



CITY COUNCIL AGENDA ITEM

TO: Mayor & City Council

DATE: November 24, 2014

FROM: John McDonough, City Manager

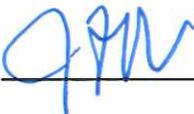
AGENDA ITEM: Resolution to authorize the use of eminent domain to acquire property located at:
6201 Roswell Road (Parcel ID: 17-008900070365),
6215 Roswell Road (Parcel ID: 17-008900070373),
6219 Roswell Road (Parcel ID: 17-008900070324), and
260 Mount Vernon Highway (Parcel ID: 17-008900070423) in
Sandy Springs (together, "Property") for public use

MEETING DATE: For Submission onto the December 2, 2014, City Council Regular Meeting Agenda

BACKGROUND INFORMATION: *(Attach additional pages if necessary)*

See attached:

Memorandum
Resolution

CITY MANAGER APPROVAL: 

PLACED ON AGENDA FOR: 12/02/2014

CITY ATTORNEY APPROVAL REQUIRED: () YES () NO

CITY ATTORNEY APPROVAL: 



To: Honorable Mayor and City Council Members

From: Wendell K. Willard

Date: For Submission on the December 2, 2014 City Council Meeting Agenda

Item: Resolution to authorize the use of eminent domain to acquire property located at 6201 Roswell Road (Parcel ID: 17-008900070365), 6215 Roswell Road (Parcel ID: 17-008900070373), 6219 Roswell Road (Parcel ID: 17-008900070324), and 260 Mount Vernon Highway (Parcel ID: 17-008900070423) in Sandy Springs (together, "Property") for public use

City Attorney's Recommendation:

The City Attorney's Office recommends that the Council approve the attached resolution authorizing the use of eminent domain to acquire the above-referenced Property.

Background and Discussion:

The Property is owned by W.B. Holdings Triangle, LLC ("Owner"), for whom Adam Orkin is the registered agent. Currently Eddie's Automotive has a leasehold interest at 260 Mount Vernon Highway, Ruby Vapor, LLC has a leasehold interest at 6201 Roswell Road, and Spring Sales, Inc. d/b/a Mattress USA has a leasehold interest at 6219 Roswell Road. To the best of our knowledge, there is currently no tenant on the property located at 6215 Roswell Road. In addition, CBS Outdoor LLC/CBS Outdoor Group LLC has a billboard within the Property area. The Owner and leasehold tenants have been notified of this Council meeting, as required by Georgia law.

The Property is within the scope of the City Center Master Plan and acquisition of fee simple interest in the Property is necessary for development of the City Center in accordance with the Master Plan. The purpose for which the Property will be acquired constitutes a "public use" under Georgia eminent domain law.

The City Attorney continues good faith negotiations with the Owner, making every reasonable effort to acquire the Property by negotiation. The Owner has declined the City's offer of \$3,407,000, the appraisal value as of April 27, 2014. Since efforts to acquire the Property by negotiation have not been successful to date; the City Attorney now seeks authorization from City Council to proceed in eminent domain, should continued negotiations fail.

Attachments:

Resolution to acquire the Property by the use of eminent domain.

Alternatives:

Determine not to acquire the Property by the use of eminent domain.

**STATE OF GEORGIA
COUNTY OF FULTON**

A RESOLUTION TO AUTHORIZE THE USE OF EMINENT DOMAIN TO ACQUIRE PROPERTY LOCATED AT 6201 ROSWELL ROAD (PARCEL ID: 17-008900070365), 6215 ROSWELL ROAD (PARCEL ID: 17-008900070373), 6219 ROSWELL ROAD (PARCEL ID: 17-008900070324), AND 260 MOUNT VERNON HIGHWAY (PARCEL ID: 17-008900070423) IN SANDY SPRINGS, GEORGIA, FOR PUBLIC USE

WHEREAS, the City of Sandy Springs (“City”) has determined that it is necessary to develop a City center and infrastructure project (“Project”); and

WHEREAS, on December 18, 2012, the City adopted a City Center Master Plan following a comprehensive study conducted by an independent firm; and

