

AN ORDINANCE BY COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE AUTHORIZING THE ACQUISITION, THROUGH THE EXERCISE OF EMINENT DOMAIN, PURSUANT TO THE SPECIAL MASTER METHOD, O.C.G.A. § 22-2-100 ET SEQ. OR OTHER CONDMENATION METHOD, AS MAY BE APPLICABLE, OF FEE SIMPLE TITLE, OF A PARCEL FRONTING ON THE FORMER CHICAMAUGA AVENUE, ATLANTA, GEORGIA AND A FULTON COUNTY TAX IDENTIFICATION NUMBER OF: 14-0140-0002-072-9 (PARCEL 21) IN ORDER TO EXPAND THE BOUNDARIES OF ENOTA PLACE PARK; TO AUTHORIZE THE CITY ATTORNEY, OR HER DESIGNEE, TO INSTITUTE FORMAL CONDEMNATION PROCEEDINGS TO ACQUIRE THE PROPERTY FOR PUBLIC USE, INCLUDING USE OF OUTSIDE COUNSEL WHERE NECESSARY; FOR THE PAYMENT OF JUST AND ADEQUATE COMPENSATION TO THE OWNER; ALL AMOUNTS ASSOCIATED WITH THESE ACTIONS SHALL BE CHARGED TO AND PAID FROM PARK OPPORTUNITY BOND FUND 2005A: FUND: 3129 (PARK IMPROVEMENT BOND), DEPT.: 140106 (PARKS DESIGN), ACCOUNT: 5411001 (LAND), FUNCTION ACTIVITY: 6220000 (PARK AREAS), PROJECT: 100247 (GROUND & SITE IMPROVEMENTS), FUNDING SOURCE: 21230 (2005A PARK IMPROVEMENT BOND 9999), PTAE0, PROJECT: 14100247, TASK: 101, AWARD: 312921230, EXPENSE TYPE: 5411001, ORGANIZATION: CITY OF ATLANTA; AND FOR OTHER PURPOSES.

Review List:

Pamela Holmes	Completed	06/14/2013 3:10 PM
George Dusenbury	Completed	06/14/2013 3:38 PM
Jeffrey Haymore	Completed	06/14/2013 4:26 PM
Mayor's Office	Completed	06/14/2013 5:47 PM
Office of Research and Policy Analysis	Completed	06/17/2013 10:56 AM
Community Development & Human Resources Committee	Completed	06/26/2013 2:45 PM
Atlanta City Council	Completed	07/03/2013 9:45 AM
Community Development & Human Resources Committee		Pending

HISTORY:

06/25/13	Community Development & Human Resources Committee	
07/01/13	Atlanta City Council	REFERRED TO COMMITTEES OF PURV

RESULT:	REFERRED TO COMMITTEES OF PURV [13 TO 0]
AYES:	Wan, Martin, Smith, Shook, Winslow, Moore, Young Jr., Sheperd, Bottoms, Hall, Bond, Archibong, Adrean
ABSENT:	Aaron Watson
AWAY:	H. Lamar Willis

RESULT: REFERRED TO COMMITTEES OF PURV [13 TO 0]
AYES: Wan, Martin, Smith, Shook, Winslow, Moore, Young Jr., Sheperd, Bottoms, Hall, Bond, Archibong, Adrean
ABSENT: Aaron Watson
AWAY: H. Lamar Willis

Certified by Presiding Officer	Certified by Clerk
Mayor's Action <i>See Authentication Page Attachment</i>	

