

AN ORDINANCE BY CITY UTILITIES COMMITTEE CLARIFYING THE INTENT OF ORDINANCE 03-O-1652 AS TO THE PROPOSED ABANDONMENT OF MOROSGO PLACE, NE AND MOROSGO WAY, NE, LYING AND BEING IN LAND LOT 48 OF THE 17TH DISTRICT OF FULTON COUNTY, GEORGIA, BY REVISING AND RESTATING THE RIGHT OF WAY TO BE ABANDONED FOR THE PURPOSE OF SATISFYING UPDATED PLANS FOR THE CREATION OF CONNECTIVITY IN THE AREA AND RESPONDING TO THE PROPOSED PRIVATE DEVELOPMENT INITIATIVES THROUGH THE EXCHANGE OF REAL PROPERTY OF THE CITY FOR CERTAIN ADJACENT PRIVATE PROPERTY; AND FOR OTHER PURPOSES. (TO BE ADVERTISED FOR A PUBLIC HEARING 9/10/13)

Review List:

John Lavelle	Completed	08/15/2013 11:56 AM
Richard Mendoza	Completed	08/19/2013 12:09 PM
Mariangela Corales	Completed	08/19/2013 12:11 PM
Information Technology	Skipped	08/19/2013 3:02 PM
Procurement	Completed	08/19/2013 4:51 PM
Adam Smith	Completed	08/20/2013 3:31 PM
Mayor's Office	Completed	08/20/2013 4:32 PM
Office of Research and Policy Analysis	Completed	08/20/2013 4:40 PM
City Utilities Committee	Pending	
Atlanta City Council	Pending	
Mayor's Office	Pending	

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

LEGISLATION HISTORY – BLUE BACK

**AN ORDINANCE
BY CITY UTILITIES COMMITTEE**

AN ORDINANCE BY CITY UTILITIES COMMITTEE CLARIFYING THE INTENT OF ORDINANCE 03-O-1652 AS TO THE PROPOSED ABANDONMENT OF MOROSGO PLACE, NE AND MOROSGO WAY, NE, LYING AND BEING IN LAND LOT 48 OF THE 17TH DISTRICT OF FULTON COUNTY, GEORGIA, BY REVISING AND RESTATING THE RIGHT OF WAY TO BE ABANDONED FOR THE PURPOSE OF SATISFYING UPDATED PLANS FOR THE CREATION OF CONNECTIVITY IN THE AREA AND RESPONDING TO THE PROPOSED PRIVATE DEVELOPMENT INITIATIVES THROUGH THE EXCHANGE OF REAL PROPERTY OF THE CITY FOR CERTAIN ADJACENT PRIVATE PROPERTY; AND FOR OTHER PURPOSES. (TO BE ADVERTISED FOR A PUBLIC HEARING 9/10/13)

WHEREAS, the Atlanta City Council adopted Ordinance 03-O-1652 (“03-O-1652”) on November 3, 2003, authorizing the abandonment of Morosgo Place N.E. and Morosgo Way N.E., said proposed abandonment (the “2003 Proposed Abandonment”) being shown on the attached Exhibit “A”; and

WHEREAS, 03-O-1652 indicates that City only intended to complete the 2003 Proposed Abandonment if the property owner abutting the Proposed Abandonment agreed to pay fair market value for the property rights to be conveyed by the City; and

WHEREAS, the 2003 Proposed Abandonment was never completed as the fair market value for the right-of-way associated with Morosgo Place N.E. and Morosgo Way N.E. was never paid to the City and Morosgo Place N.E. and Morosgo Way N.E. continued to operate as right-of-way used by the traveling public; and

WHEREAS, the current, sole abutting property owner to the 2003 Proposed Abandonment, Buckhead South, LLC (the “Applicant”) has approached the City about revising the 2003 Proposed Abandonment to the configuration set forth in Exhibit “B” and certain accompanying legal descriptions (the “Revised Abandonment”); and

WHEREAS, the Applicant has paid a fee of \$2,500 for the costs of advertisement of the Revised Abandonment as specified by Section 138-9(a)(5) of the City of Atlanta Code of Ordinances; and

WHEREAS, the Applicant has agreed to execute an affidavit acknowledging that the 2003 Proposed Abandonment was never completed and waives any claim that it has any interest in any of the right-of-way associated with the 2003 Proposed Abandonment; and

WHEREAS, the Applicant has proposed a configuration for the Revised Abandonment and the commissioner of public works has determined that that the right of way to be abandoned is no longer necessary for the public's use and convenience as a public right-of-way, provided that certain other street connections are made as shown in Exhibit “B” and that the conditions outlined in City Code Sec. 138-9 have been fulfilled or will be fulfilled by the time that a final vote is taken by the Atlanta City Council:
and

