TO: Mayor and City Council for the City of Sandy Springs, Georgia

FROM: John McDonough, City Manager

DATE: July 26, 2016, for submission onto the August 2, 2016 Mayor and City Council Meeting Agenda

ITEM: Consideration of a Purchase and Sale Agreement for Property Located at 418 Hammond Drive (Tax Parcel # 17-0071-0002-064-2)

City Manager's Recommendation:

The City Manager recommends the Council accept this Purchase and Sale Agreement (hereafter, the "**Agreement**") for the property located at 418 Hammond Drive.

Background:

This property is part of the Hammond Drive widening project (hereafter, the "**Project**"). In order to construct the Project, fee simple rights are required over, under, and through the property located at 418 Hammond Drive within the City of Sandy Springs. City Staff has been in negotiations to acquire the property by purchase.

Discussion:

This is a single family residence on a .4216 acre lot. The property was last sold on October 28, 2005, for $230,000. An appraiser for the City determined that $350,000 is within the fair market value range for this property.

Alternatives:

The City's failure to obtain title to this property would result in the City having to modify the proposed Project, which would increase the cost of the project.

Financial Impact:

Purchase of the property has been budgeted in the Project Budget.

Attachments:

Exhibits

- Tax Plat Map
- Street View
- Purchase and Sale Agreement
- Resolution

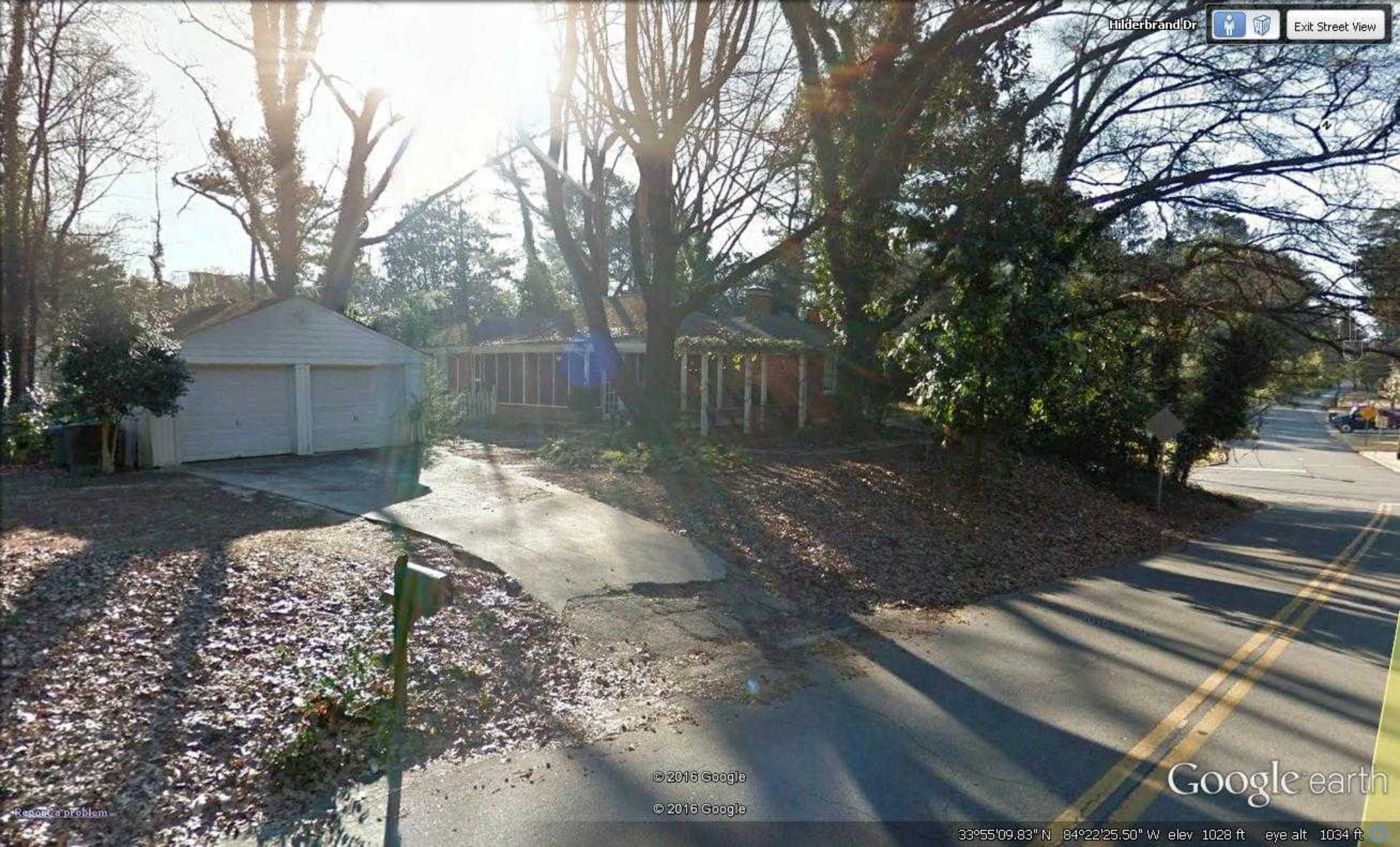
Fulton County Assessor

Parcel: 17 007100020642 Acres: 0.4216

Name:	PERKEL BETSY BABBIT	Land Value:	103200
Site:	418 HAMMOND DR	Building Value:	164000
Sale:	$0 on 2012-06-20 Reason=T Qual=U	Misc Value:	
Mail:	418 HAMMOND DR NE ATLANTA, GA 30328	Total Value:	267200

Fulton County 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.

Date printed: 07/12/16 : 13:30:54


Hilderbrand Dr
Exit Street View
© 2016 Google
© 2016 Google
Google earth
Report a problem
33°55'09.83" N 84°22'25.50" W elev 1028 ft eye alt 1034 ft

Hilderbrand Dr
Exit Street View
© 2016 Google
© 2016 Google
