



TO: John McDonough, City Manager

FROM: Garrin M. Coleman, P.E., Interim Public Works Director

DATE: October 23, 2012, for Submission onto the Consent Agenda of the November 6, 2012 City Council Meeting

ITEM: Consideration of the Acceptance of the Agreement to Purchase Right of Way.

Public Works Department's Recommendation:

Staff recommends that the Mayor and City Council accept the Agreement to Purchase Right of Way (and Temporary Construction Easement) in the amount of \$3,200.00 on that tract or parcel of land lying and located in Land Lot 363 of the 6th District, Fulton County, Georgia. The property as shown in the attached exhibit is owned by Sears Properties, LLC and the property is located at 1180 Hightower Trail, Sandy Springs, Georgia. The fee simple Right of Way area consists of 279.55 square feet and the Temporary Construction Easement consists of 855.73 square feet.

Background:

The acquisition of fee simple Right of Way (and Temporary Construction Easement) across the Sears Properties, LLC property is necessary in order to construct the T-0033/Hightower Trail Sidewalk Project. The properties along this corridor are not residentially zoned as they are used for mostly light industrial or office property uses. The agreed upon compensation of \$3,200.00 is supported by the City's appraisal indicating a fair market value of \$2,900.00. There was a small \$300.00 counter proposal by the owner to cover the replanting of a small tree and relocation of a trade fixture not included in the City's appraisal.

Discussion:

Donations of the required rights of way were sought at the beginning of the negotiations, but no donations were received. The owner stated as per his loan agreements, his Lender would not allow donations of right of way in eminent domain cases. The Public Works department considered alternative alignments/plans for the sidewalk to avoid having to acquire right of way, but none of the alternatives could be built without ultimately acquiring some amount of fee simple right of way. In the end, the owners wanted to be compensated for their conveyances of property required for the project.

Alternatives:

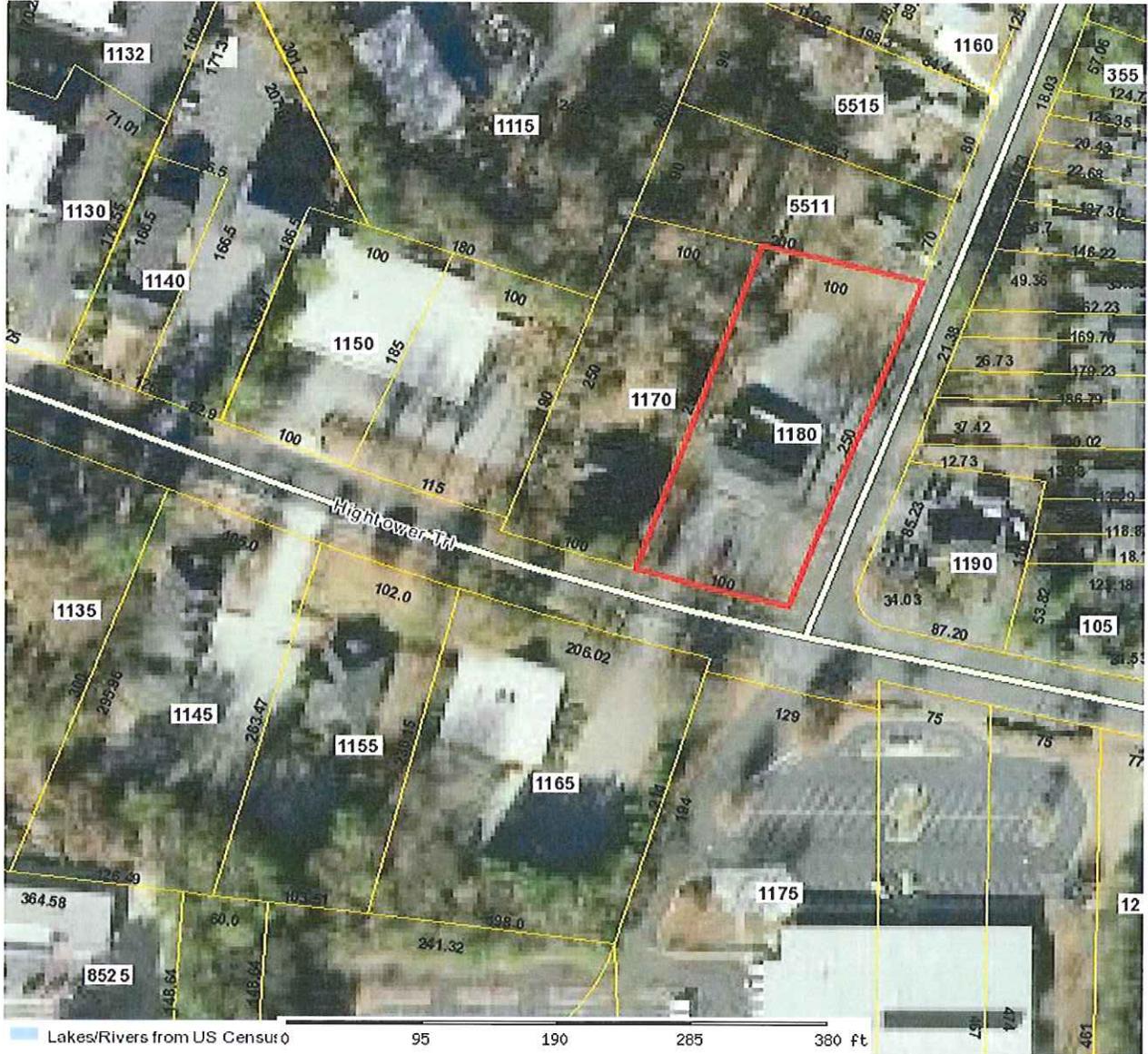
The City could elect to forego the construction of the sidewalk project.

