

MARTA

A RESOLUTION

FULTON COUNTY, GEORGIA

A RESOLUTION TO APPROVE A PROPOSED AMENDMENT TO THE RAPID TRANSIT CONTRACT AND ASSISTANCE AGREEMENT OF SEPTEMBER 1, 1971, BETWEEN THE CITY OF ATLANTA, FULTON AND DEKALB COUNTIES AND MARTA SO AS TO EFFECT CERTAIN CHANGES IN THE SYSTEM AS DESCRIBED IN THE RAPID TRANSIT CONTRACT AND ASSISTANCE AGREEMENT; TO APPROVE A WRITTEN AMENDMENT TO THE RAPID TRANSIT CONTRACT AND ASSISTANCE AGREEMENT INCORPORATING THEREIN THE ACTION HEREBY TAKEN AND TO AUTHORIZE THE CHAIRMAN OF THE BOARD OF COMMISSIONERS TO EXECUTE SUCH AMENDMENT; TO SPECIFY AN EFFECTIVE DATE FOR THIS RESOLUTION; TO REPEAL CONFLICTING RESOLUTIONS AND FOR OTHER PURPOSES.

WHEREAS, Fulton County (the "County"), DeKalb County, the City of Atlanta and the Metropolitan Atlanta Rapid Transit Authority (the "Authority") previously have entered into a Rapid Transit Contract and Assistance Agreement (the "Contract") dated September 1, 1971, which incorporated the Engineering Report, dated September 1971, setting forth the proposed Rapid Transit System (the "System") for the Metropolitan Atlanta area which was approved at the November 9, 1971 referendum; and

WHEREAS, the Authority's Board of Directors on August 3, 1990, adopted certain changes (as more fully described in "Exhibit A" attached hereto) to the text of the Contract; and

WHEREAS, the Authority's Board of Directors on August 3, 1990, adopted certain changes (as described in said "Exhibit A") to the System which will effect a substantial deviation from the System described in the Engineering Report; and

WHEREAS, the aforesaid changes (as described in said "Exhibit A") will provide for extension of the System beyond the Metropolitan Area as defined in the Contract; and

WHEREAS, the Contract requires approval of any such changes in the text of the Contract, of any such substantial deviations from the Engineering Report and of any such extensions beyond the Metropolitan Area by a majority of the votes entitled to be cast thereon under the Contract, and the Authority has requested that the County vote its approval of such changes by appropriate formal action.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED BY THE BOARD OF COMMISSIONERS OF FULTON COUNTY THAT:

SECTION ONE: The changes to the System adopted August 3, 1990, by the Authority's Board of Directors, as more fully described in Exhibit A attached hereto, which involve the extension of the System to and within Gwinnett County including three stations and a storage facility, will constitute a substantial deviation from the Engineering Report under the terms of the Contract, and will constitute an extension of the System beyond the Metropolitan Area as defined in the Contract; and

A. It being hereby determined that the acquisition and establishment of an improved Rapid Transit System for the

Metropolitan Area will be realized through such modifications, amendments, and extensions; and

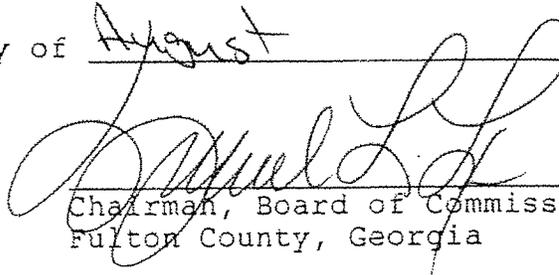
B. Both the changes and the extension beyond the Metropolitan Area herein described be and are hereby approved in all respects.

SECTION TWO: The changes to the text of the Contract adopted August 3, 1990, by the Authority's Board of Directors, as more fully described in Exhibit A attached hereto, which involve: (1) the addition of Gwinnett County as a party to the Contract; (2) the extension of the retail sales and use tax for rapid transit purposes at a maximum rate of taxation of one percent until and including June 30, 2032, and at a maximum rate of one-half of one percent thereafter; and (3) the extension of the term of the Contract to expire at midnight on July 31, 2040 are hereby approved in all respects.

