



To: Honorable Mayor and City Council Members

From: Wendell K. Willard

Date: For Submission on the June 3, 2014 City Council Meeting Agenda

Item: Resolution to authorize the use of eminent domain to acquire property located at 80 Johnson Ferry Road, Sandy Springs, Georgia
Parcel ID: 17-008800020098 ("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 within the scope of the Marsh Creek stormwater project, and acquisition of fee simple interest in the Property is necessary for development of this project. The purpose for which the Property will be acquired constitutes a "public use" under Georgia eminent domain law.

The City Attorney has acted in good faith and has made every reasonable effort to acquire the Property by negotiation. An appraisal was obtained on the Property and the appraiser determined fair market value of the Property to be \$131,700. The City offered the owner the appraised value, which was rejected. Since efforts to acquire the Property by negotiation have not been successful to date, the City now seeks to obtain fee simple interest in the Property by condemnation.

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 80 JOHNSON FERRY ROAD, SANDY SPRINGS, GEORGIA, PARCEL ID: 17-008800020098, FOR PUBLIC USE

WHEREAS, the City of Sandy Springs (“City”) has determined that it is necessary to develop stormwater management facilities at the Marsh Creek Headwaters project site to improve overall watersheds within the City (“Project”); and

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

WHEREAS, the property located at 80 Johnson Ferry Road in the City (“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 on January 20, 2014 and the owner or designated representatives were given an opportunity to accompany the appraiser during inspection of the property; and

WHEREAS, the City offered the owner of the Property its January 20, 2014 appraised value of \$131,700.00 to acquire fee simple title, which was rejected by the owner; 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 Property 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 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 June 3, 2014, at 6:00 p.m. as follows:

1. The Council hereby authorizes the City Attorney’s Office to acquire, through the use of eminent domain by any method allowed by law, the Property, located at 80 Johnson Ferry Road, 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 June, 2014.

Approved:

Russell K. Paul, Mayor

Attest:

Michael Casey, City Clerk

(SEAL)

EXHIBIT "A"

PROPERTY DESCRIPTION

All that certain tract or parcel of land lying and being in Land Lot 88 of the 17th District, Fulton County, Georgia, and being Lot 16, Block A, Unit One, of H.V. Powell Subdivision, as per Plat recorded in Plat Book 46, Page 73, Records of Fulton County, Georgia, which Plat is incorporated herein and made a part hereof.