Financial Impact:

The appraised fair market value of the property rights to be acquired plus compensation for replanting a tree and relocation of a trade fixture is \$3,200.00.

Attachments:

- I. Exhibits
 - Aerial and GIS Maps
 - Executed Agreement to Purchase Right of Way (including Plat and Legal Description)
- II. Resolution



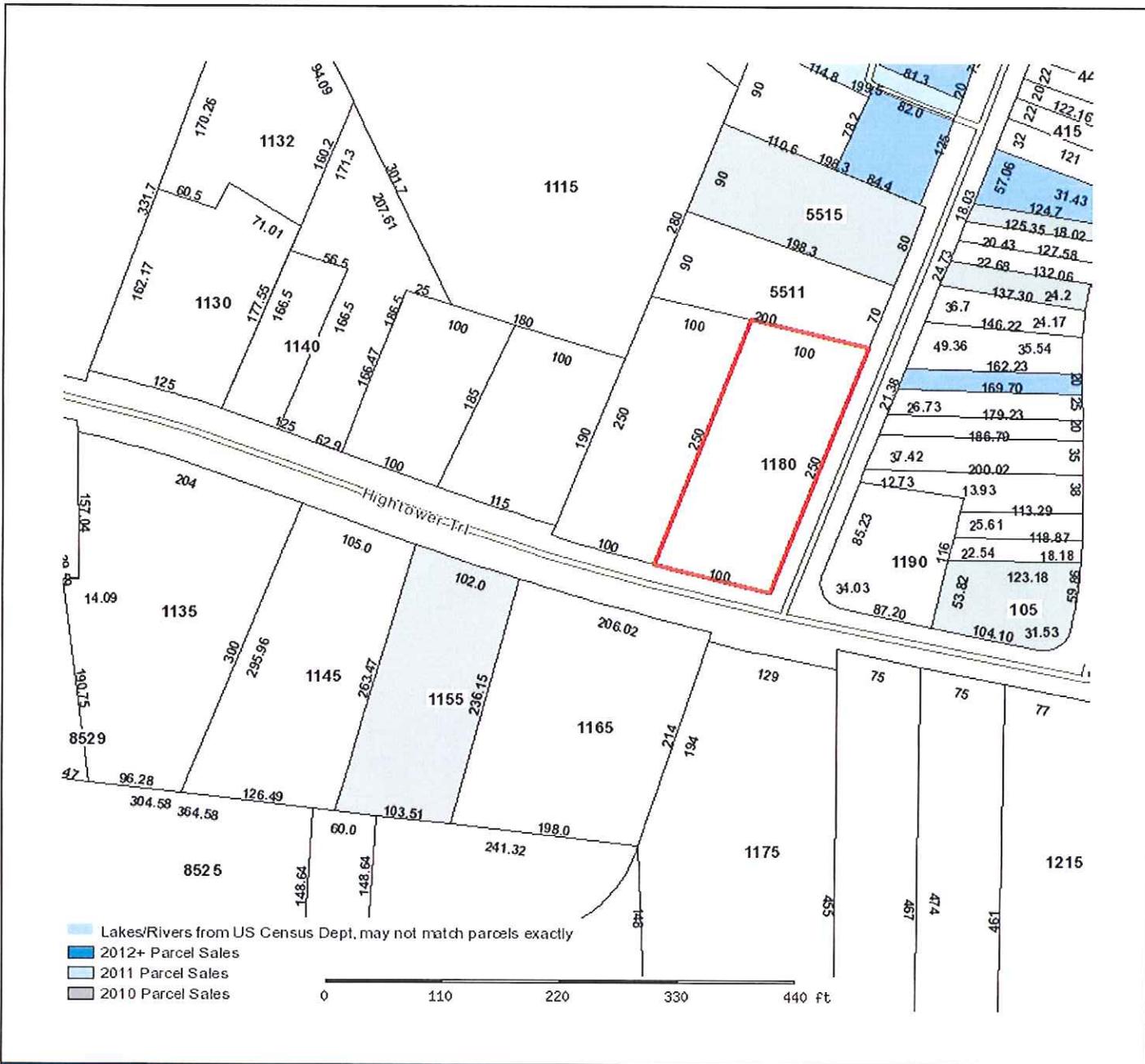
Agreement to Purchase ROW; 1180 Hightower Trail; Sears Properties, LLC