WHEREAS, the commissioner of planning and community development has determined that construction of the relocated intersection of a relocated Morosgo Way (“New Morosgo Way”) and the street connections shown in Exhibit “B” satisfy the Connect Atlanta Plan and the Lindbergh Livable Cities Initiative which were created after 03-O-1652 was adopted by the City Council and approved by the Mayor such that the Revised Abandonment is in the best interests of the City; and

WHEREAS, the square footage of property to be abandoned by the City for the construction of the relocated intersection of New Morosgo Way and the street connections as generally shown in Exhibit “B” is approximately 20,626 square feet; and

WHEREAS, in lieu of payment of fair market value for the Revised Abandonment, the Applicant has agreed to dedicate approximately 25,300 square feet of right-of way (the “New Right-of-Way”) which shall comprise the New Morosgo Way (“New Morosgo Way”) and a relocated intersection on New Morosgo Way and Morosgo Place, also as generally shown on Exhibit “B”; and

WHEREAS, pursuant to Section 2-1543 of the Procurement and Real Estate Code of the City, real property interests may be acquired by the City in exchange for surplus real property interests provided that the chief procurement officer determines that the square-foot for square-foot or dollar value for dollar value exchange is in the best interests of the City; and

WHEREAS, the exchange of property contemplated by this ordinance is in close proximity such that an appraisal would be unnecessary and because the City is receiving more property in exchange such that the financial interests of the City are protected; and

WHEREAS, San Lucia Land, LLC, an entity controlled by the Applicant currently has a contract with Greystar GP II, LLC (“Greystar”) to sell land adjacent to the New Morosgo Way and said contract calls for Greystar to construct New Morosgo Way N.E. and its intersection with Morosgo Place N.E. to City standards within the New Right of Way; and

WHEREAS, in order to construct New Morosgo Way, N.E. and its intersection with Morosgo Place, N.E, the City will need to grant a temporary construction easement to Greystar so that Greystar can construct the new road and intersection in the configuration shown on Exhibit “B”; and.

WHEREAS, the Applicant and Greystar agree that public access to the right-of-way associated with the Revised Abandonment may not be denied until the New Morosgo Way N.E. and its intersection with Morosgo Place N.E. are constructed to City standards with the New Right of Way; and

WHEREAS, the commissioner of public works and the commissioner of planning and development have reviewed the Applicant’s request and concluded that the Revised Abandonment and the construction of New Morosgo Way, N.E. and its intersection with Morosgo Place, N.E, as described herein will not have any adverse affect on the traffic movement now and in the future.

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

SECTION 1: That based on: (i) the failure of conditions for the abandonment of the City's interest in the right of way as set forth in Ordinance 03-O-1652; (ii) the waiver of any claim of interest given by the adjoining property owner in authorized to be abandoned by Ordinance 03-O-1652; and (iii) the continued use by the general public of the right of way for transportation purposes since the November 10, 2003 effective date, the abandonment of such right of way set forth in Ordinance 03-O-1652 is rescinded.

SECTION 2: That the right of way of the City as described in Exhibit "B" attached hereto as the property to be abandoned and as more particularly described in the application for abandonment is hereby declared no longer useful or necessary for the public's use and convenience and the abandonment of same being hereby authorized subject to the satisfactory completion of the New Morosgo Way N.E. and its intersection with Morosgo Place N.E. to City standards. The satisfaction of this condition concerning completion of New Morosgo Way N.E. and its intersection with Morosgo Place N.E. to City standards shall include the building of new sidewalks required by the City's standard street detail and connection to any existing sidewalks where New Morosgo Way N.E. intersects with Morosgo Place N.E. specifically including those parts of Morosgo Way that will be new construction on right of way to be dedicated to the City.

SECTION 3: As consideration and in exchange for the conveyance of the right of way of the City as described in Exhibit "B" totaling approximately 20,626 square feet pursuant to the abandonment application, the Mayor or his designee is authorized to accept real property totaling approximately 25,300 square feet, as shown on Exhibit "B" from the Applicant, its successors or assigns. The adjustment of such square footage is authorized to provide for the installation and connection of sidewalks provided that the square footage received by the City shall exceed the square footage abandoned. The adjustment of square footage is specifically authorized, without limitation, in those situations where the connection of new sidewalks required by the City's standard street detail will connect the existing sidewalks as required to satisfy the conditions required by this ordinance.