WHEREAS, the City Center Master Plan contemplates acquisition by the City of certain property within the City limits for use as, among other things, a City government complex, green space, parks and rights-of-way for channels of trade and travel; and

WHEREAS, such uses constitutes “public use” within the meaning of O.C.G.A. § 22-1-1, et seq. (“Act”); and

WHEREAS, the property located at 6201 Roswell Road (Parcel ID: 17-008900070365), 6215 Roswell Road (Parcel ID: 17-008900070373), 6219 Roswell Road (Parcel ID: 17-008900070324), and 260 Mount Vernon Highway (Parcel ID: 17-008900070423) in Sandy Springs (“Property”) is property within the scope of the Project, and therefore the City desires to acquire fee simple interest in the Property to accomplish the Project; and

WHEREAS, the City Attorney has caused to be conducted an appraisal of the Property and the owner or his/her designated representatives were given an opportunity to accompany the appraiser during inspection of the Property; and

WHEREAS, the City has offered the owner of the Property its April 27, 2014 appraised value of \$3,407,000 to acquire fee simple title; and

WHEREAS, the City has funds available to purchase the Property; and

WHEREAS, the City Attorney has made every reasonable effort to acquire the Property expeditiously by negotiation; and

WHEREAS, the City has been unable to reach an agreement with the owner to acquire the Property; and

WHEREAS, the Mayor and City Council deem it in the public interest to acquire fee simple title to the Property to insure timely implementation and completion of the Project consistent with development of the public road system adjoining the Property and the City Center Master Plan; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sandy Springs, Georgia, while in regular session on December 2, 2014, at 6:00 p.m. as follows:

1. The Council hereby authorizes the City Attorney's Office to acquire the Property, located at 6201 Roswell Road (Parcel ID: 17-008900070365), 6215 Roswell Road (Parcel ID: 17-008900070373), 6219 Roswell Road (17-008900070324), and 260 Mount Vernon Highway (Parcel ID: 17-008900070423) in Sandy Springs, through the use of eminent domain by any method allowed by law, in order to insure the timely completion of the Project.
2. The Mayor is specifically authorized to execute any documents necessary to further the filing of any petition related to the same.
3. The Property sought to be acquired is more fully described in Exhibit "A" attached hereto and incorporated herein by reference.

RESOLVED this the ____ day of _____, 2014.

Approved:

Russell K. Paul, Mayor

Attest:

Michael Casey, City Clerk

(SEAL)

EXHIBIT "A"

PROPERTY DESCRIPTION

6201 Roswell Road – Tract "C"

All that tract and parcel of land lying and being in Land Lot 89 of the 17th District, Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at a one-half inch rebar set on the Easterly Right-of-Way of Roswell Road (65 foot Right-of-Way) which point is North 00 degrees 54 minutes 39 seconds East, 92.09 feet from the point of intersection of the Easterly Right-of-Way of Roswell Road with the Northwesterly Right-of-Way of Mount Vernon Highway (40 foot Right-of-Way) and which point is designated as P.K. nail set; running thence North 00 degrees 05 minutes 11 seconds East along the Easterly Right-of-Way of Roswell Road, 80.09 feet to a nail set; running thence South 88 degrees 33 minutes 06 seconds East, 111.32 feet to a point; running thence North 02 degrees 39 minutes 33 seconds West, 42.78 feet to a point on the Southwesterly Right-of-Way of Johnsons Ferry Road (30 foot Right-of-Way); running thence South 65 degrees 25 minutes 20 seconds East along the Right-of-Way of Johnsons Ferry Road, 26.00 feet to a point; continuing thence South 69 degrees 11 minutes 27 seconds East along the Southwesterly Right-of-Way of Johnsons Ferry Road, 11.00 feet to a one-half inch rebar found; running thence South 05 degrees 39 minutes 11 seconds East, 90.85 feet to a one-half inch rebar set; running thence South 40 degrees 03 minutes 58 seconds West, 6.00 feet to a one-half inch rebar set; running thence South 85 degrees 43 minutes 27 seconds West, 148.85 feet to a one-half inch rebar set on the Easterly Right-of-Way of Roswell Road and the POINT OF BEGINNING.

