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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 5925 Roswell Road (Parcel #6)

**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:           JFM           APPROVED

PLACED ON AGENDA FOR:           3/4/2014          

CITY ATTORNEY APPROVAL REQUIRED: (  ) YES (  ) NO

CITY ATTORNEY APPROVAL:           wkeu          

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 5925 Roswell Road (Parcel #6).

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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 property located at 5925 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 Lowe's Home Improvement site that is owned by LRA, LLC. The acquisition of 4,024.73 square feet of fee simple right of way, 1,333.75 square feet of permanent drainage easement and 5,288.75 square feet of temporary construction easement is required for the construction of the sidewalk improvements. Negotiations have taken place; however, no resolution has been agreed upon.

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 property rights acquired is \$194,500.00.

***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



Lakes/Rivers from US Cens 0 160 320 480 640 ft

T-008 Parcel #6 LRA, LLC (Lowe's)			
Parcel: 17 0090 LL0543 Acres: 0			
Name:	LRA LLC	Land Value	\$ 11,701,300
Site:	5925 ROSWELL RD	Building Value	\$ 1,623,700
Sale:	\$10,500,000 on 2004-05-19 Reason=U Qual=	Misc Value	0
Mail:	P O BOX 1111 NORTH WILKESBORO, NC 28656	Total Value:	\$ 13,325,000



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---

Date printed: 02/26/14 : 13:21:26



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Site:	5925 ROSWELL RD	Building Value	\$ 1,623,700
Sale:	\$10,500,000 on 2004-05-19 Reason=U Qual=	Misc Value	0
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Date printed: 02/26/14 : 11:17:47

## EXHIBIT "A"

PROJECT NO.: T-0008 Sandy Springs / Roswell Road Sidewalk Project  
PARCEL NO.: 6  
DATE OF R/W PLANS: May 8, 2004  
REVISION DATE: August 20, 2013

Page 1 of 2

All that tract or parcel of land lying and being in Land Lots 79 and 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 31.89 feet right of and opposite station 104+91.05 on the centerline of Roswell Road the City of Sandy Springs Project No T-0008; thence N 3°48'15" E a distance of 511.63 feet to a point 32.15 feet right of and opposite station 110+02.49 on said construction centerline laid out for Roswell Road; thence S 88°23'10" E a distance of 11.85 feet to a point 44.00 feet right of and opposite station 110+02.88 on said construction centerline laid out for Roswell Road; thence S 89°42'01" E a distance of 7.01 feet to a point 51.00 feet right of and opposite station 110+03.28 on said construction centerline laid out for Roswell Road; thence S 3°32'15" W a distance of 21.28 feet to a point 51.00 feet right of and opposite station 109+82.00 on said construction centerline laid out for Roswell Road; thence N 86°27'45" W a distance of 12.00 feet to a point 39.00 feet right of and opposite station 109+82.00 on said construction centerline laid out for Roswell Road; thence S 3°43'36" W a distance of 322.24 feet to a point 39.00 feet right of and opposite station 106+60.00 on said construction centerline laid out for Roswell Road; thence S 86°06'21" E a distance of 4.50 feet to a point 43.50 feet right of and opposite station 106+60.00 on said construction centerline laid out for Roswell Road; thence S 3°53'39" W a distance of 16.00 feet to a point 43.50 feet right of and opposite station 106+44.00 on said construction centerline laid out for Roswell Road; thence S 22°59'15" W a distance of 13.76 feet to a point 39.00 feet right of and opposite station 106+31.00 on said construction centerline laid out for Roswell Road; thence S 3°53'39" W a distance of 139.40 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 89°31'11" W a distance of 7.14 feet back to the point of beginning.

