

10-R-0809

(Do Not Write Above This Line)

A RESOLUTION
BY CITY UTILITIES COMMITTEE

A RESOLUTION AUTHORIZING THE
MAYOR ON BEHALF OF THE CITY OF
ATLANTA TO NEGOTIATE AND TO
EXECUTE A MEMORANDUM OF
UNDERSTANDING WITH THE LINRIDGE
MARTIN MANOR NEIGHBORHOOD
ASSOCIATION ("LMMNA") SO AS TO
PROVIDE FOR THE LMMNA TO ASSUME
RESPONSIBILITIES FOR, MAINTAIN AND
MAKE IMPROVEMENTS TO, CERTAIN
CITY OWNED PROPERTY AT 2366
ARMAND ROAD; TO AUTHORIZE THE
CONTINUED USE OF THE PROPERTY AT
2366 ARMAND ROAD AS A PUBLIC
GREENSPACE; AND FOR OTHER
PURPOSES.

ADOPTED BY

MAY 17 2010

COUNCIL

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

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
Date _____
Chair _____
Referred To _____

Committee

Date 5/17/2010

Chair *Walter R. ...*

Action Fav, Adv, Hold (see rev. side)
Other

Members

John ...
John ...
John ...

Refer To

Committee

Date

Chair

Action Fav, Adv, Hold (see rev. side)
Other

Members

Committee

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

FINAL COUNCIL ACTION

2nd 1st & 2nd 3rd

Readings

Consent V Vote RC Vote

CERTIFIED

CERTIFIED
MAY 17 2010

ATLANTA CITY COUNCIL PRESIDENT

Walter R. ...

CERTIFIED
MAY 17 2010

Richard ...
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

MAY 25 2010

Walter R. ...
MAYOR



**A RESOLUTION
BY CITY UTILITIES COMMITTEE**

A RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ATLANTA TO NEGOTIATE AND TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE LINRIDGE MARTIN MANOR NEIGHBORHOOD ASSOCIATION (“LMMNA”) SO AS TO PROVIDE FOR THE LMMNA TO ASSUME RESPONSIBILITIES FOR, MAINTAIN AND MAKE IMPROVEMENTS TO, CERTAIN CITY OWNED PROPERTY AT 2366 ARMAND ROAD; TO AUTHORIZE THE CONTINUED USE OF THE PROPERTY AT 2366 ARMAND ROAD AS A PUBLIC GREENSPACE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta Department of Watershed Management (DWM) acquired the land and structures located at 2366 Armand Road (“Property”) under the National Flood Insurance Act of 1968 from the Federal Emergency Management Agency (FEMA) pursuant to Resolution 92-R-1730; and

WHEREAS, the according the terms of the acquisition between FEMA and DWM, the City agreed to maintain the property as open community space; and

WHEREAS, the funding was allocated via Park Pride for the purposes of using the property as a community open space pursuant to Resolution 09-O-1935; and

WHEREAS, LMMNA desires to assume responsibilities for, improve and manage the property on the City’s behalf, consistent with the deed and the FEMA Agreement for the purpose of utilizing the property as a public greenspace; and

WHEREAS, the LMMNA has developed a master plan for the improvement of the Property that has been approved by the City and the Department of Watershed Management.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY RESOLVES that the Mayor is authorized to negotiate and to execute on behalf of the City of Atlanta a Memorandum of Understanding with the Linridge Martin Manor Neighborhood Association (“LMMNA”) so as to provide for the LMMNA to assume responsibilities for, maintain and make improvements to certain city owned property at 2366 Armand Road, as attached hereto in substantial form as Exhibit “A,” and to authorize the continued use of the property at 2366 Armand Road as public greenspace.

BE IT FURTHER RESOLVED, that the City Attorney is hereby directed to negotiate, prepare, review and present to the Mayor for execution the agreement necessary to effect the intent of the resolution.

BE IT FINALLY RESOLVED, that this Memorandum of Understanding shall not become effective until it is executed by the Mayor and delivered to the Linridge Martin Manor Neighborhood Association (“LMMNA”).

A true copy,

Rhonda Daughin Johnson
Municipal Clerk

ADOPTED by the Atlanta City Council
APPROVED by Mayor Kasim Reed

MAY 17, 2010
MAY 25, 2010



**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF ATLANTA AND THE LINDRIDGE MARTIN MANOR
NEIGHBORHOOD ASSOCIATION**

This Memorandum of Understanding (“MOU”), dated this ____ day of March, 2010, is between the City of Atlanta (“City”) and the Lindridge Martin Manor Neighborhood Association, Inc. (“LMMNA”) (City and LMMNA are individually referred to as “Party” and collectively, “the Parties”).

