



Date of Council Meeting: December 10, 2013

**TOWN OF LEESBURG
TOWN COUNCIL MEETING**

Subject: A resolution is needed authorizing the Mayor to accept a portion of Tolbert Lane which is being conveyed to the Town by the Commonwealth of Virginia.

Staff Contact: Jeanette Irby, Town Attorney
Keith Wilson, Land Acquisition Manager

Recommendation: The Town Council should pass a resolution authorizing the mayor to accept a portion of Tolbert Lane being conveyed from the Commonwealth of Virginia.

Issue: Should the Town Council pass a resolution authorizing the Mayor to accept a portion of Tolbert Lane and execute an Offer to Purchase and Adjacent Landowner's Affidavit?

Fiscal Impact: None.

Background: In May of this year, the town council, as part of the capital improvement project entitled "Airport Runway 17 Safety Area Grading Project" ("Project"), vacated by ordinance, a 0.23 mile section (or 1.4009 acre) of Tolbert Lane between Miller Drive and Battlefield Parkway. This portion of right of way was vacated by the town council because the road was no longer open to the public, was unused and was barricaded when Battlefield Parkway was completed. Vacation was requested because in order to be reimbursed by the FAA and the DOAV for the costs of the Project, the FAA and DOAV required title to be in the name of the Town.

Once vacation occurred, the underlying fee owner of the 0.23 mile section (or 1.4009 acre) of Tolbert Lane, was the Commonwealth of Virginia. Town staff submitted to VDOT justification for the Commonwealth of Virginia to convey this underlying tract to the Town. VDOT has approved the conveyance and now requests the Town execute an Offer to Purchase and Adjacent Landowner's Affidavit as well as a Quitclaim Deed. Once both these documents are executed by the Mayor and VDOT, the Town will own this portion of Tolbert Lane and grant funds will be provided by the FAA and DOAV.

Respectfully submitted,

Jeanette Irby, Town Attorney

Attachments: 1.) Draft Offer to Purchase and Adjacent Landowner's Affidavit
2.) Draft Quitclaim Deed prepared by VDOT

OFFER TO PURCHASE AND ADJACENT LANDOWNER'S AFFIDAVIT

Route: 654 (Tolbert Lane), Project: None, Town: Leesburg
Former Property of France E. Saunders, et al.
PMI #: 8206
Date: _____

Brief legal description of Virginia Department of Transportation property: Being as shown on the plat titled " Plat Showing the Abandonment Of A Portion of Land As Dedicated For Public Street Purposes In Deed Book 454 At Page 369 In the Name of The Commonwealth of Virginia Town of Leesburg Loudoun County Virginia" dated February 25, 2013, prepared by Ryan J. Dreelin of Rinker Design Associates, P.C, containing 1.4009 acre, more or less, land; and being a part of the same lands acquired from Francis E. Saunders, et al. by Deed dated September 27, 1965, recorded Deed Book 454, Page 369, being recorded in the Office of the Clerk of the Circuit Court of Loudoun County, Virginia.

We do AGREE to purchase the property described above, containing 1.4009 acre, for \$1.00 and do SWEAR and AFFIRM that Town of Leesburg , Virginia , is the owners of record of the land immediately adjacent to the described property.

This offer is conditionally accepted by the Virginia Department of Transportation subject to acceptance, in writing, by the State Director of Right of Way and Utilities.

We understand the property is sold "as is", and it will be conveyed by quitclaim deed. I/We understand that a formal closing will take place at which time the purchaser will be required to pay for recording of the deed and any tax or fee associated with the recordation or property transfer.

The purchaser acknowledges that it has received all environmental reports in possession of the Department relating to the property, and will be granted a right of entry as the opportunity to conduct a Phase I Environmental Site Assessment solely at purchasers expense, to satisfy their due diligence requirements under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) prior to closing on the property, and agrees that completion of such Assessment shall not delay closing for more than a period of 30 days from the date of this document or be deemed waived by the purchaser without further action.

Check one:

____ We will conduct a Phase I Environmental Site Assessment to be completed in 30 days from the date of this document.

____ We will not conduct a Phase I Environmental Site Assessment to be completed in 30 days from the date of this document.

The deed for the property being conveyed is to be titled in the exact manner the adjoining land is titled in the local courthouse records and should be as follows (please print or type):

Signature of Owner/Owners:

State of _____

County/City/Town of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2013, by _____ and _____.

Affix Stamp for Notary ID and Commission Expiration Date:

Notary Public

To Be Assemble to GPIN 234-49-669-000 and 190-15-5841-000

**PREPARED BY VDOT
UNDER THE SUPERVISION OF THE
OFFICE OF THE ATTORNEY GENERAL**

**Exempted from Grantor taxes
under Section 58.1-811(C)(4)**

**QUITCLAIM DEED
Pursuant to § 33.1-154 of the Code of Virginia**

THIS QUITCLAIM DEED, made this 5th day of October, 2013, between the **COMMONWEALTH OF VIRGINIA**, acting by and through the Commissioner of Highways, (“GRANTOR”) and **TOWN OF LEESBURG, VIRGINIA**, (“GRANTEE”).