Report a problem
Google earth
33°55'08.90" N 84°22'25.83" W elev 1020 ft eye alt 1023 ft

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (hereinafter "**Agreement**") is made and entered into as of the Effective Date specified below, by and between **BETSY BABBIT PERKEL** hereinafter called "**Seller**"); and **CITY OF SANDY SPRINGS**, a municipal corporation organized and existing under the laws of the State of Georgia, (hereinafter called "**Purchaser**").

W I T N E S S E T H:

1. Purchaser hereby agrees to purchase and take from Seller, subject to and in accordance with all of the terms and conditions of this Agreement, the following property:

> That certain parcel of land known as Tax Parcel 17-0071-0002-064-2 in Sandy Springs, Fulton County, Georgia land lying and being in Land Lot 71, of the 17th District, of Fulton County and as more particularly described as set forth Exhibit A (the "**Property**") being commonly known by the current system of address numbering in the City of Sandy Springs as 418 Hammond Drive.

2. Purchase Price, Method of Payment.

(a) Purchase Price of Property. The purchase price for the Property, hereinafter called the "Purchase Price," shall be **THREE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS ($350,000.00)**. The Purchase Price, after crediting the Earnest Money, subject to the prorations and adjustments hereinafter described, shall be paid by Purchaser to Seller on the Closing Date.

3. Earnest Money.

(a) Within ten (10) days after the Effective Date, as defined herein below, Purchaser shall pay to **MEYER CLOSINGS, LLC** ("Escrow Agent") the sum of **TEN THOUSAND AND NO/100 DOLLARS ($10,000.00)** as the initial earnest money deposit. The initial earnest money deposit and any additional earnest money paid to the Escrow Agent by the Purchaser pursuant to this Agreement are herein called the "Earnest Money."

(b) If Closing should occur hereunder, Escrow Agent shall pay the Earnest Money to the closing agent and the Earnest Money shall be applied and credited in reduction of the Purchase Price.