I. Background

The Armand Road Greenspace is a property located at what is known according to the current address numbering system as 2366 Armand Road, Atlanta, Georgia, which is located what is known as the Lindridge Martin Manor Neighborhood, said property being more particularly described in the plat and legal description attached and incorporated herein as **Exhibit “A”** (“Property”). The Property was purchased through an agreement with the Federal Emergency Management Agency (FEMA) and deeded to the City of Atlanta for flood control purposes, pursuant to that certain deed recorded in the records of Fulton County, Deed Book ____, Page Number ____, dated ____, attached and incorporated herein as **Exhibit “B”** (“Deed”). The Deed includes certain restrictions, which specifically provides that

1. This premises shall be used for purposes consistent with sound land management and use, as that term is defined in Title 44, Code of Federal Regulations, Part 77, as it now appears or may hereafter be amended;
2. The premises shall only be used for public purposes;
3. The premises shall only be used for open space purposes; and
4. There shall not be erected on the premises any structures or other improvements, unless such structures (restrooms excepted) are open on all sides and are functionally related to open space use.

The Deed further provides that the Property shall be maintained and used in accordance with the terms and conditions of that certain agreement between the City and FEMA, dated July 22, 1993 (“FEMA Agreement”).

The Property is currently being maintained as a vacant property. LMMNA desires to improve and manage the Property on the City’s behalf, consistent with the Deed and the FEMA Agreement, for the purpose of utilizing the Property as a community open space. The purpose of this MOU is to set forth the terms and conditions of LLMNA’s management of the Property for such purposes. Specifically, LMMNA has developed a master plan for the improvement of the Property, which has been approved by the City, by and through the Department of Watershed Management, a current copy of which will be maintained by the Department of Watershed Management which shall be substantially



similar to the master plan attached and incorporated herein as Exhibit "C" ("Master Plan").

II. NOW THEREFORE, in consideration of One Dollar (\$1.00) and other benefits flowing mutually between the parties, the sufficiency of which is hereby acknowledged, the Parties agree as follows: General Agreements:

The following is a list of agreements regarding the basic roles of the City and LMMNA in their working relationship established by this MOU concerning the maintenance and improvement of the Property.

- A. The City shall maintain ownership of the Property and nothing in this MOU shall be construed to limit or encumber the City's rights and interests in the Property, as granted to it pursuant to the Deed. LMMNA agrees to take no action to limit or encumber the City's interests in the Property, without the City's express written permission.
- B. The City shall make all final decisions regarding the Property, but shall exercise this authority in the spirit of good faith cooperation with LMMNA, consistent with the Deed, FEMA Agreement, the Master Plan, as may be amended, and this MOU.
- C. All City decisions regarding the Property that arise from this MOU or the Master Plan (i) shall be made by the Commissioner of the Department of Watershed Management or her/his designee, (the "Commissioner").
- D. LMMNA shall develop, maintain, and manage the Property in good order and repair, free from safety hazards and consistent with and subject to the Master Plan, the Deed, the FEMA Agreement and this MOU and in accordance with all applicable local, state and federal laws and regulations, including any required permits or permissions for improvements, at its sole risk and expense (except as otherwise provided by this MOU) The Property shall be maintained at all times as an open space and open to the general public.
- E. No improvements or alterations to the Property shall be made to the Property, other than those included in the Master Plan, without the express, written approval of the City. Specifically, any future improvements or alterations of the Property shall comply with Watershed Management's review and approval process for greenspace projects, improvements, and initiatives, said process to be established by the Commissioner. LMMNA shall not begin any work on the Property until it has received written approval, permits or



permissions from any applicable governmental body or regulatory agency, as may be required for such work.

- F. The City shall have the right to oversee and inspect the Property and all work performed on the Property to ensure that the terms of this MOU are met. The City may stop work on the Property in the event that any work is inconsistent with this MOU, as set forth in Section VIII of this MOU. In the event that LMMNA uses or improves the Property inconsistent with this MOU, the City may undertake such work necessary to comply with this MOU, the costs of which shall be at LMMNA's expense.
- G. Any amendments to the Master Plan shall be approved in writing by the Commissioner and reflected in the current Master Plan maintained by the Department of Watershed Management.
- H. Any personnel employed by or volunteering on behalf of LMMNA shall be deemed "employees" or "volunteers" respectively of LMMNA, and shall not be deemed employees or volunteers of the City. LMMNA shall remain responsible for the supervision, management and control of such employees and volunteers and any payroll, taxation or other employment obligation incident to their work.
- I. LMMNA shall maintain general liability insurance in the amount of \$1,000,000 bodily injury and property damage combined single limit, regarding all work performed at the Property by LMMNA's employees, volunteers, contractors and subcontractors, including but not limited to demolition and construction work.
- J. LMMNA shall not discriminate based upon race, creed, color, religion, sex, national origin, marital status, age, physical handicap, sexual orientation, or gender identity in the implementation of the Master Plan or this MOU.
- K. LMMNA shall not assign nor transfer any of the rights set forth in this MOU without prior written approval from the Commissioner.
- L. LMMNA shall maintain records and accounts in connection with the performance of this MOU that will accurately document all funds received by LMMNA and all costs incurred by LMMNA, both direct and indirect, of whatever nature, for a period of three (3) years from the expiration of this MOU unless otherwise specified by applicable law. The City of Atlanta or its designated representatives shall have the right to examine and copy the records and accounts at all



reasonable times, with advance notification. The City reserves the right to audit the LMMNA's records and accounts. Any such audit will be commenced within one year of the expiration of this MOU.