Being a tract of 0.2792 acres as shown on survey for Raymond O. Boyd by Pearson & Associates, Inc., dated March 7, 1986, revised August 13, 1987, and being designated as Tract "C" thereon; and

All that tract or parcel of land lying and being in Land Lot 89 of the 17th District, Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at a nail set at the intersection of the Southerly Right-of-Way of Johnson Ferry Road (30 foot Right-of-Way) and the Easterly Right-of-Way of Roswell Road and running thence North 85 degrees 13 minutes East along the Southerly Right-of-Way of Johnson Ferry Road, 16.27 feet to a nail set; running thence South 54 degrees 26 minutes East along the Southwesterly Right-of-Way of Johnson Ferry Road, 55.90 feet to a nail set; continuing along the Southwesterly Right-of-Way of Johnson Ferry Road and the following courses and distances: South 55 degrees 24 minutes East, 28.96 feet to a nail set; South 59 degrees 45 minutes East, 29.49 feet to an iron pin found; running thence South 02 degrees 40 minutes East, 42.81 feet to an iron pin placed; running thence North 88 degrees 03 minutes West, 110.98 feet to a nail set on the Easterly Right-of-Way of Roswell Road (65 foot Right-of-Way); running thence North 01 degree 10 minutes West along the Easterly Right-of-Way of Roswell Road, 101.49 feet to a nail set and the POINT OF BEGINNING.

And

“Tract A”

All that tract or parcel of land lying and being in Land Lot 89 of the 17th District, Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at the Northeast corner of the intersection of the Northwesterly Right-of-Way of Mount Vernon Highway (40 foot Right-of-Way) and the Easterly Right-of-Way of Roswell Road (65 foot Right-of-Way) at a P.K. nail set at the POINT OF BEGINNING; running thence North 00 degrees 54 minutes 39 seconds East along the Easterly Right-of-Way of Roswell Road, a distance of 92.09 feet to a ½ inch rebar set on the Easterly Right-of-Way of Roswell Road; running thence North 85 degrees 43 minutes 27 seconds East, a distance of 148.85 feet to a ½ inch rebar set; running thence North 40 degrees 03 minutes 56 seconds East, a distance of 6.00 feet to a ½ inch rebar set; running thence ____ 05 degrees 39 minutes 11 seconds West, a distance of 90.85 feet to a ½ inch rebar found on the Southwesterly Right-of-Way of Johnson’s Ferry Road (30 foot Right-of-Way); running thence 71.38 feet along an arc of a curve to the left having a radius of 816.25 feet in which said arc having a chord bearing and distance of South 72 degrees 48 minutes 54 seconds East, 71.36 feet to a point on the Southwesterly Right-of-Way of Johnson’s Ferry Road; thence South 76 degrees 43 minutes 24 seconds East along the Southwesterly Right-of-Way of Johnson’s Ferry Road, a distance of 63.65 feet to a point on the Southwesterly Right-of-Way of Johnson’s Ferry Road; running thence 98.65 feet along an arc of a curve to the left, having a radius of 544.70 feet in which said arc having a chord bearing and distance of South 79 degrees 43 minutes 40 seconds East, 98.52 feet to a point on the Southwesterly Right-of-Way of Johnson’s Ferry Road; thence South 84 degrees 07 minutes 33 seconds East along the Southwesterly Right-of-Way of Johnson’s Ferry Road, a distance of 101.33 feet to a ½ inch rebar set on the Southwesterly Right-of-Way of Johnson’s Ferry Road; thence South 06 degrees 38 minutes 46 seconds East along the Right-of-Way, a distance of 22.84 feet to a ½ inch rebar set on the Northwesterly Right-of-Way of Mount Vernon Highway; thence South 76 degrees 45 minutes 29 seconds West along the Northwesterly Right-of-Way of Mount Vernon Highway, a distance of 488.30 feet to a P.K. nail set at the intersection of the Northwesterly Right-of-Way of Mount Vernon Highway and the Easterly Right-of-Way of Roswell Road, and the TRUE POINT OF BEGINNING.

Said tract known as “Tract A” and containing 0.9056 acres of land as shown on survey for Raymond O. Boyd by Pearson & Associates, Inc., dated March 7, 1986, and revised August 13, 1987.