**AN ORDINANCE
BY**

AN ORDINANCE BY COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE AUTHORIZING THE ACQUISITION, THROUGH THE EXERCISE OF EMINENT DOMAIN, PURSUANT TO THE SPECIAL MASTER METHOD, O.C.G.A. § 22-2-100 ET SEQ. OR OTHER CONDMENATION METHOD, AS MAY BE APPLICABLE, OF FEE SIMPLE TITLE, OF A PARCEL FRONTING ON THE FORMER CHICAMAUGA AVENUE, ATLANTA, GEORGIA AND A FULTON COUNTY TAX IDENTIFICATION NUMBER OF: 14-0140-0002-072-9 (PARCEL 21) IN ORDER TO EXPAND THE BOUNDARIES OF ENOTA PLACE PARK; TO AUTHORIZE THE CITY ATTORNEY, OR HER DESIGNEE, TO INSTITUTE FORMAL CONDEMNATION PROCEEDINGS TO ACQUIRE THE PROPERTY FOR PUBLIC USE, INCLUDING USE OF OUTSIDE COUNSEL WHERE NECESSARY; FOR THE PAYMENT OF JUST AND ADEQUATE COMPENSATION TO THE OWNER; ALL AMOUNTS ASSOCIATED WITH THESE ACTIONS SHALL BE CHARGED TO AND PAID FROM PARK OPPORTUNITY BOND FUND 2005A: FUND: 3129 (PARK IMPROVEMENT BOND), DEPT.: 140106 (PARKS DESIGN), ACCOUNT: 5411001 (LAND), FUNCTION ACTIVITY: 6220000 (PARK AREAS), PROJECT: 100247 (GROUND & SITE IMPROVEMENTS), FUNDING SOURCE: 21230 (2005A PARK IMPROVEMENT BOND 9999), PTAE0, PROJECT: 14100247, TASK: 101, AWARD: 312921230, EXPENSE TYPE: 5411001, ORGANIZATION: CITY OF ATLANTA; AND FOR OTHER PURPOSES.

WHEREAS, the recitations in Ordinance 03-O-0926 indicate that the City maintained Enota Place Park, for public use as a public park for many years as a leasehold and the Ordinance authorized the acquisition and/or condemnation of Enota Place Park in fee simple; and

WHEREAS, Ordinance 09-O-1372 authorized the purchase of approximately six acres from the Trust for Public Land for the expansion of Enota Place Park which is located along the Beltline; and

WHEREAS, the City and/or Atlanta Beltline, Inc. has acquired most of the parcels necessary to accomplish the expansion of Enota Place Park; and

WHEREAS, to complete the Enota Place Park expansion, it is necessary to exercise eminent domain for parcel #'s 6, 7, 9, 11, 12, 18 and 21 depicted in Ordinance 12-O-0490 ("Parcels"); and

WHEREAS, the exercise of eminent domain over the Parcels is necessary for the expansion of Enota Place Park boundaries, which Parcels will be possessed, occupied and used by the general public; and

WHEREAS, the City engaged in good faith negotiations with the owner of the Property to acquire the Property based upon a certified appraisal of the Property; and

WHEREAS, condemnation, including use of the Special Master method, pursuant to O.C.G.A. § 22-2-100 or other appropriate method, as provided in O.C.G.A. § 22-2-1 *et seq.*, is necessary to complete the expansion of Enota Place Park.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS, AS FOLLOWS:

Section 1. Pursuant to Section 2-1542 of the City's Code of Ordinances, the City Attorney is authorized to institute condemnation or other legal proceedings, as may be necessary to clear existing liens and encumbrances on the Property and acquire good and marketable fee simple title to tax parcel identification # 14-0140-0002-072-9, depicted as parcel # 21 on Exhibit "A" hereto, without further authorization by City Council, including engagement and/or use of outside counsel as may be necessary for the purpose of completing the Project in accordance with the Agreement.

Section 2. The Special Mater Method, pursuant to O.C.G.A. § 22-2-100 *et seq*, or, alternatively, other condemnation proceeding authorized by Title 22 of the Official Code of Georgia is authorized to acquire good and marketable title to the Property for purposes of completing the Parcels.

Section 3. The City Attorney, or her designee, is authorized to monitor and supervise the transactions associated with all legal proceedings and actions concerning the acquisition of the Parcels.

Section 4. The Mayor, or his designee, is authorized to execute all documents on behalf of the City as may be necessary to effectuate the purposes of this Ordinance, including without limitation, acquisition of good and marketable title to the Parcels.

Section 5. All costs related to acquisition of the Parcels, as authorized by this Ordinance will be charged to and paid from Park Opportunity Bond Fund 2005a: Fund: 3129 (Park Improvement Bond), Dept.: 140106 (Parks Design), Account: 5411001 (Land), Function Activity: 6220000 (Park Areas), Project: 100247 (Ground & Site Improvements), Funding Source: 21230 (2005a Park Improvement Bond 9999), PTAE0, Project: 14100247, Task: 101, Award: 312921230, Expense Type: 5411001, Organization: City of Atlanta. The aggregate amount to condemn each of the seven Parcels shall not exceed \$306,000.00.