- M. Title to all of LMMNA's improvements of such a nature as cannot be removed without substantial damage to the Property, or some portion thereof, shall vest in City upon completion of construction or installation.

III. City Responsibilities

In addition to the responsibilities listed above, the City shall have the following responsibilities:

Remove and dead or hazardous trees (as determined by the City Arborist) from the property.

- A. Make certain that all funds committed by the City to the Property are used effectively, efficiently, and as intended.

IV. LMMNA Responsibilities

In addition to the responsibilities listed above, LMMNA shall have the following responsibilities:

- A. Actively pursue and engage in fundraising to support initiatives for enhancing the Property.
- B. Provide routine maintenance so that the Property remains in a safe and attractive condition for public use and so that all capital improvements are adequately maintained to protect the investments made. LMMNA shall submit an annual maintenance plan to the Watershed Management Commissioner no later than January 1 of each year. The maintenance plan shall set forth the maintenance activities that LMMNA proposes to perform in the upcoming year. LMMNA shall not begin said maintenance until the maintenance plan is approved in writing by the Commissioner.
- C. Maintain any plants and vegetation, trails, benches and other approved improvements to the Property to meet the design requirements of the Master Plan and this MOU.



- D. Other than to achieve implementation of the Master Plan, LMMNA shall not add, remove or demolish or substantially change, in whole or in part, any improvements, vegetation, natural features, located on the Property, or alter the topography, without the prior written consent of the Commissioner, who may, in her/his discretion, condition such consent upon the obligation of LMMNA to replace the same by an improvement specified in such consent, or perform work to rehabilitate or mitigate any impacts to vegetation, natural features, or topography
- E. Serve as the major catalyst for interested parties to be involved with the Property through advocacy, volunteer, and/or fundraising activities, and through working with LMMNA Board of Directors.
- F. Notify the Commissioner within twenty-four hours upon discovering a safety, sanitary, and/or maintenance issue that needs to be addressed on the Property
- G. Notify the Commissioner within three hours of learning of any issue regarding or arising on the Property that involves the media or the police or fire departments or emergency medical services.
- H. Make certain that all funds committed by or to LMMNA for use regarding the Property are used effectively, efficiently, and for the general improvement of the Armand Greenspace.

V. Indemnification and Hold Harmless Clause

A Releases and Indemnification:

LMMNA hereby releases and shall indemnify, defend, and hold harmless the City of Atlanta, its elected officials, officers, agents, employees, authorized representatives, successors, and assigns from and against any and all suits, actions, legal or administrative proceedings, claims, debts, demands, damages, liabilities, injuries, obligations, losses, judgments, charges, interest, attorneys' fees, costs, causes of action of every kind and character, whether in law or equity, and expenses of every kind or nature, whether arising before or after the termination of this Agreement and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part, or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault or negligence whether active or passive of Contractor, its officers, employees, agents, subcontractors or of anyone acting under its direction or control or on its behalf in connection with or incidental to this Agreement.

B Negligence and Waiver



LMMNA's aforesaid release, indemnity, and hold harmless obligations, or portions or applications thereof, shall apply even in the event of the fault or negligence, whether active or passive, or strict liability of the parties released, indemnified or held harmless to the fullest extent permitted by law, but in no event shall they apply to liability caused by the willful misconduct or sole negligence of the party released, indemnified, or held harmless. LMMNA specifically waives any immunity provided against this indemnity by any industrial insurance or workers' compensation statute. LMMNA further agrees that this agreement to indemnify, defend, and hold harmless the parties released shall not be limited to the limits or terms of the insurance, if any, required under this Agreement. This Indemnification and Hold Harmless provision shall survive any termination or expiration of this Agreement.

VI. Contractors Performing Work on the Property

- A. LMMNA shall require all contractors and subcontractors performing any work on behalf of LMMNA related to this MOU to sign an agreement with LMMNA that includes the following indemnification provision, with the exception that the name of the contractor or subcontractor shall replace "Contractor" as used herein below:

"Indemnification and Hold Harmless Clause"

(1) Releases and Indemnification:

Contractor hereby releases and shall indemnify, defend, and hold harmless the City of Atlanta, its elected officials, officers, agents, employees, authorized representatives, successors, and assigns from and against any and all suits, actions, legal or administrative proceedings, claims, debts, demands, damages, liabilities, injuries, obligations, losses, judgments, charges, interest, attorneys' fees, costs, causes of action of every kind and character, whether in law or equity, and expenses of every kind or nature, whether arising before or after the termination of this Agreement and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part, or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault or negligence whether active or passive of Contractor, its officers, employees, agents, subcontractors or of anyone acting under its direction or control or on its behalf in connection with or incidental to this Agreement.



