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**CITY COUNCIL AGENDA ITEM**

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**TO:** Mayor & City Council

**DATE:** February 25, 2014

**FROM:** John McDonough, City Manager

**AGENDA ITEM:** Resolution to authorize the use of eminent domain to acquire property located at 5903 Roswell Road (Parcel #4)

**MEETING DATE:** For Submission onto the March 4, 2014, City Council Regular Meeting Agenda

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

See attached:

Memorandum  
Exhibits  
Resolution

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APPROVAL BY CITY MANAGER:   JMM   APPROVED

PLACED ON AGENDA FOR:   3/4/2014  

CITY ATTORNEY APPROVAL REQUIRED: (  ) YES (  ) NO

CITY ATTORNEY APPROVAL:   wkw  

REMARKS:



TO: Mayor and Council

FROM: Wendell Willard, City Attorney

DATE: February 25, 2014

ITEM: Resolution to authorize the use of eminent domain to acquire property located at 5903 Roswell Road (Parcel #4)

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***Recommendation:***

The City Attorney recommends that the Mayor and City Council approve the attached resolution authorizing the use of eminent domain in connection with the Cliftwood Drive to Hammond Drive Sidewalk Project (T-008 / STP-0002-00(310)) for the purpose of acquiring property located at 5903 Roswell Road, lying within Land Lot 90 of the 17<sup>th</sup> District of Fulton County.

***Background:***

The Cliftwood Drive to Hammond Drive Sidewalk Project is a sidewalk improvement project along Roswell Road. In relation to the Project, the City entered into a Reimbursable Contract with the Georgia Department of Transportation under which the City shall be reimbursed for a total not to exceed \$612,120.00 upon completion and certification of the project.

The property located at 5925 Roswell Road is currently a Boston Market restaurant leased from Roswell Road Associates, L.P; the shopping center owner. The acquisition of 1,031.23 square feet of fee simple right of way, 1,179.05 square feet of temporary construction easement is required for the construction of the sidewalk improvements. Negotiations have taken place; however, the landlord has been unable to obtain the consent of the tenant.

Pursuant to the terms of the City's Contract with the Georgia Department of Transportation, the necessary property rights must be acquired expeditiously to avoid any negative impact on the project's funding reimbursement.

***Discussion:***

The appraised fair market value for the interest to be acquired is \$62,400.00.

***Alternatives:***

The City could choose not to acquire the necessary rights via eminent domain; however, any delay could result in deadlines not being met and funding for the project could be negatively affected.