(c) If Closing does not occur hereunder because: (1) Purchaser exercises any unexpired right or option under this Agreement to rescind, cancel or terminate this Agreement within the time provided herein, (2) Seller fails or is unable to deliver Seller's deed and other Deliveries to the Purchaser conveying the quality of title to the Property required by this Agreement, or (3) Seller defaults under this Agreement and fails to cure such default within the period allowed for cure, the Purchaser shall have the option to notify Escrow Agent, after the passage of any required notice period, to immediately refund the Earnest Money to Purchaser, less the sum of TWO HUNDRED TWENTY-FIVE AND NO/100 DOLLARS ($225.00), which shall be paid to Seller in consideration for this Agreement, whereupon this Agreement shall terminate and the parties to this Agreement shall have no further rights, duties or obligations to the others, except as otherwise specifically provided by this Agreement.

(d) Otherwise, the Earnest Money shall be deemed non-refundable and shall be paid to the Seller upon the termination of this Agreement. Until one of the preceding conditions

should exist, the Earnest Money shall be held and disbursed by Escrow Agent strictly in accordance with the terms and provisions of **Section 6** of this Agreement.

4. Title.

(a) Warranty of Title. Seller warrants that, as of the Effective Date, Seller owns Good and Marketable Fee Simple Title to the Property. At Closing, Seller shall convey good and marketable title to said Property by warranty deed, in proper form for recording, subject only to (1) zoning; (2) general utility, sewer, and drainage easements of record as of Closing and upon which the improvements do not encroach; (3) declarations of condominium and declarations of covenants, conditions and restrictions of record as of Closing. Seller warrants that on the Closing Date as herein defined, the Property is unencumbered by any leases and there is no tenant in possession. In the event the Seller should be unable to convey the Property at Closing to Purchaser with the quality of title required by this section, Seller shall notify Purchaser in writing of any deficiencies, and Purchaser may either take such title as Seller can give, or Purchaser may terminate this Agreement, in which event this Agreement shall become null and void, Purchaser's Earnest Money shall be refunded (less the sum of TWO HUNDRED TWENTY-FIVE AND NO/100 DOLLARS ($225.00), which shall be paid to Seller in consideration for this Agreement), and, except as otherwise provided herein, neither Purchaser nor Seller shall have any further liability or obligations to the other hereunder.

(b) Good and Marketable Fee Simple Title / Existing Title Exceptions. For all purposes of this Agreement, "Good and Marketable Fee Simple Title" shall mean fee simple title such title as is insurable by a title insurance company selected by the Purchaser which is licensed to do business in Georgia under such title company's standard ALTA form of Georgia owner's policy of title insurance, at its standard rates subject only to the following, hereinafter called the "Permitted Exceptions": (i) the standard exclusions therein; (ii) ad valorem taxes assessed against the Property not due and payable on or before the Closing Date; and (iii) all matters, if any, waived by Purchaser. "Existing Title Exceptions" means all zoning and land use laws, codes and regulations, liens, easements, encumbrances, leases and other restrictions of public record affecting Seller's Good and Marketable Fee Simple Title to the Property on the Effective Date, but including matters of survey.

(c) Title Objections. Purchaser shall have thirty (30) days following the Effective Date to conduct an examination of the condition of Seller's title to the Property (including matters of survey), and to deliver to the Seller written notice of any objections by the Purchaser to the condition of the Seller's title.