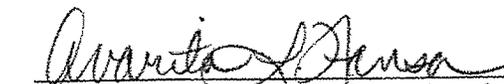
SECTION THREE: The Chairman is hereby authorized to execute an amendment to the Rapid Transit Contract and Assistance Agreement in the form attached hereto as Exhibit "A" on behalf of Fulton County immediately upon determining that the changes and extension thereby proposed have received approval in accordance with the requirements of Sections 1(f), 4(d) and 5 of the Rapid Transit Contract and Assistance Agreement.

SECTION FOUR: All resolutions and parts of resolutions in conflict herewith are hereby repealed.

Adopted this 29th day of August


Chairman, Board of Commissioners
Fulton County, Georgia

ATTEST:


Clerk, Board of Commissioners
Fulton County, Georgia

APPROVED AS TO FORM:

Fulton County Attorney

ITEM # 649, 50M 8/29/90 A.M.

SPECIAL CALL MEETING, AUGUST 29, 1990

(90RCM649) RESOLUTION TO APPROVE A PROPOSED AMENDMENT TO THE RAPID TRANSIT CONTRACT AND ASSISTANCE AGREEMENT OF SEPTEMBER 1, 1971 BETWEEN CITY OF ATLANTA, FULTON AND DEKALB COUNTIES AND MARTA

Mr. Kenneth Gregor, General Manager of MARTA presented the following letter dated August 28, 1990:

The Honorable Michael L. Lomax
Chairman
Fulton County Board of Commissioners
141 Pryor Street, S.W.
Atlanta, Georgia 30335

SUBJECT: Proposed Eleventh Amendment to the Rapid Transit Contract and Assistance Agreement - Proposed Rapid Transit Contract between MARTA and Gwinnett County

Dear Chairman Lomax:

On behalf of MARTA, I thank you for meeting with us on Thursday, August 23, 1990 and again on Monday, August 27 to discuss the above-referenced agreement. I am most grateful for the spirit in which the discussions were conducted and believe that the outcome will further contribute to the continued growth of Atlanta and the entire Metropolitan Region. The purpose of this letter is to confirm the clarifications discussed at the meetings.

1. Use of the Gwinnett MARTA Tax.

The Proposed contract provides that initially the Gwinnett tax will be used for three (3) purposes: (a) to pay for the total cost of construction the extension of the MARTA rail line from Doraville to Gwinnett Place Mall including three (3) station; (b) to pay for the total cost of operating the Gwinnett Extension including shuttle bus service which would begin shortly after the tax is levied; and (c) to pay a portion of the cost of operating and maintaining the existing MARTA system (an average of \$2.5 million per year between 1991 and 1998). Following the completion of the extension to Gwinnett Place Mall, the proceeds from the Gwinnett tax will be co-mingled with the proceeds of the MARTA tax collected in Fulton and DeKalb and will be used as determined by the MARTA Board of

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Director and, where required, approved by the local governments to which we report.

The schedule for implementing the Gwinnett Extension Plan is based on estimates of costs and revenues. The estimates of revenues were made by Hamer, Siler & George and we believe that they are prudent and reasonable. The estimates take into consideration three years of experience which Gwinnett has had with a 1% local option sales tax. However, should the estimates prove to be inaccurate, the contract with Gwinnett specifies in Section az, pages 5 and 6, that the financial resources available to implement the Gwinnett Extension:

"shall not include the proceeds of the retail sales and use tax levied by Fulton or DeKalb or that portion of proceeds of future issues of Authority sales tax revenue bonds which can be repaid from the proceeds of the said retail sales and use tax and credited by the Georgia State Revenue Commissioner to Fulton or DeKalb pursuant to the RTCAA."

In other words, the Gwinnett Extension Plan would be implemented as far and as fast as the proceeds from the Gwinnett MARTA tax will permit. Proceeds from the Fulton and DeKalb MARTA tax will not be used for the Gwinnett Extension.

2. Flat Fares versus Distance-based Fares.

As you know, since 1971 MARTA's policy has been to charge flat fares with no cost for transfers. From time to time, we have considered the question of zone fares but have not been persuaded that the advantages outweigh the disadvantages. Administrative costs, the confusion among customers, particularly occasional riders, who make up a significant percentage of MARTA's riders and the fact that we have a substantial amount of reverse commuting on the MARTA system which means that low-income city-dwellers would be hit as well as middle and upper income suburbanites--all of these factors have tended to discourage MARTA from pursuing the implementation of a zone fare system. However, in the Rapid Transit Contract with Gwinnett, in Section 5.2.2, Page 26 of the Engineering Report, it is specifically stated that:

"the rates charged for services on the Authority system including the Gwinnett Extension may, in the sole discretion of the Authority, be based in the future upon zone fares or distance-based fares provided

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that such rates or fares are applied uniformly throughout the system."