SECTION 4: That the Mayor or his designee is authorized to execute a Quit Claim Deed and other necessary documents, as determined by the City Attorney, to convey any interest in the right of way of the City as described in Exhibit "B" totaling approximately 20,626 square feet to the current abutting owners, its successors or assigns provided however that as a condition of the authorization set forth herein and as additional consideration, public access to the right-of-way abandoned by the City shall be secured by an easement of public access until the New Morosgo Way N.E. and its intersection with Morosgo Place N.E. are constructed to City standards and except where closure is permitted as a part of the construction approved by the Department of Public Works.

SECTION 5: The requirements of Section 2-1541 for an appraisal, title reports and survey are waived in that the real property to be exchanged is in such close proximity. The requirement for a title report shall be at the option of the City.

SECTION 6: That the Mayor or his designee is authorized to execute a construction easement to Greystar, its successors or assigns to allow for the construction of the New Morosgo Way N.E. and its intersection with Morosgo Place N.E. according to the standards for construction of City streets and at no cost to the City. The plans for the construction of New Morosgo Way N.E. shall be approved by the Department of Public Works and all required permits shall be obtained before construction can begin. Such construction easement shall expire upon the acceptance of New Morosgo Way N.E. and its intersection with Morosgo Place N.E. or twenty-four months whichever shall first occur.

SECTION 7: The City Attorney, or a designee, is authorized to prepare all necessary documents to facilitate this transaction and to record all documents in the Fulton County Records; provided however that any costs to close the transaction and record the deeds are to be borne by the Applicant.

SECTION 8: This ordinance shall become effective when signed by the Mayor or by operation of law.

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: CANDACE L. BYRD

Dept.'s Legislative Liaison: Perceta Alexander _____

Contact Number: 404.330.6569 _____

Originating Department: OEAM

Committee(s) of Purview: City Utilities

Chief of Staff Deadline: August 9, 2013

Anticipated Committee Meeting Date(s): August 27, 2013 (1st Read) & September 10, 2013 (2nd Read)

Anticipated Full Council Date: September 3, 2013 (1st Read) & September 16, 2013 (2nd Read)

Legislative Counsel's Signature: G.A. Ward

Handwritten initials: LCP, CMA

Commissioner Signature: [Signature]

Chief Procurement Officer Signature: [Signature]

CAPTION

AN ORDINANCE CLARIFYING THE INTENT OF ORDINANCE 03-O-1652 AS TO THE PROPOSED ABANDONMENT OF MOROSGO PLACE N.E. AND MOROSGO WAY N.E., LYING AND BEING IN LAND LOT 48 OF THE 17TH DISTRICT OF FULTON COUNTY, GEORGIA, BY REVISING AND RESTATING THE RIGHT OF WAY TO BE ABANDONED FOR THE PURPOSE OF SATISFYING UPDATED PLANS FOR THE CREATION OF CONNECTIVITY IN THE AREA AND RESPONDING TO THE PROPOSED PRIVATE DEVELOPMENT INITIATIVES THROUGH THE EXCHANGE OF REAL PROPERTY OF THE CITY FOR CERTAIN ADJACENT PRIVATE PROPERTY; AND FOR OTHER PURPOSES.

FINANCIAL IMPACT (if any): None

Mayor's Staff Only

Received by CPO: _____ (date)

Received by LC from CPO: _____ (date)

Received by Mayor's Office: 8-8-13 (date)

Reviewed by: _____ (date)

Submitted to Council: _____ (date)

Attachment: MOROSGO (13-O-1248 : AN ORDINANCE CLARIFYING THE INTENT OF ORDINANCE 03-O-1652 AS TO THE PROPOSED

**AN ORDINANCE BY
CITY UTILITIES COMMITTEE**

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WHEREAS, 03-O-1652 indicates that City only intended to complete the 2003 Proposed Abandonment if the property owner abutting the Proposed Abandonment agreed to pay fair market value for the property rights to be conveyed by the City; and

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WHEREAS, the current, sole abutting property owner to the 2003 Proposed Abandonment, Buckhead South, LLC (the “Applicant”) has approached the City about revising the 2003 Proposed Abandonment to the configuration set forth in Exhibit “B” and certain accompanying legal descriptions (the “Revised Abandonment”); and

WHEREAS, the Applicant has paid a fee of \$2,500 for the costs of advertisement of the Revised Abandonment as specified by Section 138-9(a)(5) of the City of Atlanta Code of Ordinances; and

WHEREAS, the Applicant has agreed to execute an affidavit acknowledging that the 2003 Proposed Abandonment was never completed and waives any claim that it has any interest in any of the right-of-way associated with the 2003 Proposed Abandonment; and

WHEREAS, the Applicant has proposed a configuration for the Revised Abandonment and the commissioner of public works has determined that that the right of way to be abandoned is no longer necessary for the public's use and convenience as a public right-of-way, provided that certain other street connections are made as shown in Exhibit “B” and

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that the conditions outlined in City Code Sec. 138-9 have been fulfilled or will be fulfilled by the time that a final vote is taken by the Atlanta City Council: and

WHEREAS, the commissioner of planning and community development has determined that construction of the relocated intersection of a relocated Morosgo Way (“New Morosgo Way”) and the street connections shown in Exhibit “B” satisfy the Connect Atlanta Plan and the Lindbergh Livable Cities Initiative which were created after 03-O-1652 was adopted by the City Council and approved by the Mayor such that the Revised Abandonment is in the best interests of the City; and

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SECTION 8: This ordinance shall become effective when signed by the Mayor or by operation of law.

