

13-R-3324

(Do Not Write Above This Line)

First Reading

Committee _____
Date _____
Chair _____
Referred To _____

FINAL COUNCIL ACTION

2nd 1st & 2nd 3rd
Readings
 Consent V Vote RC Vote

A RESOLUTION BY
COMMUNITY DEVELOPMENT/HUMAN RESOURCES
COMMITTEE

A RESOLUTION AUTHORIZING THE MAYOR, OR HIS
DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA TO
EXECUTE A MEMORANDUM OF UNDERSTANDING
BETWEEN THE GEORGIA DEPARTMENT OF
TRANSPORTATION, THE STATE ROAD AND TOLLWAY
AUTHORITY AND CITY OF ATLANTA CONCERNING
CERTAIN PORTIONS OF PROPERTY UNDER THE CONTROL
OF THE GEORGIA DEPARTMENT OF TRANSPORTATION TO
BE DEVELOPED BY THE CITY OF ATLANTA LOCATED
ALONG THE PROPOSED GEORGIA 400 TRAIL ON BEHALF
OF THE DEPARTMENT OF PARKS, RECREATION AND
CULTURAL AFFAIRS; AND FOR OTHER PURPOSES.

Committee CDAR
Date 4/9/13
Chair Gordon Stephens
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 _____

CERTIFIED
JUL 15 2013
ATLANTA CITY COUNCIL PRESIDENT
[Signature]

CERTIFIED
JUL 15 2013
Ronda Daughlin Johnson
MUNICIPAL CLERK

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1ST ADOPT 2ND READ & REFER
- PERSONAL PAPER REFER

Committee _____
Date _____
Chair _____
Action _____
Fav, Adv, Hold (see rev. side)
Other _____
Members _____
ADOPTED BY
JUL 15 2013
COUNCIL
Refer To _____

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

MAYOR'S ACTION

APPROVED
JUL 24 2013
WITHOUT SIGNATURE
BY OPERATION OF LAW

Date Referred
Referred To:

Date Referred
Referred To:

Date Referred:

Referred To:



**A RESOLUTION BY
COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE**

A RESOLUTION AUTHORIZING THE MAYOR, OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN THE GEORGIA DEPARTMENT OF TRANSPORTATION, THE STATE ROAD AND TOLLWAY AUTHORITY AND CITY OF ATLANTA CONCERNING CERTAIN PORTIONS OF PROPERTY UNDER THE CONTROL OF THE GEORGIA DEPARTMENT OF TRANSPORTATION TO BE DEVELOPED BY THE CITY OF ATLANTA LOCATED ALONG THE PROPOSED GEORGIA 400 TRAIL ON BEHALF OF THE DEPARTMENT OF PARKS, RECREATION AND CULTURAL AFFAIRS; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta (“City”) has identified the need and opportunity to expand the existing network of trails and associated green-space in North Buckhead, specifically a desired trail would run to and eventually through an eight (8) acre green-space site within the City’s Georgia Department of Transportation’s (“GDOT”) right-of-way under and around Georgia 400 (“Mountain Way Commons”); and

WHEREAS, Mountain Way Commons will be a key destination for the Georgia 400 Trail; and

WHEREAS, the City and GDOT and the State Road and Tollway Authority (“SRTA”) desire to enter into a Memorandum of Understanding to facilitate the City’s development of Mountain Way Commons along Georgia 400 (the “MOU”); and

WHEREAS, the MOU will authorize the City through its Department of Parks, Recreation and Cultural Affairs (“DPRCA”) the coordination and preparation of the preliminary engineering activities, including environmental analysis and documents and engineering design in compliance with federal and state regulations, construction bidding administration and oversight of construction and maintenance of Mountain Way Commons at the City’s sole expense; and

WHEREAS, the Commissioner of DPRCA recommends entering in the MOU.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor, or his designee, is authorized to enter into the MOU in substantially similar form as attached hereto as Exhibit A with GDOT and SRTA for the development of Mountain Way Commons for a time period of twenty (20) years, or until the right-of-way is required for GDOT purposes, whichever comes first.

BE IT FINALLY RESOLVED, that the MOU will not become binding upon the City and the City shall incur no obligation or liability thereunder until the MOU has been approved by the City Attorney as to form, executed by the Mayor, attested to by the Municipal Clerk and delivered to GDOT.

A true copy,

Deputy Clerk

ADOPTED by the Atlanta City Council
APPROVED as per City Charter Section 2-403

JUL 15, 2013
JUL 24, 2013



EXHIBIT A

MOUNTAIN WAY COMMONS

Memorandum of Understanding



**Memorandum of Understanding
between
Georgia Department of Transportation
and
State Road and Tollway Authority
and
City of Atlanta**

**Mountain Way Commons
City of Atlanta County Project Number: XXXX**

1.0 PURPOSE

This Memorandum of Understanding (“MOU”) is entered into jointly by the Georgia Department of Transportation (“GDOT”), the City of Atlanta and the State Road and Tollway Authority (“SRTA”). The purpose of this MOU is to coordinate and document each entity’s respective roles and responsibilities related to the Mountain Way Commons Project (the “Project”).

