

TO: John McDonough, City Manager

FROM: Kevin J. Walter, P.E., Public Works Director

DATE: March 15, 2012 for Submission onto the Consent Agenda of the April 3, 2012 City Council Meeting

ITEM: Acceptance of a Permanent and Construction, Maintenance and Utility Easement from Teachers Insurance & Annuity Association of America in connection with the Perimeter Community Improvement District's (PCID) Pedestrian Plazas construction project on Peachtree-Dunwoody Road.

Public Works Department's Recommendation:

Staff recommends that the Mayor and City Council accept the Permanent and Construction, Maintenance and Utility Easement from Teachers Insurance & Annuity Association of America in connection with the PCID's Pedestrian Plazas construction project along Peachtree Dunwoody Road.

Background:

The subject property is located at the intersection of Hammond Drive and Peachtree-Dunwoody Road in the 18th Land Lot, 17th District. This donation will allow the City to perpetually maintain the pedestrian improvements and any utility functions that are to be paid for and constructed by the Perimeter Community Improvement District.

Discussion:

The attached exhibits include a site map showing the location and area of the property that was donated, the Permanent and Construction Maintenance and Utility Easement and a plat showing the specific location of the property as well.

Alternatives:

The Council could decide not to accept these easements and place burden of perpetual maintenance upon the PCID.

Financial Impact:

The easements are being donated and there is no financial impact to the City.

Attachments:

- I. Resolution
- II. Aerial map of site
- III. GIS map of site
- IV. Copy of Temporary Driveway Easements
- V. Plats

*Public
Works*

STATE OF GEORGIA
COUNTY OF FULTON

**A RESOLUTION TO ACCEPT THE DONATION OF A PERMANENT AND CONSTRUCTION,
MAINTENANCE AND UTILITY EASEMENT ON PROPERTY LOCATED IN LAND LOT 18 OF
THE 17TH 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

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

That the City of Sandy Springs Mayor and City Council approve the acceptance of the donation of a Permanent and Construction, Maintenance and Utility Easement from Teachers Insurance & Annuity Association of America, in Land Lot 18, of the 17th District to in connection with the Perimeter Community Improvement District's Peachtree Dunwoody Road Pedestrian Plaza Construction Project.

RESOLVED this the 3rd day April, 2012.

Approved:

Eva Galambos, Mayor

Attest:

Michael Casey, City Clerk
(Seal)

PCID Peachtree Dunwoody Pedestrian Plazas Permanent Easement from Teachers Insurance & Annuity Association of America