(2) Negligence and Waiver

Contractor's aforesaid release, indemnity, and hold harmless obligations, or portions or applications thereof, shall apply even in the event of the fault or negligence, whether active or passive, or strict liability of the parties released, indemnified or held harmless to the fullest extent permitted by law, but in no event shall they apply to liability caused by the willful misconduct or sole negligence of the party released, indemnified, or held harmless. Contractor specifically waives any immunity provided against this indemnity by any industrial insurance or workers' compensation statute. Contractor further agrees that this agreement to indemnify, defend, and hold harmless the parties released shall not be limited to the limits or terms of the insurance, if any, required under this Agreement. This Indemnification and Hold Harmless provision shall survive any termination or expiration of this Agreement.

- B. The following insurance requirements must be met by every contractor and subcontractor that performs work related to the Property for or on behalf of LMMNA, and shall be included in a contract between LMMNA and each of its contractors and subcontractors. Compliance is required by all contractors of any tier. Insurance requirements are based on information received as of the date of this MOU. The City reserves the right to adjust or waive any or all requirements based on receipt of additional information pertinent to this MOU.
1. LMMNA shall not allow its contractors or subcontractors to commence any work of any kind pursuant to this MOU until all Insurance requirements contained in this MOU shall have been complied with, and until evidence of such compliance satisfactory to the City as to form and content has been filed with the City. The Accord Certificate of Insurance or a pre-approved substitute is the required form in all cases where reference is made to a Certificate of Insurance or an approved substitute.
 2. Any and all companies providing insurance required pursuant to this MOU must meet the minimum financial security requirements set forth below. These requirements conform to the ratings published by A.M. Best & Company in the current Best's Key Rating Guide - Property - Casualty. The ratings for each company must be indicated on the Accord Certificate of Insurance form. For all contracts, regardless of size, companies providing Insurance under this MOU must have a current:
 - i. Best's rating not less than A-; and current;
 - ii. Best's Financial Size Category not less than Class IX; and
 - iii. Authorization issued by the Insurance Commissioner, State of Georgia, to conduct and transact insurance contracts.



If the issuing company does not meet these minimum requirements, or for any other reason shall be or become unsatisfactory to the City, written notification shall be mailed by the City to the LMMNA, who shall promptly itself, or require its contractor to, obtain a new policy issued by an insurer acceptable to the City, and shall submit evidence of the same to the City as required herein.

3. Workers' Compensation and Employer's Liability Insurance

Every contractor and subcontractor that performs work related to the Property for or on behalf of LMMNA shall procure and maintain Workers' Compensation and Employer's Liability Insurance in the following limits, such insurance to cover each and every employee who is or may be engaged in work related to the Nature Preserve:

Workers' Compensation Statutory

Employer's Liability

Bodily Injury by Accident/Disease \$100,000 each accident

Bodily Injury by Accident/Disease \$100,000 each employee

Bodily Injury by Accident/Disease \$500,000 policy limit

4. Automobile Liability Insurance

Every contractor and subcontractor that performs work related to the Property for or on behalf of LMMNA shall procure and maintain Automobile Liability Insurance with not less than \$500,000 Bodily Injury and Property Damage combined single limit. The following extensions of coverage shall be provided and shall be indicated on the Certificate of Insurance:

1. Comprehensive Form
2. Owned, Hired, Leased and Non-owned vehicles to be covered.

In the event the contractor or subcontractor does not own any automobiles in the corporate name, non-owned and hire automobile coverage will be maintained in the amount indicated above.

5. Upon failure of LMMNA to ascertain that each of its contractors and subcontractors furnishes, delivers, and maintains such insurance as



herein provided, this MOU, at the election of the City, may be declared forthwith suspended, discontinued, or terminated. Failure of a LMMNA's contractor or subcontractor to take out and/or to maintain any required insurance shall not relieve the LMMNA, its contractors or subcontractors, from any liability under this MOU, nor shall these requirements be construed to conflict with the obligation of this MOU concerning indemnification.

6. The City and LMMNA shall be covered as an additional insured under any and all Insurance required pursuant to this MOU, and such insurance shall be primary with respect to the additional insured. Confirmation of this shall appear on the Accord Certificate of Insurance and on any and all applicable Insurance policies.
7. Each and every agent acting as Authorized Representative on behalf of a company affording coverage pursuant to this MOU shall warrant when signing the Accord Certificate of Insurance that specific authorization has been granted by the company for the agent to bind coverage as required and to execute the Accord Certificate of Insurance as evidence of such coverage. In addition, each every agent shall warrant when signing the Accord Certificate of Insurance that the agent is licensed to do business in the State of Georgia and that the company or companies are currently in good standing in the State of Georgia.

VII. Term of MOU

This MOU will commence as of the date of its full execution, as shall be reflected on the first page of the MOU, and the MOU will continue in effect for five (5) years. Upon mutual agreement of the Parties, the Parties may renew this MOU for one additional five-year term.

