



## **MEMORANDUM**

**To:** Mayor and City Council

**From:** Warren Hutmacher, City Manager

**Date:** February 11, 2013

**Subject:** **Approval of an Intergovernmental agreement by and between the City of Dunwoody and DeKalb County regarding the Water Tower located on Roberts Drive in Dunwoody**

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### **ITEM DESCRIPTION**

An intergovernmental agreement between the City and DeKalb County for the property on Roberts Drive in Dunwoody housing a DeKalb County water storage tower.

### **BACKGROUND**

The City acquired the property housing the DeKalb County water storage tower on Roberts Drive in 2010. The City wishes to quit claim a portion of the property to the County for the purpose of operating and maintaining a water storage tank. The County operates the DeKalb County Water and Sewer Authority as a countywide service to all water and sewer customers in the County. Dunwoody businesses and residents are County customers.

### **ANALYSIS**

The City of Dunwoody will retain title to the entire property in question except for a small portion of the property containing the water storage tower. The quitclaim deed includes a reverter clause that deeds the property to the City if the property is not in use for the purpose of storing water. The quitclaim deed also contains language that allows the City the use of the property for limited purposes and prevents the County from utilizing the property for any other use except for the storage of water.

### **RECOMMENDED ACTION**

City Council approves an Intergovernmental Agreement with DeKalb County for the quitclaim of property for an existing water storage tower on Roberts Drive in Dunwoody.

**STATE OF GEORGIA  
CITY OF DUNWOODY**

**ORDINANCE 2013-XX-XX**

**AN ORDINANCE ADOPTING AND AUTHORIZING A PROPERTY DEED TO  
TRANSFER THE WATER TOWER PROPERTY IN DUNWOODY PARK TO DEKALB  
COUNTY**

**WHEREAS,** the City of Dunwoody owns 29.890 Acres of real property located off of Roberts Road, traditionally referred to as Dunwoody Park and more specifically described in the legal descriptions attached to the Quitclaim Deed which is incorporated herein by reference as Exhibit A; and

**WHEREAS,** a 1.701 acre portion of said property, as delineated in the Survey attached to the Quitclaim Deed as its Exhibit B, contains a water tower and pump station owned by DeKalb County which provides water to the citizens of the City as well as the surrounding areas; and

**WHEREAS,** the City desires to transfer to DeKalb County that portion of Dunwoody Park containing the Water Tower, Tract 1 on the Survey referenced above, for its continued use of the water tower and subject to the easements and restrictions in the attached Quitclaim Deed; and

**WHEREAS,** pursuant to Section 2.10 of the Charter, in order to transfer land owned by the City to another party, the City must do so by Ordinance.

**THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DUNWOODY AS FOLLOWS:**

Section 1. That the Mayor and City Council hereby authorize the transfer of the 1.701 acre Water Tower Property, as described in the attached Deed, incorporated herein as Exhibit A, pursuant to the attached Deed language and with all the conditions and restrictions included therein, to DeKalb County.

Section 2. That the Mayor, City Manager and City Attorney are hereby authorized to execute all applicable and appropriate documents, and to file same with the DeKalb Superior Court, including the attached Deed, to effectuate the execution of said Transfer.

**SO ORDAINED AND EFFECTIVE,** this \_\_\_\_ day of \_\_\_\_\_, 2013.

**STATE OF GEORGIA  
CITY OF DUNWOODY**

**ORDINANCE 2013-XX-XX**

Approved:

\_\_\_\_\_  
Michael G. Davis, Mayor

ATTEST:

\_\_\_\_\_  
Sharon Lowery, City Clerk

(Seal)

APPROVED AS TO FORM:

\_\_\_\_\_  
Acting City Attorney

November 2, 2012

When recorded, return documents to:  
**Riley McLendon, LLC**  
**315 Washington Avenue**  
**Marietta, Georgia 30360**

**QUITCLAIM DEED**

**STATE OF GEORGIA**  
**COUNTY OF DEKALB**

THIS INDENTURE made the \_\_\_ day of \_\_\_\_\_, in the year Two Thousand and Twelve (2012) between **CITY OF DUNWOODY, GEORGIA**, a municipal corporation as party of the first part, hereinafter called Grantor, and **DEKALB COUNTY, GEORGIA**, a political subdivision of the State of Georgia, as party of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of one dollar (\$1.00) and other valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents does hereby remise, convey and forever QUITCLAIM unto said grantee.

**SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.**

Said Tract to be further referred to as "Tract 1" of "Dunwoody Park", more specifically referred to as "Water Tower Tract" and as shown in the Survey Plat for DeKalb County Dunwoody Park dated September 17, 2010 and attached hereto and incorporated herein as **Exhibit B**. This deed is given to release any and all interest the Grantor may have in and to said property. Grantor represents that it holds the unencumbered fee interest in said property.

TO HAVE AND TO HOLD the said described premises to grantee, so that neither grantor nor any person or persons claiming under grantor shall at any time, subject to the reversion and easement interests recited below, by any means or ways, have, claim or demand any right to title to said premises or appurtenances, or any rights thereof.