Parcel: 06 036300010460 Acres: 0			
Name:	SEARS PROPERTIES LLC	Land Value	\$ 197,200
Site:	1180 HIGHTOWER TRL	Building Value	\$ 107,700
Sale:	\$222,500 on 2002-10-25 Reason=U Qual=3	Misc Value	0
Mail:	1180 HIGHTOWER TRL	Total Value:	\$ 304,900
	SANDY SPRINGS, GA 30350		



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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Agreement to Purchase ROW' 1180 Hightower Trail; Sears Properties, LLC			
Parcel: 06 036300010460 Acres: 0			
Name:	SEARS PROPERTIES LLC	Land Value	\$ 197,200
Site:	1180 HIGHTOWER TRAIL	Building Value	\$ 107,700
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Date printed: 10/11/12 : 12:23:35

Agreement to Purchase Right of Way

PROJECT: T-0033/ City of Sandy Springs CDBG Hightower Trail Sidewalk Infrastructure Project
PARCEL: #5 – Sears Properties, LLC

For and in consideration of the sum of One Dollar (\$1.00), receipt whereof being acknowledged, the undersigned grants to City of Sandy Springs an irrevocable option to acquire portions of the following described real estate:

Right of Way and/or Easement rights through that tract or parcel of land located in Land Lots 363, of the 6TH Land District of Fulton County, Sandy Springs, Georgia, and being more particularly described in Exhibits "A" and "B", attached hereto and made a part hereof by reference.

For the sum of \$3,200.00 CS 9/24/12, the undersigned agrees to execute and deliver to the City of Sandy Springs, fee simple title and easements to the lands owned by the undersigned as reflected on the attached Exhibits "A" and "B".
.....

The following conditions are imposed upon the grant of this option:

1. This option shall be irrevocable for a period of 90 days from this date.
2. The consideration recited is full payment for the rights conveyed:

279.55 Square Feet of Fee Simple Right of Way

855.73 Square Feet of Temporary Construction Easement.

3. All Temporary Easements will terminate upon completion and acceptance of the same by City of Sandy Springs.
4. The undersigned shall obtain all quitclaim deeds or releases from any tenant now in possession and any other parties having a claim or interest in the property described above.
5. Said option may be exercised by City of Sandy Springs at any time during the period above stated, but only following notification and receipt of waiver from any and all lien holders of record unless specifically waived by City of Sandy Springs and by notice, in writing, of the election to exercise said option, delivered to the undersigned person at the address stated below. The exercise of said option will ripen these presents into a contract to sell and buy without the necessity of any further instrument in writing.
6. The undersigned covenants that, upon the exercise of this option by City of Sandy Springs, and upon the payment of the agreed upon purchase price as herein provided, the undersigned will convey, and cause to be conveyed unto the City of Sandy Springs unencumbered, marketable title to said property, in fee simple, and that the undersigned will warrant title to said property, by general covenants of warranty, against lawful claims and demands of all persons whomsoever.
7. Special provisions, if any, are listed on Exhibit "C", which is attached hereto and incorporated herein by reference.