VIII. Suspension of Work and Termination of MOU

- A. In the event that the City determines that any work being performed on the Property, or any failure to perform work on the Property, or any use of the Property is inconsistent with the Master Plan, this MOU, and/or the Deed, the City shall immediately notify LMMNA in writing. LMMNA shall have three (3) days from said notice to develop and implement a corrective plan, which shall be provided to the City and meet with the City's approval. The City may provide additional time to correct such conditions in the event that corrective action has begun within said three (3) days but cannot be completed within that time period, and shall make such determination based



upon the seriousness of the matter, the safety implications of the matter, and the amount of time that it would reasonably take to implement that type of correction. The City shall be reasonable with regard to granting extensions of time if LMMNA indicates that it needs additional time and is making a good faith effort to implement the corrective action.

1. LMMNA shall use its best efforts to implement the corrective action within the time set forth by the City in its written notice. In the event that LMMNA needs additional time to implement the corrective action, it shall request an extension of time for a defined time period.
 2. In the event that LMMNA does not make a good faith effort to implement the corrective action within the time frame established by the City, either originally or in an extension of time, the City shall have the right to suspend the offending project until the corrective action is implemented, at no cost to the City.
 3. In the event that the offending action is a failure to perform work, including but not limited to maintenance work, and in the event that LMMNA does not make a good faith effort to implement the corrective action within the time frame established by the City, either originally or in an extension of time, the City shall have the right to perform the work or direct that the work be performed. LMMNA shall reimburse the City for the reasonable cost of performing the work.
 4. In the event that the City and LMMNA disagree about the corrective action to be implemented, the Parties shall attend Alternative Dispute Resolution ("ADR") in an attempt to resolve the matter. The work at issue shall be suspended until the completion of the ADR.
 5. Should the Parties be unable to resolve the corrective action issue after ADR, the City shall have the right to terminate this MOU for cause, at no cost to the City.
- B. In the event that the City determines that any work on or use of the Property creates a safety hazard or is in violation of the Deed, the City may suspend LMMNA's use of the Property and shall bear no cost associated with the suspension, effective upon receipt of written notice from the City to LMMNA. The City shall immediately notify the LMMNA, in writing and by telephone that use of the Property has been suspended and the corrective action required. Use of the Property shall remain suspended until the corrective action is implemented.
- C. In the event that the City determines that any failure to perform work on the Property is creating a safety hazard, the City may close the Property, and shall bear no cost associated with the closure. The City shall immediately



notify the LMMNA, in writing and by telephone that the Property has been closed and the corrective action required. The City may keep the Property closed until the corrective action is implemented.

- D. Either Party shall have the right to terminate this MOU without cause at any time prior to the MOU's expiration by giving written notice to the other Party at least thirty (30) days prior to the date such termination is to be effective, and such termination shall be at no cost to either of the Parties. In the event of such termination, LMMNA shall remain obligated to utilize or cause to be utilized all donated and/or committed funds as intended by the donor, pursuant to section IV N above.

IX. Miscellaneous Provisions

- A. Entire MOU. This MOU supersedes all prior discussions and Agreements or MOUs among the parties with respect to the subject matter hereof. This MOU shall not be modified or amended in any respect except by written instrument executed by or on behalf of the Parties in the same manner as this MOU is executed and specifically referencing such a modification or amendment.
- B. Binding effect. This MOU shall inure to the benefit of and be binding upon the Parties hereto, their heirs, successors, executors and assigns.
- C. Severability. In the event any provision or portion of this MOU is held by any Court of competent jurisdiction to be invalid or unenforceable, such holding shall not affect the remainder hereof, and the remaining provisions shall continue in full force and effect to the same extent as would have been the case had such invalid or unenforceable provisions or portion never been a part hereof.
- D. Further assurances. On and after the Effective Date, each Party shall, at the request of any other, make, execute and deliver or obtain and deliver all such certificates, resolutions and other instruments and documents, and shall do or cause to be done all such other things which any Party may reasonably require to effectuate the provisions and the intentions of this MOU.
- E. Exhibits. Each and every exhibit referred to or otherwise mentioned in this MOU is attached to this MOU and is, and shall be, construed to be made a part of this MOU by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the



same effect as if each exhibit were set forth in full at length every time it is referred to or otherwise mentioned.

F. Rights cumulative. Except as expressly limited by the terms of this MOU, all rights, powers and privileges conferred hereunder shall be cumulative and not restrictive of those provided at law or in equity.

G. Notices. All notices, requests, demands or other communications required or permitted to be given hereunder shall be in writing and shall be addressed and delivered by hand or by certified mail, return receipt requested, or by UPS Next Day Air Note or overnight courier, or by hand delivery by reputable courier, to each Party at the addresses set forth below. Any such notice, request, demand or other communication shall be considered given or delivered, as the case may be, on the date of receipt. Rejection or other refusal to accept or inability to deliver because of changed address of which proper notice was not given shall be deemed to be receipt of the notice, request, demand or other communication. By giving prior written notice thereof, any Party may from time to time and at any time change its address for notices hereunder. Legal counsel for the respective Parties may send to the other Parties any notices, requests, demands or other communications required or permitted to be given hereunder by such Party.

