

**AN ORDINANCE
BY COUNCILMEMBER ALEX WAN**

AN ORDINANCE AUTHORIZING THE ADVANCEMENT OF FINAL PAYMENT FOR THE ATLANTA STRETCAR DEISGN-BUILD PROJECT, PURSUANT TO THE CITY’S INTERGOVERNMENTAL AGREEMENT WITH THE METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY (“MARTA”); TO AUTHORIZE THE ANTICIPATION ELIGIBLE PROJECT COSTS FROM APPLICABLE FEDERAL GRANT FUNDS, AS REIMBURSED BY THE FEDERAL TRANSIT AUTHORITY (“FTA) TO MARTA, AS GRANTEE OF APPLICABLE FEDERAL GRANTS; AND FOR OTHER PURPOSES.

WHEREAS, pursuant to Ordinance No. 10-O-1171, the City of Atlanta (“City”) entered into a certain intergovernmental agreement (“IGA”) for the purpose of applying for certain federal grants, known as the Transportation Investment Generating Economic Recovery (“TIGER”) grant program for the purpose of implementing the Atlanta Streetcar Project (“Project”); and

WHEREAS, the IGA set forth, among other things, the respective roles and responsibilities of the Project Partners (being the City, MARTA, and the Downtown Atlanta Community Improvement District/the Atlanta Downtown Improvement District, Inc., “ADID”), including the respective cost sharing obligations of the Project Partners to pay for the local share of the Project costs according to the applicable TIGER grants; and

WHEREAS, pursuant to the IGA, MARTA was and remains responsible for administering the TIGER grants and the applicable design-build contract to design and construct the Project in accordance with the applicable TIGER grant requirements; and

WHEREAS, pursuant to the IGA, MARTA procured, awarded and administered a design-build contract with URS Energy & Construction (“URS”) for the design and construction of the Project (“Design-Build Agreement”); and

WHEREAS, the Project is complete in accordance with the Design-Build Agreement and further, the Project Partners have reached final agreement as to the final payment amount to pay URS for the release of remaining contract retainage and all work performed under the agreement, including final resolution of all claims, delays and other outstanding matters under the Design-Build Agreement, for a lump sum final payment amount of Seven Million Eight Thousand Forty-Three Dollars and 45/100 (\$7,008,843.45) (“Final Payment Amount”); and

WHEREAS, furthermore, the Final Payment Amount is inclusive of payment for all utility relocation allowance work performed under the Design-Build Agreement on behalf of the Department of Watershed Management, as authorized by Ordinance No. 11-O-1531, which brings the final contract amount to a total of Sixty One Million Six Hundred thirty Thousand Six Hundred Fifty Five and 00/100 (\$61,630,655.00) (“Final Contract Amount”); and

WHEREAS, the Final Contract Amount is less than the total Project Budget and is approximately Six Million Dollars (\$6 million) less than the amount claimed by URS for final payment for the Project; and

WHEREAS, pursuant to the applicable TIGER grants for the Project, FTA must approve the final payment and the final close-out of the TIGER grants as it relates to the Project to determine, audit and otherwise approve eligible Project costs under the applicable TIGER grants, which process will require several months to complete; and

WHEREAS, the advancement of the Final Payment Amount to URS is in the best interests of the City and the other Project Partners in order to expedite the close-out of the Design-Build Agreement with URS and to facilitate the close-out process of the TIGER grants with FTA, which will result in the reimbursement by FTA of approved eligible Project costs under the applicable TIGER grants to MARTA as the Grantee; and

WHEREA, the process of making advanced payments to Project contactors in anticipation of receiving reimbursement from the FTA is typical for TIGER grants, particularly in light of the long lead time and process required for such FTA reviews and approvals; and

WHEREAS, as sub-grantee of the applicable TIGER grants for the Project and as a Project Partner under the IGA, the City's local share of eligible Project costs is 31%, whereas, MARTA is not responsible for any payment of the local share of the Project costs; and

WHEREAS, in furtherance of the close-out of the Design-Build Project and the applicable TIGER grants, the City desires to pay the remainder of the payment of the Final Payment Amount over and above its estimated local share of Project costs being an amount of Three Million Five Hundred Ninety Four Thousand One Hundred One Dollars and 98/100 (\$3,594,101.98) in anticipation and on the condition of being reimbursed by MARTA upon receipt of approved grant funds from FTA, pursuant to the applicable TIGER grants, in accordance with the fund and accounts information specified below.

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

SECTION 1. The Chief Financial Officer is authorized to advance and pay to MARTA an amount of Three Million Five Hundred Ninety Four Thousand One Hundred One Dollars and 98/100 (\$3,594,101.98) (“Advancement”), pursuant to the IGA, for the purpose of issuing the Final Payment Amount to URS under the Design-Build Agreement on the condition that MARTA complies with its obligations under the IGA to provide all documentation and information to FTA for FTA's review and approval of all eligible Project costs under the applicable TIGER grants for the Project, which Advancement shall be in addition to other payments made (or to be made, as the case may be) in accordance with the City's local share of the eligible Project costs under the Design-Build Agreement, the applicable TIGER grants and the IGA, as may be applicable.

SECTION 2. Upon receipt of FTA’s approval of the final eligible Project costs and FTA reimbursement payment of applicable TIGER grant funds to MARTA, as grantee, MARTA shall immediately make payment to the City of any such grant funds received.

SECTION 3. The Mayor, or his designee, is authorized to enter into such memorandum of understanding or other agreements with MARTA and/or the Project Partners, as may be necessary and appropriate to document the payment and reimbursement process described herein, including without limitation the expectations regarding the timing of submittals to FTA for pending FTA approvals and determinations of eligible Project costs under the applicable TIGER grants for the Project.

SECTION 4. All amounts authorized pursuant to this ordinance shall be charged to and paid from

Fund	Department	Account	Function Activity	Project	Funding Source
2501	040416	5710001	7550001	111097	91993

SECTION 5. All amounts received from MARTA, pursuant to amounts received for FTA reimbursements of grant funds for the Project, shall be appropriated and transferred to

Fund	Department	Account	Function Activity	Project	Funding Source
2501	040416	3710001	7550001	111097	91993

SECTION 6. All ordinances in conflict with this ordinance are hereby waived to the extent of the conflict but only for purposes of this ordinance.