3. Voting Requirements to Amend the RTCAA.

The existing RTCAA between Atlanta, Fulton, DeKalb and MARTA provides for major changes to the contract. To date, there have been ten changes or amendments to the RTCAA. The one that would bring Gwinnett into the system is the Eleventh Amendment. The contract spells out the change procedure. Changes are initiated by the MARTA Board of Directors and submitted to Atlanta, Fulton, and DeKalb. In order for a change to be come effective, a majority of the local governments must ratify it. At the present time, that means two of the three local governments. If Gwinnett becomes a party to the RTCAA, future amendments would require ratification by three of four local governments.

4. Extension of the MARTA 1% Tax Rate form 2012 to 2032.

In addition to ratifying the Rapid Transit Contract with Gwinnett County, the Eleventh Amendment also extends the MARTA tax at the full 1% rate from the year 2012 to the year 2032. In its 1990 Session, the Georgia General Assembly authorized the extension of the MARTA tax at the full 1% rate from 2012 to 2032. The RTCAA requires the local governments to levy the tax to the fullest extent authorized by law. This change which can be found in Section 6, Pages 8 and 9, will put the tax in Fulton, DeKalb and Gwinnett on the same basis and terms.

5. Extension of the Rapid Transit Contract from 2021 to 2040.

As you know, under the Constitution and Laws of the State of Georgia, the Maximum term of a contract is 50 years. The present contract with Fulton and DeKalb will consequently expire at Midnight on August 21, 2021. The contract with Gwinnett is a 50 year contract. The proposed extension of the RTCAA to 2040 will thus bring the existing contract in line with the Gwinnett contract. More importantly it will permit the Authority to continue to issue and sell 30 year revenue bonds which we will not be able to do under the terms of the existing RTCAA after August 31, 1991.

While the extension of the term of the RTCAA and extension of the MARTA tax in Fulton and DeKalb are related to the Gwinnett Contract, the approval of these extensions even if the Gwinnett Contract is not approved in the November 1990

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election.

I hope the above reflects the understanding and clarifications discussed at last Thursday's meeting and the subsequent meeting held on Monday, August 27, 1990. Again, we appreciate your cooperation and look forward to your continued support.

Mr. Ken Gregor, General Manager of MARTA, addressed the Board of Commissioners with a brief synopsis of the underlying premise of the negotiations stated in the letter.

Mr. George Ivey apologized for not being more consistent with the information that was to go to all Commissioners.

Chairman Lomax made a motion for approval. Commissioner Hightower seconded the motion and the motion carried 7-0.

CLERK'S NOTE RESOLUTION TO APPROVE A PROPOSED AMENDMENT TO THE RAPID TRANSIT CONTRACT AND ASSISTANCE AGREEMENT OF SEPTEMBER 1, 1971 BETWEEN CITY OF ATLANTA, FULTON AND DEKALB COUNTIES AND MARTA, APPROVED BY THE BOARD OF COMMISSIONERS IN THEIR SPECIAL CALL MEETING HELD AUGUST 29, 1990 IS IN THE SUPPLEMENT PORTION OF MINUTE BOOK M-12, PAGES 1-35.

90SCM3 REQUEST FOR APPROVAL OF REMOVAL OF SEWER MORATORIUM IN THE BIG CREEK AND JOHNS CREEK WASTEWATER TREATMENT PLANTS

The following memorandum was presented dated August 14, 1990:

To: Sam Brownlee, County Manager
From: Frederick T. Artis, Director of Public Works
Subject: Sewage Treatment Plant Capacity

In April of this year, the Public Works Department recommended a self imposed moratorium on sewer connections in the Big Creek/Johns Creek Wastewater Treatment Plants in order to be in compliance with the 1986 Consent Order from the Georgia Environmental Protection Division (EPD) to limit connections where the treatment plant failed to meet permit requirements for