- a. To City: Commissioner of Watershed Management
Suite 5400
55 Trinity Avenue
Atlanta, Georgia 30303
- b. and Chief Operating Officer
Office of the Mayor, Suite 2400
55 Trinity Avenue
Atlanta, Georgia 30303
- c. with a copy to: City Attorney
68 Mitchell St., SW
Suite 4100
Atlanta, Georgia 30303
- d. LMMNA Lindridge Martin Manor Neighborhood Association
P.O. Box 14016
Atlanta, GA 30324

H. Assignment. The interests of the Parties may not be assigned without prior written consent from the other party.

I. Governing law. This MOU, and the rights and obligations of the parties hereunder, shall be governed by and construed in accordance with the laws of the State of Georgia, without giving effect to principles of conflicts of



laws thereof. The Parties hereby fix jurisdiction and venue for any action brought with respect to this MOU in Fulton County, Georgia.

- J. No partnership. This MOU shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, nor to impose any partnership obligations or liabilities on any Party. Furthermore, no Party shall have any right, power or authority to enter into any MOU or undertaking of or on behalf of, to act as or be an agent or representative of, or to otherwise bind any other Party.
- K. Time is of the essence. Time is and shall be of the essence in this MOU.
- L. Waiver. The failure of any Party to seek redress for any violation of, or to insist upon the strict performance of, any term of this MOU will not prevent a subsequent violation of this MOU from being actionable by such Party.



IN WITNESS WHEREOF, the City and LMMNA have caused this MOU to be executed by their duly authorized officials, the day and year first above written.

LMMNA

ATTEST:
Sworn to and subscribed
Before me this ____ day
of _____, 2008.

By: _____
(print)
Its:

ATTEST:

CITY OF ATLANTA:

Municipal Clerk (Seal)

KASIM REED, MAYOR

RECOMMENDED:

Commissioner,

Department of Watershed Management

APPROVED AS TO FORM:

City Attorney

RCS# 241
5/17/10
2:50 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

EXCEPT 10-O-0743, 10-R-0839

ADOPT

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

Y Smith	NV Archibong	Y Moore	Y Bond
Y Hall	Y Wan	Y Martin	NV Watson
Y Young	Y Shook	B Bottoms	Y Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell

CONSENT I

		05-17-10
ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 10-O-0741	35.10-R-0903	57. 10-R-0828
2. 10-O-0742	36. 10-R-0868	58. 10-R-0829
3. 10-O-0744	37. 10-R-0869	59. 10-R-0830
4. 10-O-0745	38. 10-R-0871	60. 10-R-0831
5. 10-O-0746	39. 10-R-0872	61. 10-R-0832
6. 10-O-0747	40. 10-R-0873	62. 10-R-0833
7. 10-O-0748	41. 10-R-0809	63. 10-R-0834
8. 10-O-0796	42. 10-R-0810	64. 10-R-0835
9. 10-O-0798	43. 10-R-0811	65. 10-R-0836
10. 10-O-0889	44. 10-R-0812	66. 10-R-0837
11. 10-O-0893	45. 10-R-0814	67. 10-R-0838
12. 10-O-0627	46. 10-R-0815	68. 10-R-0840
13. 10-O-0330	47. 10-R-0816	69. 10-R-0841
14. 10-O-0331	48. 10-R-0819	70. 10-R-0842
15. 10-O-0632	49. 10-R-0820	71. 10-R-0843
16. 10-O-0633	50. 10-R-0821	72. 10-R-0844
17. 10-O-0730	51. 10-R-0822	73. 10-R-0845
18. 10-O-0731	52. 10-R-0823	74. 10-R-0846
19. 10-O-0732	53. 10-R-0824	75. 10-R-0847
20. 10-O-0733	54. 10-R-0825	76. 10-R-0848
21. 10-O-0735	55. 10-R-0826	77. 10-R-0849
22. 10-O-0779	56. 10-R-0827	78. 10-R-0850
23. 10-R-0882		79. 10-R-0851
24. 10-R-0883		80. 10-R-0852
25. 10-R-0884		81. 10-R-0853
26. 10-R-0885		82. 10-R-0854
27. 10-R-0887		83. 10-R-0856
28. 10-R-0638		84. 10-R-0857
29. 10-R-0639		85. 10-R-0858
30. 10-R-0818		
31. 10-R-0859		
32. 10-R-0860		
33. 10-R-0861		
34. 10-R-0862		



09-0 -1935

AN ORDINANCE

BY: COUNCILMEMBER ANNE FAUVER

AN ORDINANCE TRANSFERRING FUNDS FROM THE DISTRICT 6 COUNCILMEMBER EXPENSE ACCOUNT TO PARK PRIDE ON BEHALF OF THE LINDRIDGE/MARTIN MANOR NEIGHBORHOOD ASSOCIATION TO ASSIST IN THE IMPROVEMENT AND MAINTENANCE OF GREENSPACE AT 2366 ARMAND ROAD NE; AND FOR OTHER PURPOSES.