2.0 BACKGROUND

The City of Atlanta has identified the need and opportunities to expand the existing network of trails and associated greenspace in North Buckhead. The desired trail would run to and eventually through an eight (8) acre greenspace site within the City of Atlanta on GDOT’s Right-of-Way under and around Georgia 400. It is anticipated that the Mountain Way Commons will be a key destination for the Georgia 400 Trail.

Pursuant to the terms of a 1991 agreement between SRTA and GDOT which addresses the Georgia 400 Extension, modified on September 24, 2010, the GDOT may landscape and maintain an area including the proposed location of Mountain Way Commons, provided that if the GDOT elects not to landscape and/or maintain said area, SRTA may do so.

3.0 LEGAL DESCRIPTION

The location of the Mountain Way Commons is as follows (“GDOT Property”): TO BE INSERTED BY CITY UPON COMPLETION OF FINAL SURVEY, WHICH WILL BE BASED ON ATTACHED EXHIBIT A.

4.0 ROLES OF THE PARTIES

Design, analysis, and construction of this Project are entirely the responsibility of the City of Atlanta. The City of Atlanta is responsible for the coordination and preparation of the preliminary engineering activities, including environmental analysis and documents and engineering design in compliance with federal and state regulations. The City of Atlanta is responsible for construction bidding administration and will oversee construction and maintenance of any City of Atlanta initiated trail or greenspace improvements at Mountain Way Commons (the Project). Upon the issuance of the encroachment permit, the City of Atlanta will be responsible for all landscape maintenance of the GDOT Property associated with the Mountain Way Commons at its sole cost and expense and will be responsible for all maintenance of permitted uses as set forth below at its sole cost and expense.

GDOT and SRTA maintain all rights of access, operations and use to the GDOT Property. At all times, the City of Atlanta shall take all necessary steps to not interfere with GDOT and SRTA access, operations



and use of the GDOT Property or any of materials, supplies, equipment or buildings currently located on the GDOT Property or which may be placed on the GDOT Property at a later date. The failure of the City of Atlanta to comply with these responsibilities may result in GDOT's termination of this MOU and the Special Encroachment Permit. However, GDOT agrees to notify and allow the City of Atlanta reasonable time to correct of any failure to comply with the responsibilities contained this MOU or the Special Encroachment Permit prior to termination.

At all times, the City of Atlanta shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury or loss to employees performing its work and other persons, including without limitations the General Public, who may be affected thereby. The failure of the City of Atlanta to comply with these responsibilities may result in GDOT's termination of this MOU and the Special Encroachment Permit. However, GDOT agrees to notify and allow the City of Atlanta reasonable time to correct of any failure to comply with the responsibilities contained this MOU or the Special Encroachment Permit prior to termination.

5.0 PERMITTED USE OF GDOT PROPERTY

Only those limited uses listed herein will be permitted on the GDOT Property. Any activities or improvements not listed herein are strictly prohibited and may result in GDOT's termination of this MOU and the Special Encroachment. However, GDOT agrees to notify and allow the City of Atlanta reasonable time to correct of any failure to comply with the responsibilities contained this MOU or the Special Encroachment Permit prior to termination. At anytime, GDOT may determine that a use that was once permitted is no longer permitted, and may thereafter order that the City of Atlanta immediately stop the non-permitted activity. However, GDOT agrees to notify and allow the City of Atlanta reasonable time to correct or remove any activities or improvements that are no longer permitted and to restore the site.

The following activities/improvements are permitted:

- Benches
- Trash Receptacles
- Erosion Control Measures
- Wayfinding Signage
- Lighting
- 911 Call Boxes
- Dog Curbing Stations
- Fencing, Gates, Bollards or other entry control measures
- Bicycle/Skating Trails (Paved)
- Bicycle Trails (Unpaved)
- Jogging Paths (Hard Surface)
- Jogging Paths (Soft Surface)
- Hiking Trails
- Natural Areas
- Pedestrian Bridges
- Sidewalks
- Outdoor Seating Areas
- Sculptural Installations
- Murals (not to be installed on GDOT structures)
- Decorative Walls
- Security Cameras
- Bike Racks
- Community Garden plots



- Play/Recreational/Exercise Equipment meeting current ASTM safety standards and with review by GDOT staff

All of the above listed uses shall be noninvasive and shall not attach to any GDOT structure. In the event that any of these above listed uses are invasive or attach to any GDOT structure, prior GDOT approval must be obtained first.

6.0 ENCROACHMENT EXPIRATION

The Project is subject to Federal Highway Administration approval of the Categorical Exclusion and execution of a Special Encroachment Permit between GDOT and the City of Atlanta. The allowance of the trail and associated greenspace (Mountain Way Commons) within Georgia 400 is temporary. Because the trail is a temporary recreational use of land, that will cease once completion of the highway or transportation project resumes, including but not limited to the widening Georgia 400 or other transportation uses, it is not protected under the provision of Section 4(f), [4(f) of the Department of Transportation Act of 1966]. Should GDOT widen Georgia 400 or require removal of the trail for any other purpose, GDOT will not be responsible for replacing or relocating the trail and/or greenspace amenities.