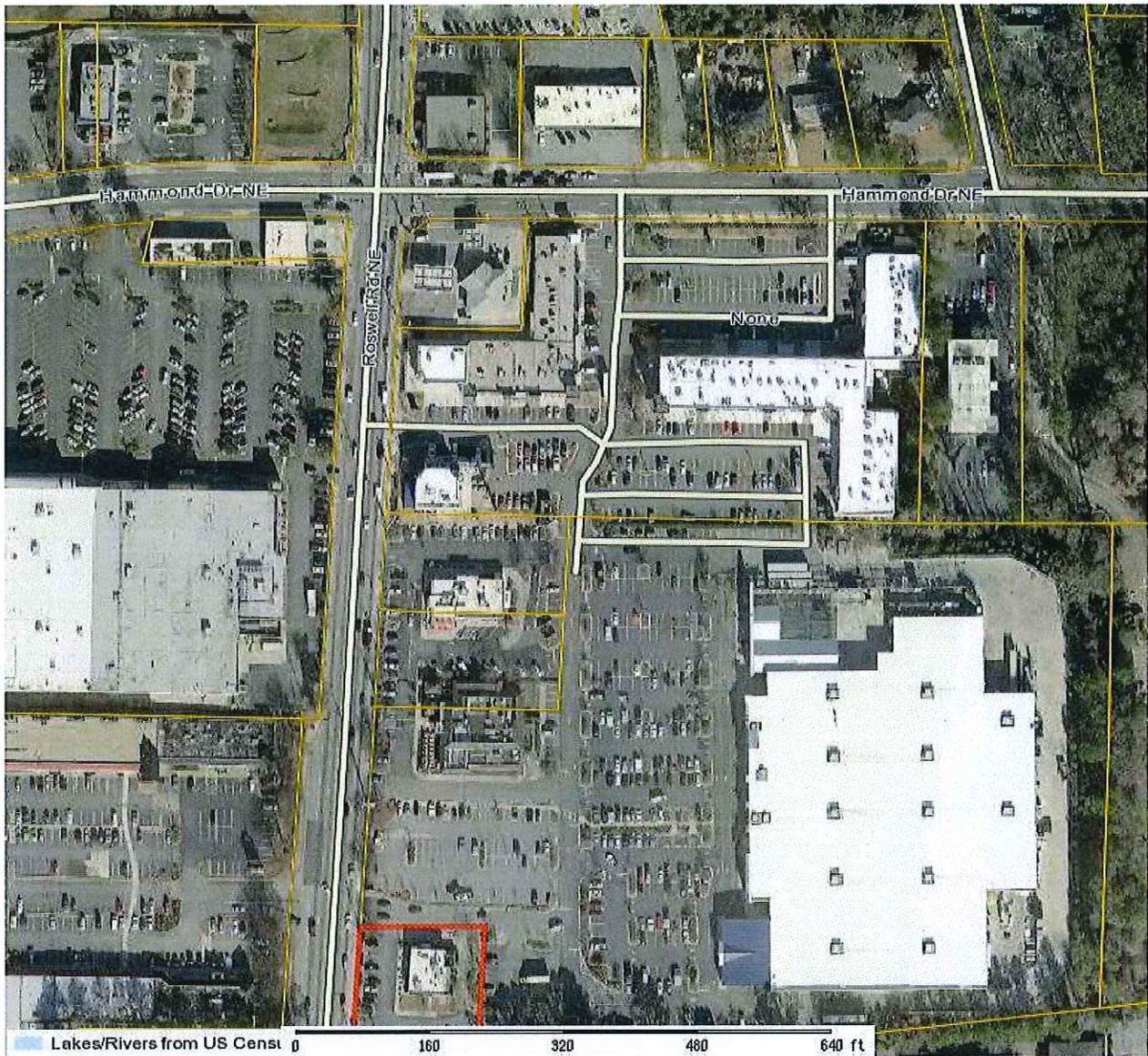


***Financial Impact:***

Purchase of this property has been budgeted in the T-008 Roswell Road Enhancements from Cliftwood Drive to Hammond Drive project's budget.

***Attachments:***

- I. Exhibits
  - Aerial and GIS Maps
  - Project Plans
  - Legal Descriptions
- II. Resolution

