

#15

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1301337

44500

First Reading

Committee _____
Date _____
Chair _____
Referred To _____

FINAL COUNCIL ACTION

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

BY COUNCILMEMBER

AN ORDINANCE AUTHORIZING THE MAYOR, OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO ACCEPT A LAND TRANSFER DEED FROM THE DEPARTMENT OF WATERSHED MANAGEMENT TO THE DEPARTMENT OF PUBLIC WORKS IN EXCHANGE FOR PAYMENT IN THE AMOUNT OF THIRTY FIVE THOUSAND DOLLARS AND NO CENTS (\$35,000.00); WITH ALL FUNDS TO BE DEPOSITED INTO DESIGNATED DEPARTMENT OF WATERSHED MANAGEMENT ACCOUNTS TO ALLOW FOR CERTAIN RIGHT-OF-WAY IMPROVEMENTS IN CONNECTION WITH THE COMPLETION OF THE BOLTON ROAD/MARIETTA BOULEVARD INTERSECTION IMPROVEMENT PROJECT; AND FOR OTHER PURPOSES.

substituted

ADOPTED BY

Committee
Fin./Exec
Date
10-30-13
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

CERTIFIED
NOV 18 2013
COUNCIL PRESIDENT PROTEM
CERTIFIED
NOV 18 2013
Florida Dushin Johnson
MUNICIPAL CLERK

CONSENT REFER
 REGULAR REPORT REFER NOV 18 2013
 ADVERTISE & REFER
 1ST ADOPT 2ND READ & REFER
 PERSONAL PAPER REFER

COUNCIL

Date Referred *10/21/13*
Referred To: *Finance/Exec*

Date Referred
Referred To:

Date Referred:

Referred To:

Committee
Fin./Exec
Date
11-13-13
Chair
Alper
Action
Fav, Adv, Hold (see rev. side)
Other
on Substitute
Members

M. Aulick
GA
SM
Adrian
Refer To

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

Refer To

MAYOR'S ACTION
APPROVED
NOV 27 2013
WITHOUT SIGNATURE
BY OPERATION OF LAW

**AN ORDINANCE BY COUNCILMEMBER H. LAMAR WILLIS
AS SUBSTITUTED BY FINANCE/EXECUTIVE COMMITTEE**

AN ORDINANCE AUTHORIZING THE TRANSFER OF CERTAIN PROPERTY OWNED BY THE CITY OF ATLANTA, BY AND THROUGH THE DEPARTMENT OF WATERSHED MANAGEMENT TO THE DEPARTMENT OF PUBLIC WORKS FOR THE PURPOSE OF SETTling A CERTAIN CONDEMNATION ACTION, CIVIL ACTION NUMBER 2011-CV-202727, IN RELATION TO THE BOLTON ROAD/MARIETTA BOULEVARD INTERSECTION IMPROVEMENT PROJECT, IN EXCHANGE FOR PAYMENT OF FAIR MARKET VALUE FOR SAID PROPERTY IN AN AMOUNT OF THIRTY FIVE THOUSAND DOLLARS AND NO CENTS (\$35,000.00); AUTHORIZING THE MAYOR, OR HIS AUTHORIZED DESIGNEE, TO EXECUTE A DEED TO TRANSFER CERTAIN PROPERTY TO THE CONDEMNEE OF SAID CONDEMNATION ACTION ON THE CONDITION OF SETTLEMENT OF THE CONDEMNATION ACTION AND A RELEASE OF ALL RELATED CLAIMS AGAINST THE CITY; THAT ALL FUNDS SHALL BE PAID FROM 1001 (GENERAL FUND) 130308 (DPW TRANSPORTATION DESIGN) 541100 (LAND) 4270000 (TRAFFIC ENGINEERING) AND PAID AND DEPOSITED TO THE DEPARTMENT OF WATERSHED MANAGEMENT FDOA: 5052 (WATER & WASTEWATER RENEWAL & EXTENSION FUND) 000002 (DEFAULT/REVENUE) 3922001 (PROCEEDS OF SALE OF CAPITAL ASSETS (REAL PROPERTY)); AND FOR OTHER PURPOSES.