**Containing 0.092 acres (4,024.73 square feet) more or less.**

### PERMANENT EASEMENT

Beginning at a point 39.00 feet right of and opposite station 106+25.00 on the centerline of Roswell Road the City of Sandy Springs Project No T-0008; thence N 3°53'39" E a distance of 6.00 feet to a point 39.00 feet right of and opposite station 106+31.00 on said construction centerline laid out for Roswell Road; thence N 22°59'15" E a distance of 13.76 feet to a point 43.50 feet right of and opposite station 106+44.00 on said construction centerline laid out for Roswell Road; thence N 3°53'39" E a distance of 16.00 feet to a point 43.50 feet right of and opposite station 106+60.00 on said construction centerline laid out for Roswell Road; thence S 86°06'21" E a distance of 36.50 feet to a point 80.00 feet right of and opposite station 106+60.00 on said construction centerline laid out for Roswell Road; thence S 3°53'39" W a distance of 35.00 feet to a point 80.00 feet right of and opposite station 106+25.00 on said construction centerline laid out for Roswell Road; thence N 86°06'21" W a distance of 41.00 feet back to the point of beginning. **Containing 0.031 acres (1,333.75 square feet) more or less.**

**TEMPORARY EASEMENT A**

Beginning at a point 39.00 feet right of and opposite station 104+91.60 on the centerline of Roswell Road the City of Sandy Springs Project No T-0008; thence N 3°53'39" E a distance of 133.40 feet to a point 39.00 feet right of and opposite station 106+25.00 on said construction centerline laid out for Roswell Road; thence S 86°06'21" E a distance of 21.00 feet to a point 60.00 feet right of and opposite station 106+25.00 on said construction centerline laid out for Roswell Road; thence S 3°53'39" W a distance of 131.80 feet to a point 60.00 feet right of and opposite station 104+93.20 on said construction centerline laid out for Roswell Road; thence S 89°31'11" W a distance of 21.06 feet back to the point of beginning. **Containing 0.064 acres (2,784.61 square feet) more or less.**

**TEMPORARY EASEMENT B**

Beginning at a point 39.00 feet right of and opposite station 106+60.00 on the centerline of Roswell Road the City of Sandy Springs Project No T-0008; thence N 3°43'36" E a distance of 322.24 feet to a point 39.00 feet right of and opposite station 109+82.00 on said construction centerline laid out for Roswell Road; thence S 86°27'45" E a distance of 12.00 feet to a point 51.00 feet right of and opposite station 109+82.00 on said construction centerline laid out for Roswell Road; thence N 3°32'15" E a distance of 21.28 feet to a point 51.00 feet right of and opposite station 110+03.28 on said construction centerline laid out for Roswell Road; thence S 89°42'01" E a distance of 14.02 feet to a point 65.00 feet right of and opposite station 110+04.07 on said construction centerline laid out for Roswell Road; thence S 3°32'15" W a distance of 50.57 feet to a point 65.00 feet right of and opposite station 109+53.50 on said construction centerline laid out for Roswell Road; thence S 88°07'38" W a distance of 23.11 feet to a point 41.99 feet right of and opposite station 109+51.33 on said construction centerline laid out for Roswell Road; thence S 3°48'15" W a distance of 139.04 feet to a point 41.46 feet right of and opposite station 108+12.54 on said construction centerline laid out for Roswell Road; thence S 3°48'15" W a distance of 119.75 feet to a point 41.65 feet right of and opposite station 106+92.79 on said construction centerline laid out for Roswell Road; thence S 79°23'40" E a distance of 18.48 feet to a point 60.00 feet right of and opposite station 106+90.64 on said construction centerline laid out for Roswell Road; thence S 3°53'28" W a distance of 30.64 feet to a point 60.00 feet right of and opposite station 106+60.00 on said construction centerline laid out for Roswell Road; thence N 86°06'21" W a distance of 16.50 feet to a point 43.50 feet right of and opposite station 106+60.00 on said construction centerline laid out for Roswell Road; thence N 86°06'21" W a distance of 4.50 feet back to the point of beginning. **Containing 0.057 acres (2,503.64 square feet) 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 5925 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 LRA, LLC located at 5925 Roswell Road within the City of Sandy Springs (reference: T-008 / P-6); 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 5925 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)