Grantee may thereby have and hold said property subject to the following easement in favor of the Grantor:

Grantor hereby retains an easement on such part of said property that is outside the water tank fence/enclosure as it presently exists and as it is shown on the Survey Plat attached as Exhibit B. Grantor shall have the right to control and develop said easement as necessary for its government functions as owner of Dunwoody Park and as any present or future plans for said property show, including, but not limited to, planting of trees, shrubbery and other plant materials, construction of trails, sidewalks and other improvements, so long as said improvements do not interfere deleteriously or damage the water tower or its operation, including reasonable ingress and egress of Grantee to and from the water tower for maintenance necessary for the operation of the water tower. Grantor shall consult with Grantee regarding

placement of water and sewer lines on the property prior to construction of any permanent structures on the property and shall not construct any permanent vertical improvements on the property that would deleteriously interfere with Grantee's ability to maintain said lines unless otherwise agreed to by Grantee or its agent(s). Grantee shall not conduct any work or make any improvements on, or damage in any way, the portion of the property constituting this easement without the express permission of Grantor; except that Grantee may perform necessary maintenance on the water and sewer lines serving the water tower on the property so long as they give Grantor, through its Mayor and City Manager, reasonable notice of said maintenance and restore the property to the same condition as it was prior to the performance of the maintenance.

FURTHER, Grantee may thereby have and hold the Water Tower Tract so long as it continues to utilize it for its current purposes, maintenance of the water tower. Except as set forth below, should Grantee fail to use the Water Tower Tract for said purpose, or discontinue the use of the water tower, the Water Tower Tract shall revert fully back to Grantor in Fee Simple and this deed shall be extinguished. Notwithstanding the foregoing, Grantee shall have the right to discontinue the use of the Water Tower Tract for up to twelve (12) consecutive months in connection with the maintenance, repair, and/or replacement of the water tower equipment located thereon, or connected directly thereto.

IN WITNESS WHEREOF, Grantor has signed and sealed this deed, the day and year first above written.

Signed and sealed and delivered  
in the presence of:

CITY OF DUNWOODY, GEORGIA

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Sworn and subscribed before me  
This \_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary

November 2, 2012

**EXHIBIT "A"****LEGAL DESCRIPTION**

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 376 of the 18th District, DeKalb County, Georgia and being more particularly described as follows:

To find the **True Point of Beginning**, commence at the southeast corner of said Land Lot 376, which is the corner common of Land Lots 366, 367, 375, and 376 of said district, and running thence in NAD83 Georgia West State Plane coordinate system, North 01 degree 53 minutes 57 seconds East for a distance of 526.30 feet along the easterly margin of Land Lot 376 to a point; thence, North 14 degrees 06 minutes 57 seconds East for a distance of 688.60 feet along said lot line to a point; thence leaving said land lot line, proceed North 87 degrees 49 minutes 17 seconds West for a distance of 2260.66 feet to a point on the southeasterly right-of-way line of Roberts Drive (right-of-way width varies); thence, North 13 degrees 07 minutes 11 seconds East for a distance of 71.97 feet along last said right-of-way line to a capped 1/2-inch rebar set; thence North 13 degrees 07 minutes 11 seconds East for a distance of 232.22 feet to a capped 1/2-inch rebar set and the **True Point of Beginning**.

From the **True Point of Beginning**, as thus established, continuing along said southwesterly right-of-way line of Roberts Drive, proceed North 13 degrees 07 minutes 11 seconds East for a distance of 90.62 feet to a capped 1/2-inch rebar set on a point of curvature; thence, along a curve to the left having a radius of 1961.42 feet and an arc length of 178.12 feet, said arc being subtended by a chord with a bearing of North 11 degrees 14 minutes 17 seconds East and a length of 178.06 feet, along the last said right-of-way line to a capped 1/2-inch rebar set to a point; thence, leaving said right-of-way line, North 53 degrees 54 minutes 19 seconds East for a distance of 12.40 feet to a capped 1/2-inch rebar set; thence South 84 degrees 28 minutes 42 seconds East for a distance of 64.12 feet to a capped 1/2-inch rebar set; thence along a curve to the left having a radius of 120.19 feet and an arc length of 92.42 feet, said arc being subtended by a chord with a bearing of South 89 degrees 13 minutes 39 seconds East and a length of 90.16 feet, to a capped 1/2-inch rebar set; thence along a curve to the right having a radius of 94.65 feet and an arc length of 27.67 feet, said arc being subtended by a chord with a bearing of North 76 degrees 39 minutes 12 seconds East and a length of 27.57 feet, to a capped 1/2-inch rebar set; thence South 89 degrees 27 minutes 25 seconds East for a distance of 82.49 feet to a capped 1/2-inch rebar set; thence South 00 degrees 07 minutes 01 second West for a distance of 170.88 feet to a capped 1/2-inch rebar set; thence South 29 degrees 41 minutes 37 seconds West for a distance of 86.95 feet to a capped 1/2-inch rebar set; thence South 45 degrees 30 minutes 40 seconds West for a distance of 80.44 feet to a capped 1/2-inch rebar set; thence North 78 degrees 15 minutes 21 seconds West for a distance of 39.28 feet to a capped 1/2-inch rebar set; thence South 11 degrees 33 minutes 53 seconds West for a distance of 15.58 feet to a capped 1/2-inch rebar set; thence North 55 degrees 15 minutes 28 seconds West for a distance of 19.48 feet to a point; thence North 66 degrees 34 minutes 54 seconds West for a distance of 24.64 feet to a capped 1/2-inch rebar set; thence North 18 degrees 16 minutes 09 seconds East for a distance of 21.35 feet to a capped 1/2-inch rebar set; thence North 81 degrees 08 minutes 31 seconds West for a distance of 67.11 feet to a capped 1/2-inch rebar set; thence South 12 degrees 34 minutes 19 seconds West for a distance of 19.58 feet to a capped 1/2-inch rebar set; thence North 83 degrees 41 minutes 37 seconds West for a distance of 84.21 feet to a capped 1/2-inch rebar set and the **True Point of Beginning**.

Containing within said bounds 1.701 acres (74,092 square feet) more or less, as more particularly shown on that certain Survey Plat for DeKalb County Dunwoody Park prepared by Ronnie Joiner, RLS #2488, Moreland Altobelli Associates, Inc. dated September 17, 2010.