WITNESSETH:

WHEREAS, the hereinafter described property (the "Property") was acquired in conjunction with the Secondary System of State Highways; and,

WHEREAS, the Commissioner of Highways has deemed that the Property is no longer necessary for the uses of the Secondary System of State Highways; and has so certified in writing on October 23, 2013; and,

WHEREAS, this conveyance is authorized in accordance with the provisions of Section 33.1-154 of the Code of Virginia (1950), as amended; and,

NOW, THEREFORE, in consideration of the sum of ONE DOLLAR, (\$1.00), the receipt of which is hereby acknowledged, and the affidavit of the GRANTEE, that

After recordation return to Grantee’s Address:

it is the owner of the adjoining property, the GRANTOR does hereby quitclaim, release, grant and convey, without warranty, unto the GRANTEE, any and all right, title and interest GRANTOR may possess in and to the following described Property, all of which lies in, the Town of Leesburg, Virginia, to wit:

Being as shown on the plat titled "Plat Showing the Abandonment Of A Portion of Land As Dedicated For Public Street Purposes In Deed Book 454 At Page 369 In the Name of The Commonwealth of Virginia Town of Leesburg Loudoun County Virginia" dated February 25, 2013, prepared by Ryan J. Dreelin of Rinker Design Associates, P.C, containing 1.4009 acre, more or less, land; and being a part of the same lands acquired from Francis E. Saunders, et al. by Deed dated September 27, 1965, recorded Deed Book 454, Page 369, being recorded in the Office of the Clerk of the Circuit Court of Loudoun County, Virginia.

The Property is shown on the photocopy of the plat referenced above, which photocopy is attached as a part of this conveyance and is to be recorded simultaneously herewith.

This conveyance is subject to any right, privilege, easement, condition or restriction encumbering the Property, whether located above, upon, or under the surface, either presently in use or of record.

The GRANTEE by joining in this deed through signature of its authorized representatives, accepts, as is, the interest in the real estate conveyed by this deed pursuant to Section 15.2-1803 of the Code of Virginia (1950), as amended.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the Commonwealth of Virginia, Commissioner of Highways, has caused this Quitclaim Deed to be executed in its name as of the day, month, and year first above written.

COMMONWEALTH OF VIRGINIA
Commissioner of Highways

BY _____ (SEAL)
Richard R. Bennett
State Right of Way and Utilities Director
Department of Transportation

COMMONWEALTH OF VIRGINIA

City of Richmond, to-wit:

The foregoing instrument was acknowledged before me this ___ day of _____, 2013, by Richard R. Bennett, State Right of Way and Utilities Director, Virginia Department of Transportation, who has been authorized to execute same by the Commissioner of Highways.

Notary Public

Affix Stamp for Notary ID and Commission Expiration Date:

TOWN OF LEESBURG
A Municipal Corporation

BY _____ (SEAL)

ITS: _____

COMMONWEALTH OF VIRGINIA

Town of _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2013 by _____, the _____ of the Town of Leesburg, a Virginia Municipal Corporation.

Notary Public

Affix Stamp of Commission Expiration and Notary ID Number:

APPROVED AS TO LEGAL SUFFICIENCY AND FORM:

Town Attorney

Date

PRESENTED December 10, 2013

RESOLUTION NO. _____

ADOPTED _____

A RESOLUTION: AUTHORIZING THE ACCEPTANCE OF A PORTION OF TOLBERT LANE FROM THE COMMONWEALTH OF VIRGINIA

WHEREAS, as part of the Town’s capital improvement project entitled “Airport Runway 17 Safety Area Grading Project” (“Project”), the Federal Aviation Administration (FAA) and Virginia Department of Aviation (DOAV) requires that a 0.23 mile long portion (or 1.4009 acre) of Tolbert Lane be owned by the Town in fee simple;

WHEREAS, the town council vacated this portion of Tolbert Lane by Ordinance No. 2013-O-012; and

WHEREAS, upon vacation, the underlying fee owner of the portion of Tolbert Lane is the Commonwealth of Virginia; and

WHEREAS, the Commonwealth of Virginia has agreed to convey this portion of Tolbert Lane to the Town by quitclaim deed;

WHEREAS, pursuant to Code of Virginia of 1950, as amended, § 15.2-1803 (Approval and acceptance of conveyances of real estate) the town council must authorize the acceptance of the conveyance by the Commonwealth of Virginia.

THEREFORE, RESOLVED, by the Council of the Town of Leesburg in Virginia that the Town Council 1) Accepts the aforementioned conveyance by the Commonwealth of Virginia: and 2) Authorizes the Mayor to execute the Offer to Purchase and Adjacent Landowner’s Affidavit and Quitclaim Deed which have been forwarded by the Virginia Department of Transportation as approved by the Town Attorney’s Office.

PASSED this _____ day of _____, 2013.

Kristen C. Umstatt, Mayor
Town of Leesburg

ATTEST:

Clerk of Council