WHEREAS, Ordinance 07-O-0457 adopted by the City Council on April 16, 2007 and approved by the Mayor on April 23, 2007 authorized the purchase and acquisition of permanent and temporary construction easements and the necessary rights-of-way from various property owners for the completion of various transportation projects including the Bolton Road/Marietta Boulevard Intersection Improvement Project, on behalf of the Department of Public Works ("DPW"); and

WHEREAS, after several unsuccessful negotiation attempts to acquire certain property rights for said project in a parcel of land located at 2429 Bolton Road, NW, Atlanta, Georgia 30318, Tax Identification Number 17-0230-0004-091-1 ("Property"), the City filed condemnation proceedings in Fulton County Superior Court, Civil Action Number 2011-CV-202727 ("Condemnation Action"); and

WHEREAS, as a result of the Condemnation Action, two driveway entrances to the Property from the public right-of-way were removed, resulting in certain alleged monetary consequential damages asserted by the property owner in addition to the fair market value of other property interests taken as part of the Condemnation Action; and



WHEREAS, the City wishes to cure the resulting access issues for the Property, thus rendering moot any consequential damages related to the removed driveway access points, by transferring to the owner of the Property a portion of certain land, owned by the City of Atlanta, on behalf of the Department of Watershed Management (“DWM”), as part of the operation and maintenance of the City of Atlanta’s water and sewer system, for the purpose of providing land that can be used as a driveway access for the Property to the public right-of-way, said property being in Land Lot 230 of the 17th Land District of Fulton County and containing 13,939 sq. ft. (0.326 acres), more or less, as said property is more particularly described in that certain plat and legal description attached and incorporated herein as Exhibit “A” (“DWM Property”); and

WHEREAS, a certified appraisal of the DWM Property determined that the fair market value of the DWM Property is Thirty-Five Thousand Dollars (\$35,000.00); and

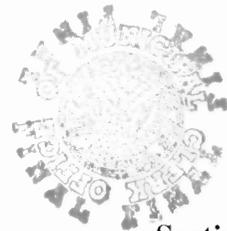
WHEREAS, the Commissioner of DWM has determined that the City of Atlanta has no present or foreseeable future need for the DWM Property for the purpose of the operation and maintenance of the City of Atlanta water and sewer system, and thus, the DWM Property serves no further material public purpose for the purpose of operating the public water and sewer system; and

WHEREAS, the Commissioner of DWM has further determined that transfer of the DWM Property to the Department of Public Works for the purposes described above in exchange of payment of fair market value in an amount of Thirty-Five Thousand Dollars (\$35,000.00) will maintain the bondholder’s security interest in the water and sewer “System” that is pledged as security to the City’s bondholders, pursuant to the Master Bond Ordinance, Ordinance No. 99-O-0399 (as said “System” is more particularly described and defined in the Master Bond Ordinance); and further, will not diminish the bondholders’ security interest in the System in accordance with the City’s obligations contained in the Master Bond Ordinance; and

WHEREAS, the Commissioner of the DPW and the Commissioner of the DWM recommend a transfer of the DWM Property from the purview of DWM for the purpose of operating and maintaining the System to the purview of DPW for the purpose of deeding the DWM Property to the owner of the Property in settlement of all claims related to the Condemnation Action in exchange of payment to DWM for fair market value in the amount of Thirty Five Thousand Dollars and No Cents (\$35,000.00).

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

Section 1: In light of the DWM Property having no present or foreseeable public purpose for the operation and maintenance of the City of Atlanta water and sewer System, the Mayor is hereby authorized to transfer the DWM Property from the purview of DWM to DPW in exchange of payment of fair market value for the DWM Property in the amount of Thirty Five Thousand Dollars and No Cents (\$35,000.00) in accordance with the funding account information described below.



Section 2: The Mayor, or his authorized designee, is authorized to execute a deed, and other appropriate instruments and documentation necessary to convey fee simple title of the DWM Property to the owner of the Property, as part of and expressly upon the condition of a global settlement of the Condemnation Action and a release of all claims against the City related to said Condemnation Action; and in the event that the Condemnation Action is not fully settled and the City is not fully released of all claims related to the Condemnation Action, the DWM Property shall remain under the purview of DWM, and DWM shall not be entitled to payment for fair market value of the DWM Property, as described above.