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

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: CANDACE BYRD

Dept.'s Legislative Liaison: Ellen Wickersham (DPRCA); Mark Haldane (OEAM)

Contact Number: 404-614-8293; 404-865-8586

Originating Department: DPRCA/OEAM

Committee(s) of Purview: Community Development/Human Resources

Chief of Staff Deadline: June 7, 2013

Anticipated Committee Meeting Date(s): June 25, 2013 & July 9, 2013

Anticipated Full Council Date: July 15, 2013

Legislative Counsel's Signature: [Signature]

Commissioner's Signature: [Signature]

Chief Information Officer Signature (for IT Procurements) _____

Chief Procurement Officer Signature: _____

CAPTION
AN ORDINANCE
BY COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE

AN ORDINANCE AUTHORIZING THE ACQUISITION, THROUGH THE EXERCISE OF EMINENT DOMAIN, PURSUANT TO THE SPECIAL MASTER METHOD, O.C.G.A. § 22-2-100 ET SEQ. OR OTHER CONDMENATION METHOD, AS MAY BE APPLICABLE, OF FEE SIMPLE TITLE, OF A PARCEL FRONTING ON THE FORMER CHICAMAUGA AVENUE, ATLANTA, GEORGIA AND A FULTON COUNTY TAX IDENTIFICATION NUMBER OF:

14-0140-0002-072-9 (Parcel 21)

IN ORDER TO EXPAND THE BOUNDARIES OF ENOTA PLACE PARK; TO AUTHORIZE THE CITY ATTORNEY, OR HER DESIGNEE, TO INSTITUTE FORMAL CONDEMNATION PROCEEDINGS TO ACQUIRE THE PROPERTY FOR PUBLIC USE, INCLUDING USE OF OUTSIDE COUNSEL WHERE NECESSARY; FOR THE PAYMENT OF JUST AND ADEQUATE COMPENSATION TO THE OWNER; ALL AMOUNTS ASSOCIATED WITH THESE ACTIONS SHALL BE CHARGED TO AND PAID FROM Park Opportunity Bond Fund 2005a: Fund: 3129 (Park Improvement Bond), Dept.: 140106 (Parks Design), Account: 5411001 (Land), Function Activity: 6220000 (Park Areas), Project: 100247 (Ground & Site Improvements), Funding Source: 21230 (2005a Park Improvement Bond 9999), PTAE0, Project: 14100247, Task: 101, Award: 312921230, Expense Type: 5411001, Organization: City of Atlanta; AND FOR OTHER PURPOSES.

FINANCIAL IMPACT: (if any)
Mayor's Staff Only

Received by CPO: _____ Received by LC from CPO: _____

Received by Mayor's Office: [Signature] (date) 6/7/13 Reviewed by: [Signature] (date) _____

Submitted to Council: _____ (date)

645226

Attachment: Enota Park Parcel 21 Attachments (13-O-1118 : An Ordinance authorizing the acquisition of 14-0140-0002-072-9 (Parcel 21) to

EXHIBIT "A"**LEGAL DESCRIPTION**

Tax ID No: 14-0140-0002-072-9
(10,514 sq. feet or 0.242 acres)

All and singular that certain tract of land lying and being in Land Lot 140 of the 14th District, City of Atlanta of Fulton County, Georgia, and more particularly described as follows:

COMMENCING at a ½" rebar set at the intersection of the southerly right-of-way line of Chicamauga Court and the easterly right-of-way line of Chicamauga Avenue; run thence southerly, southwesterly and westerly along said easterly, southeasterly and southerly right-of-way lines of Chicamauga Avenue, a distance of 389.40 feet to a ½" rebar set, said point being the POINT OF BEGINNING.

From the true point of beginning as thus established, leaving said southerly right-of-way line of Chicamauga Avenue run thence south 00 degrees 11 minutes 46 seconds west, a distance of 15.70 feet to a ½" rebar set;

Thence south 00 degrees 30 minutes 53 seconds west, a distance of 159.88 feet to a ½" rebar set;

Thence north 89 degrees 30 minutes 16 seconds west, a distance of 60.00 feet to a ½" rebar set;

Thence north 00 degrees 29 minutes 11 seconds east, a distance of 175.55 feet to a ½" rebar set on the aforementioned southerly right-of-way line of Chicamauga Avenue;

Thence along said southerly right-of-way line of Chicamauga Avenue south 89 degrees 31 minutes 50 seconds east, a distance of 60.00 feet to a ½" rebar set, said point being the POINT OF BEGINNING.