Additionally, GDOT will allow the trail and associated greenspace (Mountain Way Commons) within Georgia 400 right-of-way for a time period of twenty (20) years, or until the Right-of-Way is required for GDOT purposes whichever comes first. If trail or greenspace improvements removal is required, GDOT will provide the City of Atlanta a minimum of One Hundred Twenty (120) days notice. At that time, it will be the responsibility of the City of Atlanta to close the trail to the public with barricades at the trail or greenspace entrance(s) and orange barrier fence between the trail and public roads. If trail removal or associated greenspace (Mountain Way Commons) is not required within twenty (20) years of construction, this MOU and the special encroachment permit will be considered expired. At that time, a new permit application from the City of Atlanta to GDOT will be required to maintain the trail and associated greenspace (Mountain Way Commons) access on the GDOT Property.

7.0 CONCLUSION

In signing the MOU, the undersigned understand and accept the roles and responsibilities assigned to each of the parties. Each of the parties agrees to pursue maximum cooperation and communication to ensure that the Project as completed fully complies with applicable requirements. This MOU may be amended, as necessary, by mutual consent of all parties upon issuance of written notification of such modification, signed and dated by all parties. This MOU shall become effective upon signature by all parties and shall continue in effect until the proposed trail and/or associated greenspace (Mountain Way Commons) is permanently removed, or twenty (20) years from construction of the trail, whichever comes first.

IN WITNESS WHEREOF, said Parties have hereunto set their hands and affixed their seals this _____ day of _____, 2013.

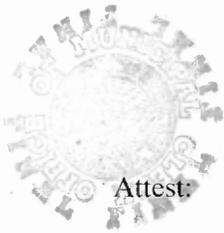
GEORGIA DEPARTMENT OF
TRANSPORTATION

CITY OF ATLANTA

By:(Seal)
Keith Golden, P.E.

By:(Seal)
Kasim Reed, Mayor

Signed, sealed and delivered



Attest:

This ____ day of _____,
2013, in the presence of:

Angela O. Whitworth
Treasurer

Municipal Clerk (Seal)

Approved:

Commissioner, Department of Parks,
Recreation and Cultural Affairs

Approved as to form:

Senior Assistant City Attorney

State Road and Tollway Authority

By:(Seal)

Name and Title

Signed, sealed and delivered

This ____ day of _____,
2013, in the presence of:

Witness

Notary Public

This Agreement, approved by
_____, the _____



day of _____, 2013.

Attest:

Name and Title

Federal Employer Identification
Number

RCS# 2897
7/15/13
3:34 PM

Atlanta City Council

CONSENT AGENDA SECTION I (PAGES 3-20)
EXCEPT 1138;1189;1154
ADOPT

YEAS: 10
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 4
EXCUSED: 0
ABSENT 2

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

+

ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	07-01-13 ITEMS ADVERSE ON CONSENT
1. 13-O-1127 2. 13-O-1153 3. 13-O-0311 4. 13-O-1122 5. 13-O-1123 6. 13-O-1139 7. 13-O-1183 8. 13-O-1185 9. 13-O-1119 10. 13-O-1120 11. 13-O-1121 12. 13-O-1125 13. 13-O-1155 14. 13-R-3312 15. 13-R-3315 16. 13-R-3325 17. 13-R-3326 18. 13-R-3266 19. 13-R-3322 20. 13-R-3323 21. 13-R-3316 22. 13-R-3317 23. 13-R-3306 24. 13-R-3307 25. 13-R-3308 26. 13-R-3318 27. 13-R-3375 28. 13-R-3313 29. 13-R-3320 30. 13-R-3324 31. 13-R-3327 32. 13-R-3328 33. 13-R-3329 34. 13-R-3330 35. 13-R-3331	36. 13-R-3332 37. 13-R-3333 38. 13-R-3334 39. 13-R-3335 40. 13-R-3336	41. 13-R-3337 42. 13-R-3338 43. 13-R-3339 44. 13-R-3340 45. 13-R-3341 46. 13-R-3342 47. 13-R-3343 48. 13-R-3344 49. 13-R-3345 50. 13-R-3346 51. 13-R-3347 52. 13-R-3348 53. 13-R-3349 54. 13-R-3350 55. 13-R-3351 56. 13-R-3352 57. 13-R-3353 58. 13-R-3354 59. 13-R-3355 60. 13-R-3356 61. 13-R-3357 62. 13-R-3358 63. 13-R-3359 64. 13-R-3360 65. 13-R-3361 66. 13-R-3362 67. 13-R-3363 68. 13-R-3364 69. 13-R-3365 70. 13-R-3366 71. 13-R-3367 72. 13-R-3368 73. 13-R-3369 74. 13-R-3370 75. 13-R-3371 76. 13-R-3372 77. 13-R-3373