funding for
ADOPT AMEND/SUB

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

Y McCarty	B Dorsey	Y Moore	Y Thomas
Y Starnes	NV Woolard	Y Martin	Y Emmons
Y Bond	Y Morris	Y Maddox	Y Alexander
Y Winslow	Y Muller	Y Boazman	NV Pitts

01-O-0034

01-0034

(Do Not Write Above This Line)

AN ORDINANCE BY *[Signature]*
 AN ORDINANCE AUTHORIZING: THE
 ABANDONMENT OF A PUBLIC STREET KNOWN
 AS EMMETT STREET, ALL LYING AND BEING
 IN LAND LOT 82 OF THE 14TH DISTRICT,
 CITY OF ATLANTA, FULTON COUNTY,
 GEORGIA; AND THE EXECUTION BY THE
 MAYOR OF A QUITCLAIM DEED SUBJECT
 TO THE EXCHANGE AGREEMENT STIPULATED
 IN ORDINANCE 00-0-1855 TO PROVIDE
 A MECHANISM FOR THE FUNDING OF THE
 ACQUISITION AND CONVEYANCE OF THE
 ABANDONED STREETS; AND TO WAIVE
 CERTAIN PROVISIONS OF SECTION 138-5
 OF THE CITY OF ATLANTA CODE OF
 ORDINANCES; AND FOR OTHER PURPOSES.

(See Substitute Caption on
 Rear of This Cover)

Substitute As Amended

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

**ADOPTED BY
 FEB 05 2001**

COUNCIL

Date Referred *01/02/01*

Referred To: *City Utilities*

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
 Date _____
 Chair _____
 Referred to _____

Committee *City Utilities*
 Date *1-7-01*
 Chair _____
 Action: _____
 Fav, Adv, Hold (see rev. side) _____
 Other: _____
 Members _____
 Refer To _____

Committee *City Utilities*
 Date _____
 Chair _____
 Action: _____
 Fav, Adv, Hold (see rev. side) _____
 Other: _____
 Members _____
 Refer To _____

Committee _____
 Date _____
 Chair _____
 Action: _____
 Fav, Adv, Hold (see rev. side) _____
 Other: _____
 Members _____
 Refer To _____

Committee *City Utilities*
 Date *1/30/01*
 Chair *Clara Mule*
 Action: _____
 Fav, Adv, Hold (see rev. side) _____
 Other: *De Substitute*
 Members *City Council*
[Signatures]
 Refer To _____

- FINAL COUNCIL ACTION
- 2nd
 - 1st & 2nd Readings
 - Consent
 - V Vote
 - RC Vote

CERTIFIED

CERTIFIED
FEB 5 2001

ATLANTA CITY COUNCIL PRESIDENT
[Signature]

CERTIFIED
FEB 03 2001
 Municipal Clerk

MAYOR'S ACTION

FEB 13 2001
[Signature]