Said property being shown on Boundary Survey Tax ID: 1401400002072 for City of Atlanta, Smith Real Estate Services, Inc. and Chicago Title Insurance Company, prepared by Agility Surveying Co., Inc. and bearing the seal of Rawle J. Stanley, GRLS No. 2890, dated August 5, 2010, last revised December 14, 2010, a copy of which Boundary Survey is attached to this Exhibit "A" and made a part hereof (the "Boundary Survey"). Being the same property as that conveyed to Arthur Crutcher from Ella Ruth Wilborn aka Ella Ruth Wilborn Crutcher by Limited Warranty Deed dated November 30, 2010, filed January 6, 2011, recorded in Deed Book 49734, Page 215, Fulton County, Georgia Records, as corrected by Corrective Limited Warranty Deed dated March 24, 2011, filed October 31, 2011, recorded in Deed Book 50529, Page 107, aforesaid records, which deeds contain an erroneous point of beginning of 322 feet from Chicamauga Court, the correct point of beginning being 389.4 feet from Chicamauga Court as shown on the aforesaid Boundary Survey.

F:\wp\work\10\103-17\Commitment(dd)(3)

ALTA Commitment with Georgia modifications 6/17/06

Attachment: Enota Park Parcel 21 Attachments (13-O-1118 : An Ordinance authorizing the acquisition of 14-0140-0002-072-9 (Parcel 21) to

Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview: Community Development/Human Resources

Caption:

**AN ORDINANCE
BY COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE**

AN ORDINANCE AUTHORIZING THE ACQUISITION, THROUGH THE EXERCISE OF EMINENT DOMAIN, PURSUANT TO THE SPECIAL MASTER METHOD, O.C.G.A. § 22-2-100 ET SEQ. OR OTHER CONDMENATION METHOD, AS MAY BE APPLICABLE, OF FEE SIMPLE TITLE, OF A PARCEL FRONTING ON THE FORMER CHICAMAUGA AVENUE, ATLANTA, GEORGIA AND A FULTON COUNTY TAX IDENTIFICATION NUMBER OF:

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Council Meeting Date: July 15, 2013

Requesting Dept.: DPRCA/OEAM

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

The purpose of this legislation is to authorize condemnation of fee simple interest in order to expand Enota Park. All parcels to be condemned are raw land. No displacement will occur. Good faith efforts to acquire the property through negotiation were not successful due to title issues—questions of ownership and liens exceeding fair market value.

2. Please provide background information regarding this legislation.

Enota Park expansion

3. If Applicable/Known: N/A

- (a) Contract Type (e.g. Professional Services, Construction Agreement, etc):
- (b) Source Selection:
- (c) Bids/Proposals Due:
- (d) Invitations Issued:
- (e) Number of Bids:
- (f) Proposals Received:
- (g) Bidders/Proponents:
- (h) Term of Contract:

4. Fund Account Center (*Ex. Name and number*):

Fund: 3129 (Park Improvement Bond), Dept.: 140106 (Parks Design), Account: 5411001 (Land), Function Activity: 6220000 (Park Areas), Project: 100247 (Ground & Site Improvements), Funding Source: 21230 (2005a Park Improvement Bond 9999), PTAE0, Project: 14100247, Task: 101, Award: 312921230, Expense Type: 5411001, Organization: City of Atlanta

5. Source of Funds: *Example: Local Assistance Grant:* FROM PARK OPPORTUNITY BOND FUND 2005A.

6. Fiscal Impact:

7. Method of Cost Recovery: N/A

This Legislative Request Form Was Prepared By: Ellen Wickersham 404-614-8293.

(Do Not Write Above This Line)

AN ORDINANCE BY
COMMUNITY DEVELOPMENT / HUMAN RESOURCES
COMMITTEE

AN ORDINANCE AUTHORIZING THE ACQUISITION, THROUGH THE EXERCISE OF EMINENT DOMAIN, PURSUANT TO THE SPECIAL MASTER METHOD, O.C.G.A. § 22-2-100 ET SEQ. OR OTHER CONDEMNATION METHOD, AS MAY BE APPLICABLE, OF FEE SIMPLE TITLE, OF A PARCEL FRONTING ON THE FORMER CHICAMAUGA AVENUE, ATLANTA, GEORGIA AND A FULTON COUNTY TAX IDENTIFICATION NUMBER OF:

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

Date Referred _____

Referred To: _____

Committee: _____

Date: _____

Chair: _____

Referred 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 _____

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 _____

Refer To _____

FINAL COUNCIL ACTION 1ST & 2ND 3RD

Readings Consent V.Vote RC Vote

CERTIFIED

MAYOR'S ACTION