Witness my hand and seal this 4 day of October, 2012

Signed, Sealed and Delivered
In the Presence of:

Sears Properties, LLC

Lynn Houston
Witness

By: Craig Sears (SEAL)

Sharon Patterson
Notary Public



Exhibit A

PARCEL 5	REQ'D R/W		KC15

PNT	OFFSET/ DIST	STATION/ BEARING	ALIGNMENT

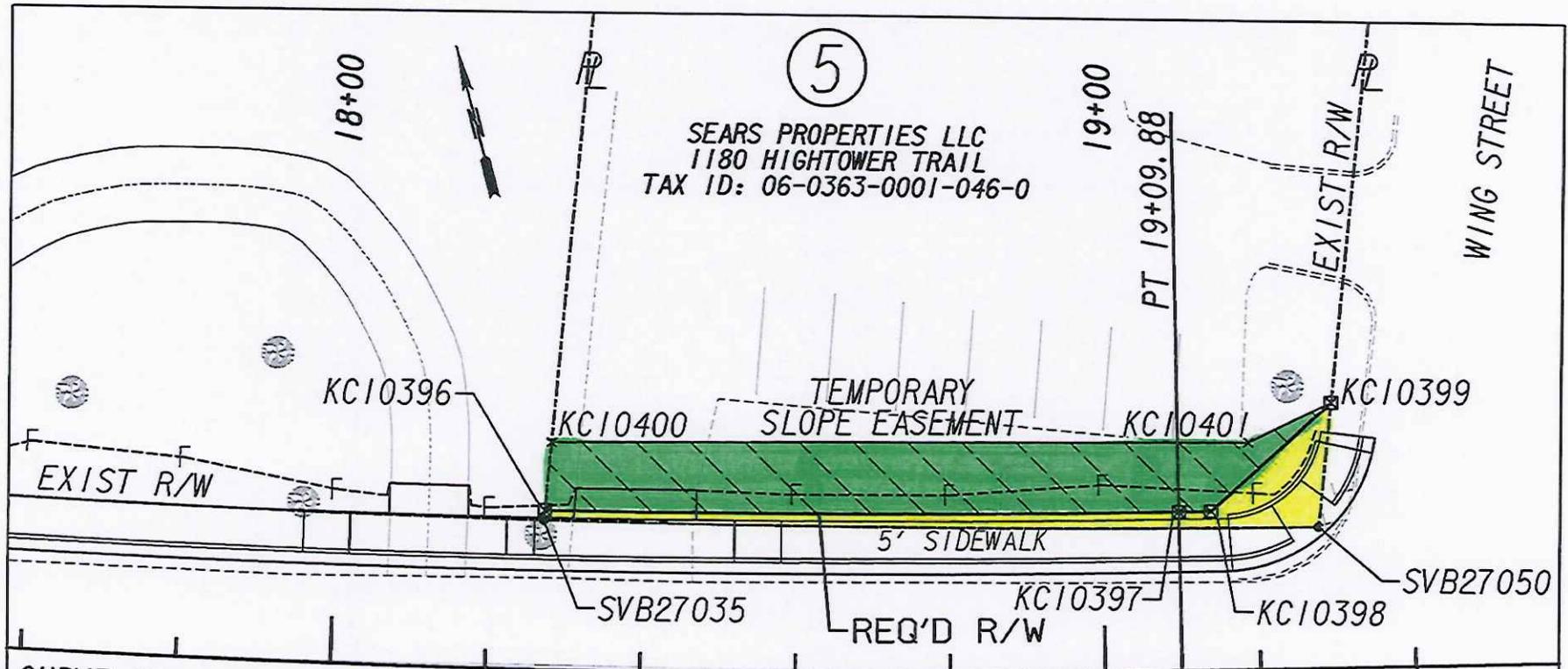
SVB27035	19.69 L	18+27.22	Hightower Trail
	1.32	N 19°25'33.7" E	
KC10396	21.00 L	18+27.32	Hightower Trail
ARC LENGTH	= 81.699		
CHORD BEAR	= S 76°03'06.4" E		
LNTH CHORD	= 81.693		
RADIUS	= 1979.000		
DEGREE	= 2° 53' 42"		
KC10397	21.00 L	19+09.88	Hightower Trail
	4.12	S 77°14'04.1" E	
KC10398	21.00 L	19+14.00	Hightower Trail
	21.07	N 61°07'59.3" E	
KC10399	35.00 L	19+29.75	Hightower Trail
	16.45	S 19°25'33.4" W	
SVB27050	18.66 L	19+27.84	Hightower Trail
ARC LENGTH	= 99.834		
CHORD BEAR	= N 75°40'21.6" W		
LNTH CHORD	= 99.826		
RADIUS	= 2280.000		
DEGREE	= 2° 30' 46"		
SVB27035	19.69 L	18+27.22	Hightower Trail
REQD R/W	= 279.55 SF		
REQD R/W	= 0.006 ACRES		
REMAINDER	= +/- 0.56 ACRES		

