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**CITY COUNCIL AGENDA ITEM**

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**TO:** Mayor & City Council                      **DATE:** February 17, 2014

**FROM:** John McDonough, City Manager

**AGENDA ITEM:** Resolution to authorize the use of eminent domain to acquire property located at 6087 Roswell Road, Sandy Springs, Georgia, Parcel ID: 17-0089-LL-0009-0512 and 6094 Boylston Road, Sandy Springs, Georgia, Parcel ID: 17-0089-LL-0009-0397, for public road purposes

**MEETING DATE:** For Submission onto the February 18, 2014, City Council Regular Meeting Agenda

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

See attached:

Memorandum  
Resolution  
Exhibits

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APPROVAL BY CITY MANAGER:                     JPM                     APPROVED

PLACED ON AGENDA FOR:                     2/18/2014                    

CITY ATTORNEY APPROVAL REQUIRED: (  ) YES      (  ) NO

CITY ATTORNEY APPROVAL:                     [Signature]                    

REMARKS:



To: Honorable Mayor and City Council Members

From: Wendell K. Willard

Date: For Submission on the February 18, 2014 City Council Meeting Agenda

Item: Resolution to authorize the use of eminent domain to acquire property located at 6087 Roswell Road, Sandy Springs, Georgia, Parcel ID: 17-0089-LL-0009-0512 and 6094 Boylston Road, Sandy Springs, Georgia, Parcel ID: 17-0089-LL-0009-0397, for public road purposes

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***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 a portion of the the above-referenced Property.

***Background and Discussion:***

As part of the City Center Master Plan, certain proposed roads were set out within the planning area in order to create greater connectivity throughout the City Center area. A copy of the City Center Master Plan dated January 7, 2013 is attached hereto as Exhibit "A."

Griffin 6075 Roswell Road Partners, LLC owns a certain 5.240 acre parcel of land located in Land Lots 71 and 89 of the 17<sup>th</sup> District of Fulton County Georgia within the City Center area. A copy of the vesting deed under which Griffin 6075 Roswell Road Partners, LLC acquired the property is attached hereto as Exhibit "B". In addition, a copy of the Fulton County Tax Map is attached hereto as Exhibit "C," on which the tax parcels which comprise the Griffin property are highlighted.

The City Center Master Plan sets out a proposed road over which a certain portion is on the northerly portion of the Griffin Property. A copy of the City Center Master Plan which highlights the proposed road is attached hereto as Exhibit "D."

Staff has determined that in order to accommodate the road width and associated streetscape desired by the Mayor and Council for this road, a 37 foot strip of the Griffin property along the its northerly line will be necessary.

At this time, the City Attorney recommends that the Mayor and Council authorize the City Attorney to move forward with preparing documentation necessary and, if a negotiated solution is not reached with the owner, filing a condemnation petition for the



purposes of acquiring the 37 foot strip under Title 32 of the Code of Georgia.

***Attachments:***

City Center Master Plan dated January 7, 2013 (Exhibit A)  
Griffin 6075 Roswell Road Partners, LLC vesting deed (Exhibit B)  
Fulton County Tax Map (Exhibit C)  
City Center Master Plan which highlights the proposed road (Exhibit D)  
Resolution to acquire the Property by the use of eminent domain.

***Alternatives:***

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

Exhibit "A"



Exhibit "B"

Deed Book 41862 Pg 663  
Filed and Recorded Jan-30-2006 04:07pm  
2006-0033096  
Real Estate Transfer Tax \$6,775.00  
Juanita Hicks  
Clerk of Superior Court  
Fulton County, Georgia

(Space Above for Recorder's Use)

**Record and return to:**  
Edna J. Waits  
Metropolitan Title Agency, Inc.  
1820 The Exchange, Suite 550  
Atlanta, Georgia 30339

STATE OF GEORGIA  
COUNTY OF FULTON

**LIMITED WARRANTY DEED**

THIS INDENTURE is made as of this 4th day of January, 2006, between **Venture Capital Properties, Inc.** a Georgia Corporation (hereinafter referred to as "*Grantor*"), and **Griffin 6075 Roswell Road Partners, LLC**, a Georgia limited liability company (hereinafter referred to as "*Grantee*") ("*Grantor*" and "*Grantee*" to include their respective successors, legal representatives and assigns where the context requires or permits).