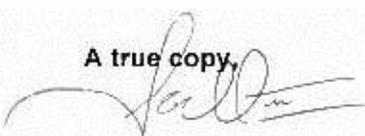
Section 3: All amounts related to the transfer of the DWM Property, as authorized by this Ordinance, will be transferred from 1001 (General Fund) 130308 (DPW Transportation Design) 541100 (Land) 4270000 (Traffic Engineering) and paid and deposited to the Department of Watershed Management FDOA: 5052 (Water & Wastewater Renewal & Extension Fund) 000002 (Default/Revenue) 3922001 (Proceeds of Sale of Capital Assets (Real Property)).

Section 4: The City Attorney, or her designee, is authorized to monitor and supervise the transactions associated with all legal actions concerning the transfer of property described herein and prepare all appropriate deeds, instruments and documentation necessary to effectuate the purposes of this Ordinance.

Section 5: The Mayor, or his designee, is hereby authorized to execute all documents as may be necessary to effectuate the purposes of this Ordinance.

Section 6: Article X, Division 14, Subdivisions II and III of the City's Code of Ordinances are waived to the extent such sections apply, such that all authorizations granted in this Ordinance are granted without the need for further authorization of City Council so that the Property can be acquired and conveyed in a timely fashion to meet the requirements of the Project.

Section 7: All ordinances in conflict with this ordinance are hereby waived to the extent of the conflict.

A true copy,

Deputy Clerk

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

NOV 18, 2013
NOV 27, 2013



EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

All that tract or parcel of land lying and being in Land Lot 230 of the 17th Land District of Fulton County, Georgia, being more particularly described as follows:

Beginning at point 36 feet right of and opposite Station 276+24.70 on the construction centerline of Bolton Road on Georgia Highway Project No. CSSTP-0006-00(261) at the Point of Beginning; running thence S 0° 54' 4" a distance of 97.47 feet; thence N 74° 39' 48" W a distance of 177.00'; thence N 0° 54' 41" W a distance of 63.96' to the right of way of Bolton Road; thence N 88° 54' 31" E a distance of 85.00'; thence S 74° 57' 33" E a distance of 59.21'; thence N 89° 5' 19" E a distance of 28.00' back to the Point of Beginning. Containing 0.326 acres more or less.

RCS# 3145
11/18/13
2:17 PM

Atlanta City Council

CONSENT I CONSENT AGENDA:ALL ITEMSEXCEPT 13-O-1373
 1377, 13-R-3678, 13-O-1369 AND 1340
 ADOPT

YEAS: 14
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 1

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

CONSENT I

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ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	11-18-13 ITEMS ADVERSED ON CONSENT
1. 13-O-1243	32. 13-O-1380	62. 13-R-3752
2. 13-O-1355	33. 13-R-3767	63. 13-R-3753
3. 13-O-1357	34. 13-R-3737	64. 13-R-3754
4. 13-O-1358	35. 13-R-3738	65. 13-R-3755
5. 13-O-1359	36. 13-R-3739	66. 13-R-3756
6. 13-O-1346	37. 13-R-3740	67. 13-R-3757
7. 13-O-1347	38. 13-R-3741	68. 13-R-3758
8. 13-O-1348	39. 13-R-3762	69. 13-R-3759
9. 13-O-1349	40. 13-R-3763	70. 13-R-3760
10. 13-O-1350	41. 13-R-3764	71. 13-R-3761
11. 13-O-1351	42. 13-R-3765	
12. 13-O-1384	43. 13-R-3766	
13. 13-O-0030	44. 13-R-3543	
14. 13-O-1299	45. 13-R-3735	
15. 13-O-1337	46. 13-R-3734	
16. 13-O-1360	47. 13-R-3769	
17. 13-O-1361	48. 13-R-3770	
18. 13-O-1362	49. 13-R-3771	
19. 13-O-1370	50. 13-R-3772	
20. 13-O-1371	51. 13-R-3774	
21. 13-O-1372	52. 13-R-3775	
22. 13-O-1381	53. 13-R-3742	
23. 13-O-1382	54. 13-R-3744	
24. 13-O-1383	55. 13-R-3745	
25. 13-O-1315	56. 13-R-3746	
26. 13-O-1366	57. 13-R-3747	
27. 13-O-1367	58. 13-R-3748	
28. 13-O-1368	59. 13-R-3749	
29. 13-O-1374	60. 13-R-3750	
30. 13-O-1375	61. 13-R-3751	
31. 13-O-1379		