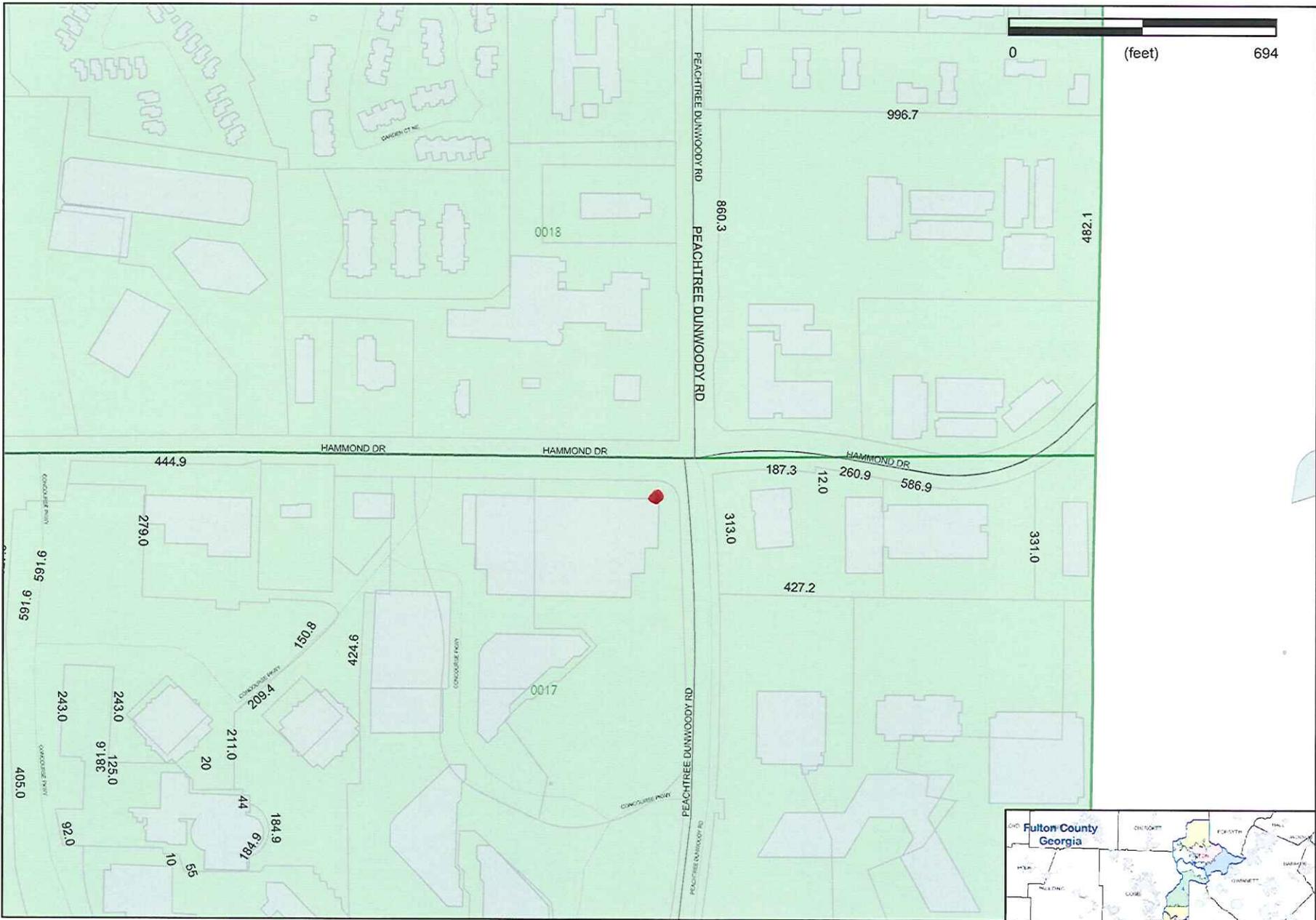
- Base Map
- City Limit
- City Hall
- Private School
- Major Road
- City Street
 - Public Street
 - Private Street
 - Private Drive
- Sandy Spring 2010 Address Po
- Building Footprint
- City Plats/Parcel
- Fc parcel digest 2010 (w/o lab
- Fc parcel digest 2010
- Park
- Aerial 2010
 - Red: Band_1
 - Green: Band_2
 - Blue: Band_3

Selections

1 point

Map Printed On {2012-03-15 09:40}

This map has been compiled from the most accurate source data from Fulton County and the City of Sandy Springs. This map is for informational purposes only and is not to be interpreted as a legal document. The City assumes no legal responsibility for the information shown on this map. For inquiries please contact the City of Sandy Springs.




 Prepared by Fulton County Department of
 Environment and Community Development
 Support Services Division
 Geographic Information System

Date: 01.23.45

Fulton County provides the data within this page for your personal use "as is".
 The data is not guaranteed to be accurate, correct, or complete.



After Recording Please Return To:

Brooke P. Pappis, Associate
Sutherland
999 Peachtree Street, NE
Atlanta, GA 30309-3996

PERMANENT AND CONSTRUCTION, MAINTENANCE AND UTILITY EASEMENT

STATE OF GEORGIA

FULTON COUNTY

This Permanent and Construction, Maintenance and Utility Easement (this "Easement") is made and executed this ___ day of _____, 2011.