**WITNESSETH:**

GRANTOR, in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and does hereby grant, bargain, sell, alien, convey and confirm unto Grantee all those certain tracts or parcels of land lying and being in Fulton County, Georgia (hereinafter referred to collectively as the "*Land*") as more particularly described in the attached **EXHIBIT "A,"** which exhibit is incorporated herein.

G-3762.C  
2/1/06

TOGETHER WITH all rights, members, structures, easements, alleys, ways, appurtenances, improvements, chattels, timber, shrubbery, trees, plants, fixtures, privileges, tenements or hereditaments incident or appurtenant thereto (the foregoing, together with the Land, are herein referred to as the "Property"), subject only to those matters set forth and described on **EXHIBIT "B"** attached hereto and by this reference made a part hereof (herein referred to as the "Permitted Encumbrances").

TO HAVE AND TO HOLD the Property, together with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of Grantee forever in FEE SIMPLE, subject only to the Permitted Encumbrances.

AND GRANTOR WILL WARRANT and forever defend the right and title to the Property, subject to the Permitted Encumbrances, unto Grantee, its successors and assigns, against the claims of any persons owning, holding or claiming by, through or under Grantor, but not otherwise.

IN WITNESS WHEREOF, Grantor has hereunto caused this Indenture to be executed under seal by its duly authorized representative as of the day and year first above written.

Signed, sealed and delivered in the presence of.

SELLER:

**VENTURE CAPITAL PROPERTIES, INC., a  
GEORGIA CORPORATION**

  
\_\_\_\_\_  
Unofficial Witness

By:   
Its: RESIDENT

  
\_\_\_\_\_  
Notary Public  
  
My Commission Expires

[CORPORATE SEAL]



**EXHIBIT "B"**

1. Taxes and assessments for the year **2006** and subsequent years not yet due and payable.
2. Slope Easement as contained in that Warranty Deed from Mrs. Mary Chamberlain Williams to Fulton County, dated September 27, 1960, recorded at Deed Book 3619, page 729, Fulton County, Georgia records.
3. Permit to Cut or Trim Trees from Mary Chamberlain Williams to Georgia Power Company, dated May 9, 1961, recorded at Deed Book 3725, page 399, aforesaid records.
4. Easement from Chatham Properties to Georgia Power Company, dated March 6, 1979, recorded at Deed Book 7194, page 402, aforesaid records.
5. Slope Easement as contained in that Warranty Deed from J.H. Chatham to Fulton County, dated June 2, 1960, recorded at Deed Book 3577, page 472, aforesaid records.
6. Permit for Anchors, Guy Poles and Wires from J.H. Chatham to Georgia Power Company, dated November 10, 1960, recorded at Deed Book 3634, page 358, aforesaid records.
7. Right of Way Easement from J.H. Chatham to Georgia Power Company, dated April 19, 1965, recorded at Deed Book 4412, page 163, aforesaid records.
8. Right of Way Easement from Chatham Properties, Inc. to Georgia Power Company, dated April 14, 1965, recorded at Deed Book 4412, page 171, aforesaid records.
9. Agreement for Guy Wires and Ancors from J.W. Simmon to Georgia Power Company, dated June 25, 1945, recorded at Deed Book 1807, page 219, aforesaid records.
10. Permit for Anchors, Guy Poles and Wires from J.H. Chatham to Georgia Power Company, dated November 10, 1960, recorded at Deed Book 3634, page 358, aforesaid records.
11. Easement from Chatham Properties, Inc. to Georgia Power Company, dated May 20, 1983, recorded at Deed Book 8758, page 266, aforesaid records.
12. Easement in favor of Georgia Power Company by Ventura Capital Properties, Inc., dated December ??, 1991, filed May 17, 1993, recorded at Deed Book 18530, Page 389, aforesaid records.
13. Permanent Landscape and Sidewalk Easement (Sandy Springs Revitalization Project) by and between Venture Capital Properties, Inc. and Fulton County, a political subdivision of the State of Georgia, dated December 18, 2002, filed January 08, 2003, and recorded at Deed Book 33940, page 679, aforesaid records.