WHEREAS, The City of Atlanta Department of Watershed Management (DWM) acquired the house located on 2366 Armand Road November 29th, 1993 under the National Flood Insurance Act of 1968 from the Federal Emergency Management Agency (FEMA); and

WHEREAS, According to the terms of the agreement between FEMA and the DWM, the City demolished the home located on the property and let the property go back to its natural state; and

WHEREAS, as a term of the Agreement between FEMA and the DWM, the City agreed to maintain the property as open space; and

WHEREAS, the Lindridge/Martin Manor Neighborhood Association (LMMNA) has developed a Master Plan for the property; and

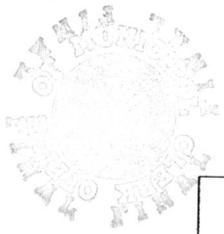
WHEREAS, the LMMNA and the Department of Watershed Management are in the process of developing a Memorandum of Understanding (MOU) to govern the maintenance and upkeep of the property; and

WHEREAS, the District 6 Councilmember desires to assist in funding the maintenance and upkeep of the property as prescribed in the LMMNA Master Plan and planned MOU with the City.

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

SECTION 1: That the Chief Financial Officer is authorized to remit payment to the Park Pride in the amount of \$22,350.00 for completion of projects identified in the LMMNA Master Plan and planned MOU with the City.

SECTION 2: That all payments shall be charged to and made from:



Amount	Fund	GL Dept #	Acct	Function Activity Number
\$22,350	1001	200101	5790001	1512000
	GF	NDP Reservation of Funds	Contingency Fd. Unrestricted	Accounting

SECTION 3: That after completion of specific projects items, the Lindridge/Martin Manor Neighborhood Association (LMMNA) will invoice Park Pride. Funds to be released after satisfactory inspection by the Commissioner of Watershed Management or his designee.

SECTION 4: That all ordinances and parts of ordinances in conflict herewith are hereby repealed for purposes of this ordinance only, and only to the extent of the conflict.

MUNICIPAL CLERK
ATLANTA, GEORGIA

A RESOLUTION

BY COUNCILMEMBER MARY DAVIS

92-R-1730

**AUTHORIZING THE CITY TO REQUEST THE FEDERAL
EMERGENCY MANAGEMENT AGENCY TO CONSIDER
PROPERTY AT 2366 ARMAND DRIVE AS PROPERTY
ELIGIBLE FOR PURCHASE UNDER SECTION 1362 OF
THE NATIONAL FLOOD INSURANCE PROGRAM**

WHEREAS, the property located at 2366 Armand Drive, N.E., within the City of Atlanta has been flooded three times over a five-year period, with an average damage of 25 percent or more of the value of the structure, causing great distress to its owner and neighboring residents; and

WHEREAS, pursuant to Section 1362 of the National Flood Insurance Program (NFIP), the Federal Emergency Management Agency (FEMA) administers the Flooded Property Purchase Program; and

WHEREAS, one of the goals of the Flooded Property Purchase Program is to provide an opportunity for owners of repetitively and substantially damaged structures to be permanently removed from flood risk areas; and

WHEREAS, the City of Atlanta would be required to enter into an agreement with FEMA to, following FEMA's purchase of the property, take title to and manage the property in a manner consistent with sound land use practices, as determined by the Federal Insurance Administration;

NOW THEREFORE, BE IT RESOLVED that the City of Atlanta request FEMA to consider the property located at 2366 Armand Drive, N.E., for eligibility as a Flooded Property Purchase Program project.

R-92-027

A true copy,

Olivia F. Woods
Municipal Clerk, C.M.C.

ADOPTED by City Council
APPROVED by the Mayor

November 02, 1992
November 05, 1992

This Deed is being re-recorded to be recorded after the Warranty Deed dated November 29, 1993 between Diana K. Dargitz to United States of America

FULTON COUNTY DEED AND RECORDED 93 DEC -9 AM 10: 21 JOANITA HICKS CLERK, SUPERIOR COURT

QUITCLAIM DEED

THIS DEED, made this 29 day of November, 1993, by and between the UNITED STATES OF AMERICA, acting by and through the Director of the Federal Emergency Management Agency, Washington, D.C., 20472, hereinafter referred to as GRANTOR, and the City of Atlanta, Georgia, a Municipal Corporation, hereinafter referred to as GRANTEE.