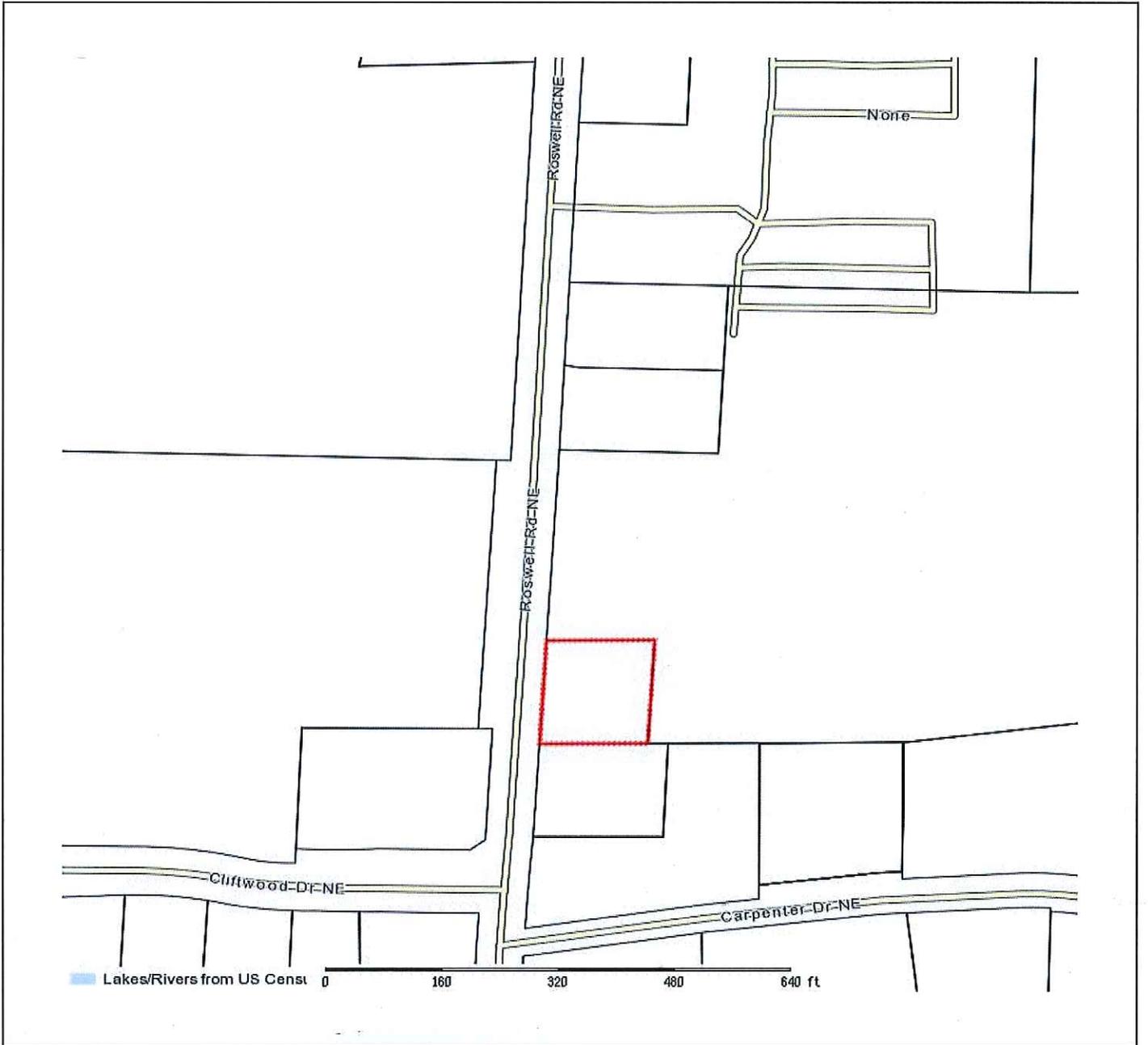


T-008 Parcel #4 Roswell Road Associates, L.P.			
Parcel: 17 0090 LL0337 Acres: 0			
Name:	ROSWELL ROAD ASSOC L P	Land Value	\$ 727,500
Site:	5903 ROSWELL RD	Building Value	\$ 100,300
Sale:		Misc Value	0
Mail:	3756 LAVISTA RD # 200	Total Value:	\$ 827,800
	TUCKER, GA 30084		



The Fulton County Assessor's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll. PLEASE NOTE THAT THE PROPERTY APPRAISER MAPS ARE FOR ASSESSMENT PURPOSES ONLY NEITHER FULTON COUNTY NOR ITS EMPLOYEES ASSUME RESPONSIBILITY FOR ERRORS OR OMISSIONS ---THIS IS NOT A SURVEY---

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## EXHIBIT "A"

PROJECT NO.: T-0008 Sandy Springs / Roswell Road Sidewalk Project  
PARCEL NO.: 4  
DATE OF R/W PLANS: May 5, 2004  
REVISION DATE: August 20, 2013