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**LEGAL DESCRIPTION**  
**Overall**

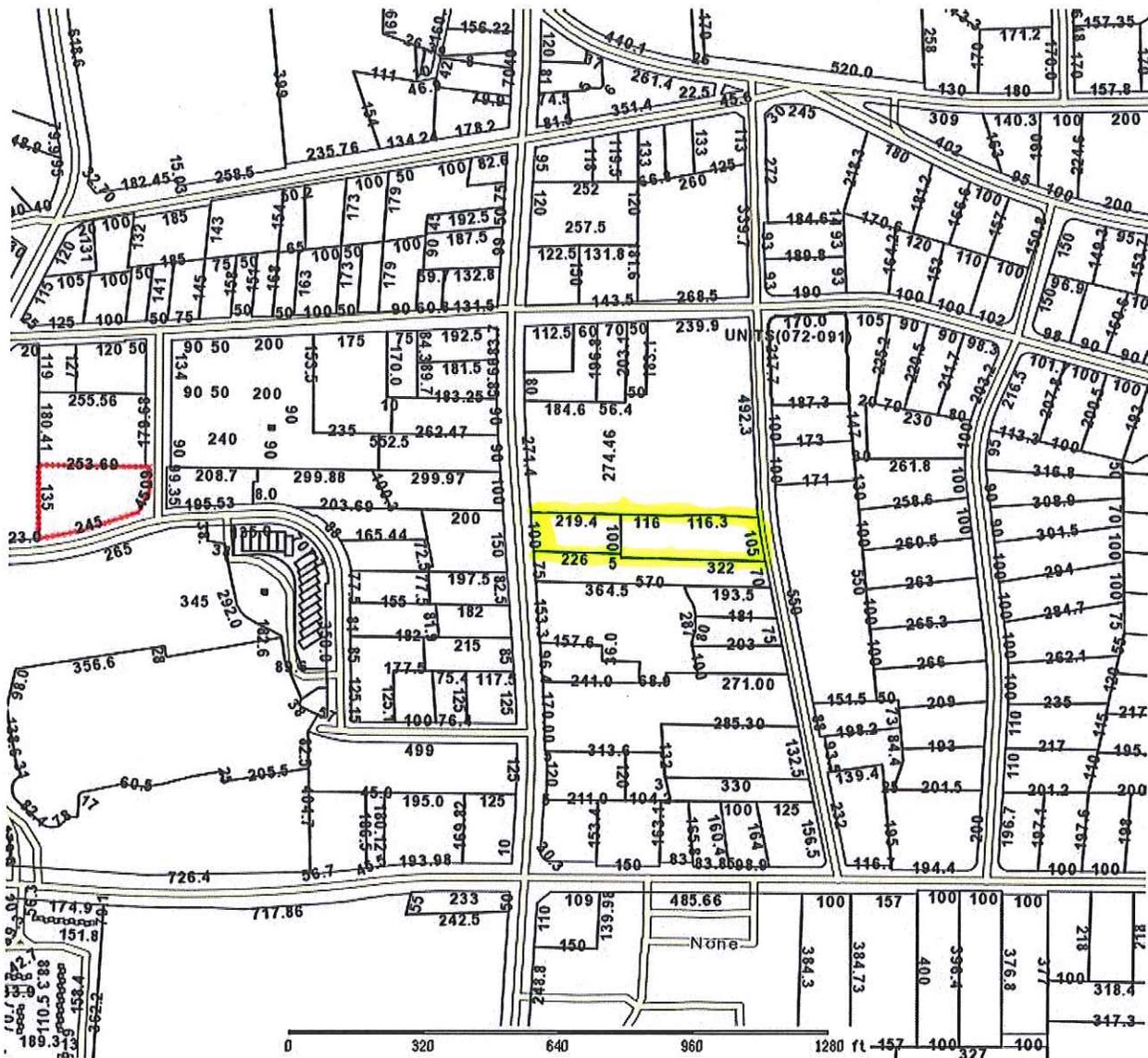
ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 71 & 89 of the 17<sup>th</sup> District of Fulton County, Georgia and being more particularly described as follows:

**BEGINNING** at a P.K. nail set on the easterly right-of-way line of Roswell Road (65' R/W), said point being 446.56 feet in a northerly direction along said easterly right-of-way line of Roswell Road from the intersection of said easterly right-of-way line of Roswell Road with the northerly right-of-way line of Hammond Drive (70' R/W); thence following said easterly right-of-way line of Roswell Road North 04 degrees 56 minutes 52 seconds West a distance of 249.80 feet to a point; thence continuing along said right-of-way line North 05 degrees 08 minutes 50 seconds West a distance of 74.77 feet to a point; thence continuing along said right-of-way line North 05 degrees 08 minutes 50 seconds West a distance of 100.00 feet to a P.K. nail set; thence leaving said right-of-way line and running North 89 degrees 32 minutes 20 seconds East a distance of 208.33 feet to an iron pin set; thence North 89 degrees 47 minutes 05 seconds East a distance of 115.70 feet to an iron pin set; thence North 90 degrees 00 minutes 00 seconds East a distance of 216.30 feet to a 1" crimped top pipe on the westerly right-of-way line of Boylston Drive (40' R/W); thence following said right-of-way line South 08 degrees 11 minutes 00 seconds East a distance of 105.00 feet to a 1/2" rebar found; thence continuing along said right-of-way line South 12 degrees 19 minutes 00 seconds East a distance of 292.50 feet to a 1/2" rebar found; thence leaving said right-of-way line and running South 89 degrees 10 minutes 00 seconds West a distance of 271.00 feet to a P.K. nail set; thence South 00 degrees 50 minutes 00 seconds East a distance of 26.00 feet to a 1/2" rebar found; thence South 89 degrees 00 minutes 00 seconds West a distance of 309.90 feet to the **POINT OF BEGINNING**.

Said Tract containing 5.240 acres of land.

January 5, 2006

Exhibit "C"



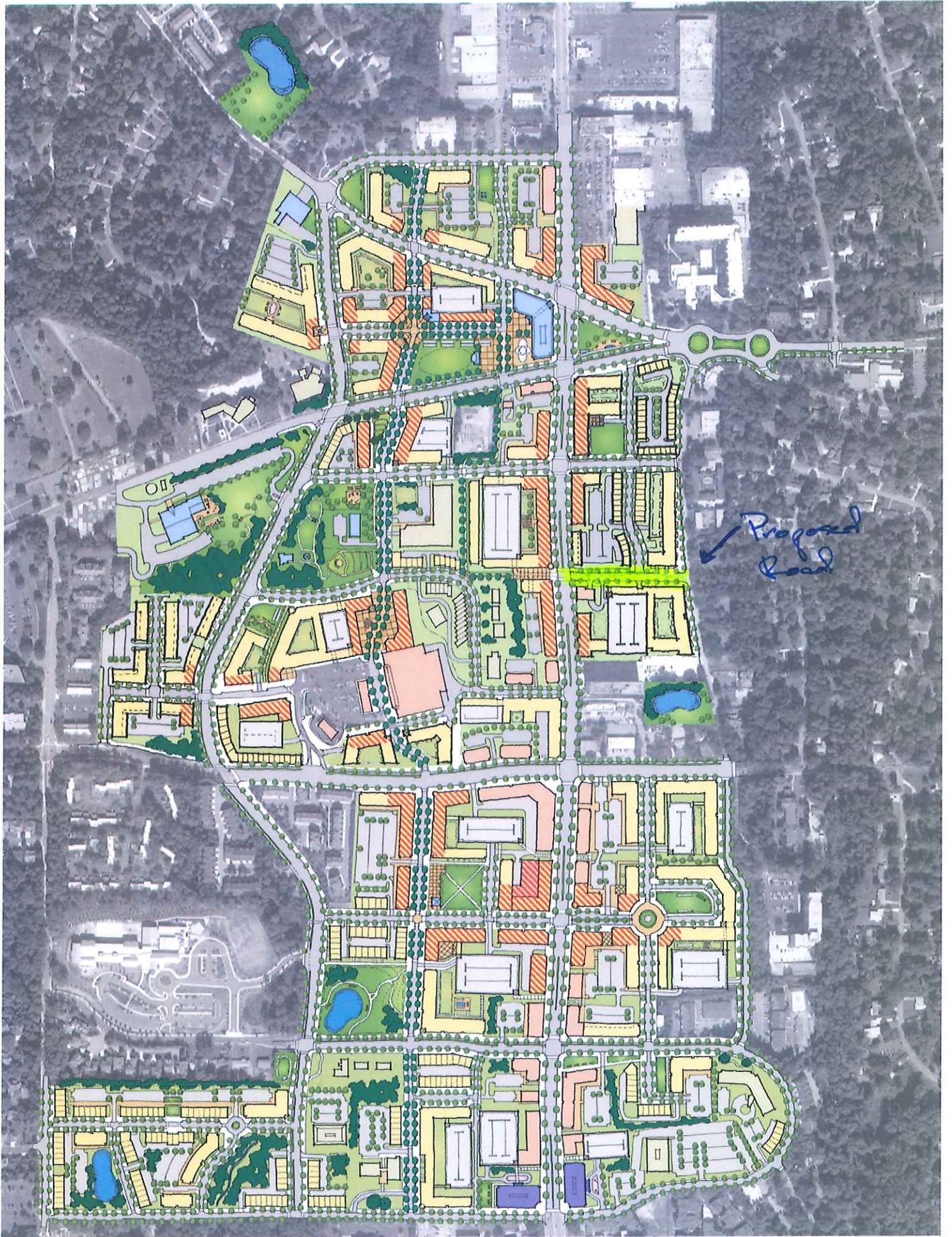
| Fulton County Assessor           |   |                |            |
|----------------------------------|---|----------------|------------|
| Parcel: 17 008900080927 Acres: 0 |   |                |            |
| Name:                            | CITY OF SANDY SPRINGS                         | Land Value     | \$ 528,800 |
| Site:                            | 6118 BLUE STONE RD                            | Building Value | \$ 22,300  |
| Sale:                            | 0 on 2002-03-12 Reason=U Qual=M               | Misc Value     | 0          |
| Mail:                            | 7840 ROSWELL RD BLDG 500<br>ATLANTA, GA 30350 | Total Value:   | \$ 551,100 |