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: City Utilities

Caption: AN ORDINANCE CLARIFYING THE INTENT OF ORDINANCE 03-O-1652 AS TO THE PROPOSED ABANDONMENT OF MOROSGO PLACE N.E. AND MOROSGO WAY N.E., LYING AND BEING IN LAND LOT 48 OF THE 17TH DISTRICT OF FULTON COUNTY, GEORGIA, BY REVISING AND RESTATING THE RIGHT OF WAY TO BE ABANDONED FOR THE PURPOSE OF SATISFYING UPDATED PLANS FOR THE CREATION OF CONNECTIVITY IN THE AREA AND RESPONDING TO THE PROPOSED PRIVATE DEVELOPMENT INITIATIVES THROUGH THE EXCHANGE OF REAL PROPERTY OF THE CITY FOR CERTAIN ADJACENT PRIVATE PROPERTY; AND FOR OTHER PURPOSES.

Council Meeting Date: September 3, 2013 (First Read) & September 16, 2013 (Second Read)

Requesting Dept.: Office of Enterprise Assets Management

B. To be completed by the department:

1. **Please provide a summary of the purpose of this legislation?** The purposes of this Ordinance are as follows:

1. Rescind Ordinance 03-O-1652 proposing the abandonment of Morosgo Way and Morosgo Place based on the failure of conditions set forth in said legislation.
2. To abandon approximately 20,626 square feet of existing right-of-way operating as Morosgo Way and Morosgo Place in the 17th District, Land Lot 48 of Fulton County that will no longer serve a public purpose once said streets are realigned and reconstructed within new right-of-way totaling approximately 25,300 square feet to be dedicated to the City by the current property owner.

2. **Please provide background information regarding this legislation.**

On November 3, 2003, the Atlanta City Council adopted Ordinance 03-O-1625 which authorized the abandonment of Morosgo Way and Morosgo Place and the subsequent transfer of right-of-way to the abutting property owner. Said abandonment was never completed, however, as the fair market value for the right-of-way to be abandoned was never submitted to the City.

The current abutting property owner, Buckhead South, LLC (the "Applicant"), recently approached the City about abandoning Morosgo Way and a portion of Morosgo Place in the return for the dedication of new right-of-way that will re-align Morosgo Way and its intersection with Morosgo

Place. The Department of Planning and Community Development has approved this realignment. Furthermore, the Applicant has executed an affidavit acknowledging that the abandonment proposed in 03-O-1625 was never completed and it waives any claim that it has in any interest in any of the right-of-way associated with said proposed abandonment.

San Lucia Land, LLC, an entity controlled by the Applicant currently has a contract with Greystar GP II, LLC ("Greystar") to sell land adjacent to the proposed Morosgo Way ("New Morosgo Way") and said contract calls for Greystar to construct New Morosgo Way N.E. and its intersection with Morosgo Place N.E. to City standards within the right-of-way to be dedicated to the City by Applicant. In addition to authorizing the Mayor to execute quitclaim deeds to City-owned right-of-way and accept the dedication of new right-of-way, this legislation will also authorize the Mayor to execute a temporary construction easement to Greystar for the construction of New Morosgo Way.

Pursuant to Section 2-1543 of the Procurement and Real Estate Code of the City, real property interests may be acquired by the City in exchange for surplus real property interests provided that the exchange is square foot for square foot or dollar for dollar value. The exchange of property proposed in this legislation would result in the City receiving more right-of-way than would be abandoned by the City and subsequently transferred to the current owners of the Property.

3. If Applicable/Known:

(a) **Contract Type:**

(b) **Source Selection:**

(c) **Bids/Proposals Due:**

(d) **Invitations Issued:**

(e) **Number of Bids:**

(f) **Proposals Received:**

(g) **Bidders/Proponents:**

(h) **Term of Contract:** N/A

4. Fund Account Center: N/A

5. Source of Funds: N/A

6. Fiscal Impact: \$2,500 abandonment application fee.

7. Method of Cost Recovery: N/A

This Legislative Request Form Was Prepared By: Mark Haldane, Real Estate Asset Manager, 404-865-8586.