PARCEL 5	REQ'D TEMP. EASMT.		KC16

PNT	OFFSET	STATION	ALIGNMENT

KC10396	21.00 L	18+27.32	Hightower Trail
KC10400	30.00 L	18+28.00	Hightower Trail
KC10401	30.00 L	19+19.00	Hightower Trail
KC10399	35.00 L	19+29.75	Hightower Trail
KC10398	21.00 L	19+14.00	Hightower Trail
KC10397	21.00 L	19+09.88	Hightower Trail
ARC LENGTH	= 81.699		
CHORD BEAR	= N 76°03'06.4" W		
LNTH CHORD	= 81.693		
RADIUS	= 1979.000		
DEGREE	= 2° 53' 42"		
KC10396	21.00 L	18+27.32	Hightower Trail
REQD EASMT AREA	= 855.73 SF		

Exhibit B



CURVE 99

PI 17+85.92

HIGHTOWER TRAIL

18+20.00
N 1450540.52
E 2241432.84

CURVE KC99	
PI Sta =	17+85.92
PI North =	1450546.16
PI East =	2241398.82
Delta =	7°06'42.4"
D =	2°51'53.2"
T =	124.28
L =	248.25
R =	2000.00
E =	3.86

19+40.00
N 1450512.04
E 2241549.40

- PROPERTY AND EXISTING R/W LINE
- REQUIRED R/W LINE
- CONSTRUCTION LIMITS
- EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES
- EASEMENT FOR CONSTR OF DRIVES

MULKEY
ENGINEERS & CONSULTANTS
1255 CANTON STREET, SUITE 6
ROSWELL, GEORGIA 30075
(678) 461-3511



RIGHT OF WAY PLAN
CDBG
SIDEWALK INFRASTRUCTURE
IMPROVEMENT PROGRAM

STATE OF GEORGIA
COUNTY OF FULTON

**A RESOLUTION TO ACCEPT THE AGREEMENT TO PURCHASE RIGHT OF WAY AND
TEMPORARY CONSTRUCTION EASEMENT ON PROPERTY LOCATED IN LAND LOT 363 OF
THE 6th DISTRICT, CITY OF SANDY SPRINGS,
FULTON COUNTY, GEORGIA**

WHEREAS, it is necessary, from time to time, to establish policies, procedures and guidelines consistent with the administration of a municipal government consistent with the US Constitution, Federal Statutes, alignment with Federal, Georgia's State Constitution, and the Charter for the City of Sandy Springs, and

WHEREAS, the City Manager directed the Department of Public Works to develop standard policies for recurring matters, to establish appropriate internal controls and legal compliance, and to provide for an efficient and effective means to serve constituents; and

WHEREAS, the Department of Public Works, in response to the guidance provided by the City Manager, has reviewed and approves the acceptance of the Agreement to Purchase Right of Way and Temporary Construction Easement by the City of Sandy Springs for the property located at 1180 Hightower Trail, from Sears Properties, LLC, in Land Lot 363 of the 6th District, Fulton County, City of Sandy Springs, Georgia

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SANDY SPRINGS, GEORGIA

To facilitate the construction of the T-0033 CDBG/ Hightower Trail Sidewalk Project, the City approves the acceptance of the Agreement to Purchase Right of Way and Temporary Construction Easement located in Land Lot 363 of the 6th District, Fulton County, City of Sandy Springs, Georgia.

RESOLVED this 6th day of November, 2012.

APPROVED:

Eva Galambos, Mayor

Attest:

Michael Casey, City Clerk
(Seal)