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: 02/18/14 : 10:50:05

Exhibit "D"



STATE OF GEORGIA  
COUNTY FULTON

**A RESOLUTION TO AUTHORIZE THE USE OF EMINENT DOMAIN TO ACQUIRE PROPERTY AT 6087 ROSWELL ROAD, SANDY SPRINGS, GEORGIA AND 6094 BOYLSTON DRIVE, SANDY SPRINGS, GEORGIA FOR A PUBLIC ROAD**

**WHEREAS**, the City of Sandy Springs' City Center Master Plan dated January 7, 2013 set out certain proposed roads within the planning area in order to create greater connectivity throughout the City Center area.

**WHEREAS**, owns a certain 5.240 acre parcel of land located in Land Lots 71 and 89 of the 17<sup>th</sup> District of Fulton County Georgia within the City Center area.

**WHEREAS**, the City Center Master Plan sets out a proposed road over which a certain portion is on the northerly Griffin Property.

**WHEREAS**, City Staff has determined that in order to accommodate the road width and associated streetscape desired by the Mayor and Council for this road, a 37 foot strip of the Griffin property along its northerly line will be necessary.

**WHEREAS**, in order to construct the Project, certain rights are required over under and through the property of Griffin 6075 Roswell Road Partners, LLC located at 6087 Roswell Road and 6094 Boylston Drive, within the City of Sandy Springs; and

**WHEREAS**, the Mayor and Council have considered the Project and determined that the acquisition of this property is necessary for the implementation of the City Center Master Plan in order to enhance travel and connectivity within the City Center.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Sandy Springs, Georgia while in regular session on February 18, 2014, at 6:00 p.m. as follows:

In order to insure the completion of the City's road project the Mayor and Council authorize the City Attorney's Office to acquire through the use of Eminent Domain by any method allowed by law the necessary property rights (37 foot strip) over, under, and across the property located at 6087 Roswell Road and 6094 Boylston Drive in order to insure the timely completion of the City's road project as set forth on the City Center Master Plan dated January 7, 2013. Further the Mayor is specifically authorized to execute any documents necessary to further the filing of any Petition related to the same.

**RESOLVED** this the 18<sup>th</sup> day of February, 2014.

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

Approved:

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Russell K. Paul, Mayor

Attest:

---

Michael Casey, City Clerk

(Seal)