WHEREAS, the Fulton Perimeter Community Improvements District and the City of Sandy Springs, Fulton County, Georgia desire to construct and maintain pedestrian plazas on Peachtree Dunwoody Road;

NOW, THEREFORE, for value received, Teachers Insurance & Annuity Association of America ("TIAA") does hereby grant to The City of Sandy Springs (the "City") temporary and permanent, non-exclusive easements for the purpose of construction and maintenance over and upon that certain real property abutting on and adjacent to the rights of way of Peachtree Dunwoody Road and Hammond Drive and lying and being in Land Lot 18 of the 17th District, City of Sandy Springs, Fulton County, Georgia, consisting of a total of 636 square feet as shown on the plat (the "Plat") dated February 2, 2011, attached as Exhibit "A" hereto and hereby made a part hereof (the "Easement Area"), in such manner as said municipality may reasonably deem proper to support or accommodate the improvement of said road, including the permanent right to construct and maintain any utilities, relocated or added, within the Easement Area together with all rights and privileges necessary or convenient for the full enjoyment or use of said Easement Area for the purpose of making repairs, renewals, alterations and extensions thereon, thereto or therefrom; together with the right to cut away and keep clear of said utilities all trees and other obstructions that may now or hereafter in any reasonable way interfere or be likely to interfere with said utilities.

This Easement is granted on the condition that the City maintains said Easement Area, and upon the following terms and conditions:

(a) The City and its contractors, agents, and employees, in connection with their exercise of the rights and easements granted hereunder, (i) shall not encroach upon or damage any existing improvements, including without limitation any utility structures, or facilities, and/or signage located in the Easement Area or on any adjacent real property owned by TIAA, or block any existing driveways located in the easement area and (ii) shall at all times use their best efforts to minimize disruption and inconvenience to TIAA, and its guests, tenants, invitees, licensees, and customers.

(b) All construction and maintenance work performed hereunder shall be performed at the sole expense of the City, strictly in accordance with the Easement Plans (a copy of which has been provided to TIAA), in a good and workmanlike manner, and once commenced, diligently prosecuted to completion. Upon completion of such work, the City shall cause the Easement Area to be promptly dressed, grassed, and left in good and clean condition, provided however, TIAA will install or have installed the irrigation system in the easement area at the full cost and expense of the Fulton PCID; which cost will not exceed \$2,000 and thereafter will be maintained by TIAA or its designee in a neat and clean condition at all times. The City shall cause liability insurance to be maintained in a commercially reasonable form and amount at all times. In the event the City fails to perform any of its obligations hereunder, TIAA may notify the City of such failure, and the City shall clean up or correct any defaults within a reasonable period of time. If the City does not clean up or correct any defaults within forty-five (45) days of notice, TIAA may clean up and/or correct defaults and invoice the City.

(c) The construction easement herein granted is temporary, and such easement shall terminate upon the earlier to occur of (i) the date the construction work as set forth in the Easement Plans is completed, or (ii) six (6) months from the date of this Easement.

(d) The construction easement herein granted encompasses that portion of the Easement Area as shown on Exhibit "A" consisting of 465 square feet. Upon the termination of the construction easement as provided in (c) above, the City shall have a permanent easement on that portion of the Easement Area consisting of 171 square feet as described by metes and bounds in Exhibit "B" and as shown on the Plat attached hereto as Exhibit "A" and identified as the "Proposed ROW". The permanent easement herein granted shall be for the purpose of allowing the City to maintain, repair, alter, improve and replace the improvements and utilities as constructed and installed pursuant to the terms hereof.

(e) The City herein agrees that it will not construct, or allow to be constructed, within the Easement Area any structure or improvement that would interfere with TIAA's line of sight across the Easement Area or block any signage, it being presumed that any structure or improvement higher than four (4) feet would be in violation of this covenant.