WITNESSETH:

WHEREAS, the National Flood Insurance Act of 1968, Public Law 90-448, as amended, in 42 U.S. C. 4001-4129, herein referred to as the ACT, stated that a program of Flood Insurance can promote the public interest by providing appropriate protection against the perils of flood losses and encouraging sound land use by minimizing the exposure of property to flood losses; and

WHEREAS, Section 1362 of Public Law 90-448, as amended, provides the Director of the Federal Emergency Management Agency, hereinafter referred to as FEMA, with the authority to negotiate for the purchase and subsequent transfer to a state or local government of flood damaged, improved real property under certain conditions; and

WHEREAS, the Director, acting by and through the Federal Emergency Management Agency has entered into a Cooperative Agreement with the Grantee dated July 30, 1993 and herein incorporated by reference, in which the Grantee will use the property described hereafter under the terms and conditions thereunder; and

WHEREAS, the Director is authorized by Section 1362 of the Act to acquire for subsequent transfer to local governments certain properties and to transfer to local governments said properties; and

WHEREAS, the Director, acting by and through the Federal Emergency Management Agency, has determined that it is necessary in order to promote the public interest for the purposes provided in the Act to transfer fee simple title to this certain real property owned by the Grantor;

NOW, THEREFORE, the Grantor, in consideration of the sum of One Dollar (\$1.00), the receipt and sufficiency of which is hereby acknowledged, does hereby remise, release, quitclaim and convey unto said Grantee the following described property:

Project No. 93-05, Parcel No. 01.

All that tract or parcel of land lying and being in Land Lots 5 and 49 of the 17th District of Fulton County, Georgia, being part of Lot 7, Block H, Martin Manor Subdivision, as per plat thereof recorded in Plat Book 43, Page 45, Fulton County, Georgia, records, which plat is incorporated herein and made a part hereof by reference, and being improved property known as 2366 Armand Road, N.E., Atlanta, Georgia 30324. More particularly described as follows:

Beginning at an iron pin on the Northwesterly side of Armand Road 393.3 feet Southwesterly along said Road from the intersection formed by the Northwestern side of Armand Road and the Southwesterly side of Lindbergh Drive, when said Street lines are extended to for an angle instead of a curve, said iron pin being at the Southeasterly corner of Lot 6 of said Block, and running thence Southwesterly along the Northwesterly side of Armand Road, 130 feet to an iron pin; thence Northwesterly along a line forming an interior angle of 91 degrees 02 minutes with the line last run, 183.4 feet, more or less, to the center line of Peachtree Creek;

GRANTEE REFERENCE 94 FEB -9 AM 8: 30 FULTON COUNTY DEED AND RECORDED

JOANITA HICKS CLERK, SUPERIOR COURT

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thence Northeasterly, along the center line of said Creek, and following the meanderings thereof, 135 feet, more or less, to the Southwesterly corner of Lot 6; a distance of 194 feet more or less, to the Northwesterly side of Armand Road and the point of beginning; being improved property known as No. 2366 Armand Road, N.E., according to the present system of numbering houses in the City of Atlanta.

This conveyance is made upon the express conditions that:

1. The premises shall only be used for purposes consistent with sound land management and use, as that term is defined in Title 44, Code of Federal Regulations, part 77, as it now appears or may hereafter be amended;
2. The premises shall only be used for public purposes;
3. The premises shall only be used for open space purposes; and
4. There shall not be erected on the premises any structures or other improvements, unless such structures (restrooms excepted) are open on all sides and are functionally related to open space use.

*thence southeasterly along the line dividing Lots 7 and 6 Any breach or threatened breach of the above conditions may be enjoined upon application by the United States of America. In addition, the Director, Federal Emergency Management Agency or his successor, shall have the option to repurchase the above described premises for the sum of One Dollar (\$1.00), if the Grantee, its successors or assigns shall have failed to remove or correct any violation of the above conditions within thirty (30) days after the mailing of written notice thereof by said Director or his successor, to the Grantee, its successors or assigns.

Grantee agrees that it shall not convey the property or interest therein without the express written approval and consent of the Federal Insurance Administrator and/or the Director, Federal Emergency Management Agency or its or their successors or assigns.

The above conditions and restrictions, along with the right to enforce same are deemed to be covenants running with the land in perpetuity and are binding on subsequent successors, grantees or assigns.

The Grantor releases and quitclaims unto the Grantee and its assigns, all right, title, and interest which Grantor may have in the banks, bed and waters opposite to or fronting upon said land, and in any alleys, roads, streets, ways, strips, gores and railroad rights-of-way abutting or adjoining said lands, and in any means of ingress and egress appurtenant thereto.

TO HAVE AND TO HOLD the said premises with all and singular the rights and privileges thereunto belonging unto the said Grantee and its assigns forever.

THIS conveyance is expressly subject to rights outstanding in third parties for existing easements for public roads and highways, public utilities, railroads and pipelines.

WITNESS the following signature and seal on this day and year first above written.

UNITED STATES OF AMERICA
By: Donald L. Collins
Donald L. Collins, Acting Administrator
FEDERAL EMERGENCY MANAGEMENT AGENCY, GRANTOR
(Witness) [Signature] As to the United States of America

ACCEPTED OF THE CITY OF ATLANTA
By: [Signature]
MAYOR
(Witness) [Signature] As to the City of Atlanta
ATTEST: DEPUTY CLERK [Signature]

(AFFIX CORPORATE SEAL)
seal
D.L.C.

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