All that tract or parcel of land lying and being in Land Lot 90 of the 17<sup>th</sup> Land District of Fulton County, Georgia, being more particularly described as follows:

### RIGHT-OF-WAY

Beginning at a point 32.12 feet right of and opposite station 103+43.73 on the centerline of Roswell Road the City of Sandy Springs Project No T-0008; thence N 3°48'15" E a distance of 147.32 feet to a point 31.89 feet right of and opposite station 104+91.05 on said construction centerline laid out for Roswell Road; thence N 89°31'11" E a distance of 7.14 feet to a point 39.00 feet right of and opposite station 104+91.60 on said construction centerline laid out for Roswell Road; thence S 3°53'39" W a distance of 141.60 feet to a point 39.00 feet right of and opposite station 103+50.00 on said construction centerline laid out for Roswell Road; thence S 4°12'45" W a distance of 5.76 feet to a point 38.97 feet right of and opposite station 103+44.24 on said construction centerline laid out for Roswell Road; thence S 89°40'34" W a distance of 6.87 feet back to the point of beginning. **Containing 0.024 acres (1,031.23 square feet) more or less.**

### TEMPORARY EASEMENT

Beginning at a point 38.97 feet right of and opposite station 103+44.24 on the centerline of Roswell Road the City of Sandy Springs Project No T-0008; thence N 4°12'45" E a distance of 5.76 feet to a point 39.00 feet right of and opposite station 103+50.00 on said construction centerline laid out for Roswell Road; thence N 3°53'39" E a distance of 141.60 feet to a point 39.00 feet right of and opposite station 104+91.60 on said construction centerline laid out for Roswell Road; thence N 89°31'11" E a distance of 8.02 feet to a point 47.00 feet right of and opposite station 104+92.21 on said construction centerline laid out for Roswell Road; thence S 3°53'39" W a distance of 147.38 feet to a point 47.00 feet right of and opposite station 103+44.83 on said construction centerline laid out for Roswell Road; thence S 89°40'34" W a distance of 8.05 feet back to the point of beginning. **Containing 0.027 acres (1,179.05 acres) more or less.**

**RESOLUTION NO. 2014-03-\_\_**

**STATE OF GEORGIA  
COUNTY FULTON**

**A RESOLUTION TO AUTHORIZE THE USE OF EMINENT DOMAIN  
TO ACQUIRE PROPERTY AT 5903 ROSWELL ROAD, SANDY SPRINGS, GEORGIA  
FOR ROAD PROJECT**

**WHEREAS**, the City has determined that it is necessary to construct a sidewalk and infrastructure project on Roswell Road from Cliftwood Drive to Hammond Drive (the "Project"); and

**WHEREAS**, in order to construct the Project, certain rights are required over, under, and through the property of Roswell Road Associates, L.P. located at 5903 Roswell Road within the City of Sandy Springs (reference: T-008 / P-4); and

**WHEREAS**, the Mayor and Council have considered the Project and determined that it is necessary and must be carried out expeditiously to insure the timely completion of the City's sidewalk and infrastructure project.

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

In order to insure the timely completion of the City's sidewalk and infrastructure project the Mayor and Council authorize the City Attorney's Office to acquire through the use of Eminent Domain pursuant to Title 32 the necessary property rights over, under, and across the property located at 5903 Roswell Road in order to insure the timely completion of the City's sidewalk and infrastructure project T-008 Roswell Road Enhancements from Cliftwood Drive to Hammond Drive. Further the Mayor is specifically authorized to execute any documents necessary to further the filing of any Petition related to the same.

**APPROVED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Approved: \_\_\_\_\_, 2014

\_\_\_\_\_  
Rusty Paul, Mayor

Attest:

\_\_\_\_\_  
Michael Casey, City Clerk  
(Seal)