TIAA hereby conveys and relinquishes to the City all rights of vehicular access through the Easement Area as shown on the Plat, provided that nothing herein shall affect the rights of TIAA or any other parties to go under, through or over said Easement Area to have access to any

utilities that may be or are already in place in the Easement Area. TIAA explicitly reserves the right to use the Easement Area (i) for ingress and egress to and from adjacent properties and roadways, on or over driveways, roadways, or trails existing now or hereinafter, (ii) for the construction, maintenance, and use of landscapes, hardscapes, trails, fences or walls (whether retaining or otherwise) or related items, and (iii) for any other purpose whatsoever not inconsistent with the rights hereby granted. Nothing contained within this Easement shall preclude the Easement Area from being considered as part of and contiguous with TIAA adjacent real property for any reason whatsoever, including without limitation calculations for purposes of set-back requirements and density, or any other zoning or land use matters.

TIAA does hereby warrant that it has the right to convey the easements herein granted, and that it has the right to bind itself and its successors and assigns, said conveyance being subject to all matters of record.

The parties hereto have executed this Easement under seal as of the date first appearing above.

TEACHERS INSURANCE & ANNUITY
ASSOCIATION OF AMERICA

Kimberly
S. Owens

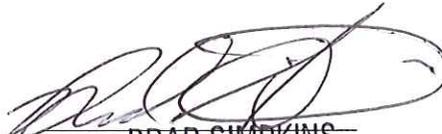
Digitally signed by Kimberly S. Owens
DN: cn=Kimberly S. Owens, o=TIAA-CREF, ou=Advocacy and Oversight, email=kowens@tiaa-cref.org, c=US
Date: 2011.10.10 11:09:43 -04'00'

By:

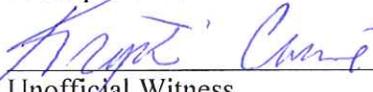
By:

Name:

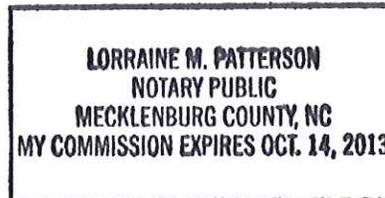
Its:


BRAD SIMPKINS
ASSISTANT SECRETARY

Signed, sealed and delivered
in the presence of:


Unofficial Witness


Notary Public



My Commission Expires: _____

THE CITY OF SANDY SPRINGS

By: _____ (SEAL)

Name: _____

Title: _____

Signed, sealed and delivered
in the presence of:

Unofficial Witness

Notary Public

My Commission Expires: _____

Exhibit A

Hammond SW→

All that tract or parcel of land lying and being in Land Lot 18 of the 17 district of Fulton County, Georgia, and more particularly described as follows:

Commence at a right of way monument found being located at the north westerly corner of the mitered right of way of the intersection of the easterly right of way of Peachtree Dunwoody Road and the northerly right of way of Interstate-285 Exit Ramp, thence run North $2^{\circ} 33' 42''$ West a distance of 1329.92 feet to a point located on the westerly right of way of Peachtree Dunwoody Road; thence following the mitered right of way of the intersection of the westerly right of way of Peachtree Dunwoody Road and the southerly right of way of Hammond Drive along a curve to the left an arc distance of 11.66 feet (said arc having a radius of 40.00 feet and being subtended by a chord 11.62 feet in length and bearing South $13^{\circ} 41' 02''$ West) to a point; said point being the True Point of Beginning.

Thence from the True Point of Beginning as thus established, leave the right of way of the said miter of the intersection of the westerly right of way of Peachtree Dunwoody Road and the southerly right of way of Hammond Drive North $69^{\circ} 49' 26''$ West a distance of 10.67 feet to a point; thence run North $44^{\circ} 03' 42''$ West a distance of 14.36 feet to a point; thence run North $21^{\circ} 52' 58''$ West a distance of 9.27 feet to a point; said point located on the said miter of the intersection of the westerly right of way of Peachtree Dunwoody Road and the southerly right of way of Hammond Drive; thence following the right of way of the said miter of the intersection of the westerly right of way of Peachtree Dunwoody Road and the southerly right of way of Hammond Drive along a curve to the right an arc distance of 33.54 feet (said arc having a radius of 40.00 feet and being subtended by a chord 32.57 feet and bearing South $46^{\circ} 03' 41''$ East) to a point; said point also being the True Point of Beginning.

Said tract contains 171 square feet.