(d) Cure Period. Seller shall have until thirty (30) days from the date of Purchaser's initial notice of objections, if any, in which to review such title objections, and, if Seller elects, to give Purchaser notice of any objections specified in such notice which Seller intends to attempt to cure. With the exception of any "Monetary Encumbrances," as defined herein, Seller shall have no obligation to take any action whatsoever to cure any objections by Purchaser to the condition of Seller's title which are Existing Title Exceptions. Any Existing Title Exceptions to which the Purchaser does not object within the 30-day period provided herein (other than Monetary Encumbrances) shall become Permitted Title Exceptions at the end of such 30-day period. Unless Seller notifies the Purchaser within such 30-day period of any of Purchaser's objections which the Seller intends to cure, the Seller shall be deemed to have declined to cure any such objections. Seller shall have a reasonable time, but not more than thirty (30) days after the delivery of Purchaser's notice of title objections, to remove any of Purchaser's objections to Seller's title which the Seller has agreed to attempt to cure, provided that the Seller shall not be deemed to be in default of this Agreement, if the Seller fails or is unable to remove any such title objections.

(e) Removal of Monetary Encumbrances. Notwithstanding any other provision of this Agreement, the Seller shall be obligated to remove not later than Closing all security deeds, mortgages, tax liens, financing statements and other liquidated financial encumbrances of any kind affecting Seller's title to the Property incurred by, against or at the instance of the Seller and Seller's predecessors, whether or not such matters were included in any notice of objection by the Purchaser to Seller's title ("Monetary Encumbrances"). The closing attorney shall withhold and disburse from the Purchase Price a sufficient amount thereof to satisfy all such Monetary Encumbrances.

(f) Purchaser's Termination Right. If Seller fails to attempt or is unable to cure all of the Purchaser's valid objections to the condition of the Seller's title hereunder, or if the Seller fails to remove all such objections, if any, which the Seller has agreed to attempt to cure within the time allowed herein, then at the option of the Purchaser, to be exercised by the Purchaser within ten (10) days after the last date on which the Seller may elect to attempt to remove such title objections, if no such election is received, or, if Seller elects to attempt to cure or satisfy some or all of such objections, then within ten (10) days after the last date on which the Seller may provide evidence that all such objections have been cured and satisfied, Purchaser may, in Purchaser's sole discretion: (1) waive all of Purchaser's unsatisfied objections (other than Monetary Encumbrances) and purchase the Property, in which case, all remaining Existing Title Exceptions other than Monetary Encumbrances shall become Permitted Exceptions; or (2) terminate this Agreement by written notice to the Seller, in which case Seller shall promptly refund any Earnest Money paid (less the sum of TWO HUNDRED TWENTY-FIVE AND NO/100 DOLLARS ($225.00), which shall be paid to Seller in consideration for this Agreement) and, upon receipt of such refund, except as otherwise provided by this Agreement, neither Purchaser nor Seller shall have any further liability or obligations to the other.

(g) Changes in Condition of Seller's Title after the Effective Date. Seller agrees and covenants with the Purchaser that, from and after the Effective Date, Seller will not take any action or allow any condition to exist which will adversely affect the condition of the Seller's title on the Effective Date. However, notwithstanding **Subsection (f)** hereof, in the event that, after the county record date of the Purchaser's examination of title or title commitment and before Closing, Purchaser discovers any adverse change in the condition of Seller's title (other than Monetary Encumbrances) which did not first appear of record until after the Effective Date of this Agreement, Purchaser shall have the additional right to object to such new matters at any time prior to the Closing; and, in the event of such objections, Seller shall have thirty (30) days within which to cure all such objections. If Seller should fail to cure all such new objections within such 30-day period, Purchaser shall have the right to elect within 10 days following the end of such 30-day period between the actions described in **Paragraphs (1) and (2)** of **Subsection (f)** hereof. If the Purchaser elects to Close notwithstanding such objections, all title restrictions of record on the Closing Date (other than Monetary Encumbrances) shall become Permitted Exceptions.

(h) Failure to Deliver Written Election. If the Purchaser should fail to make a timely election by delivery of written notice to the Seller between the waiver and termination alternatives of **Paragraphs (1) and (2)** of **Subsections (f) and (g)** hereof, Purchaser shall be conclusively deemed to have elected to terminate this Agreement.

5. <u>Purchaser's Inspection and Other Due Diligence</u>.

(a) Access and Inspection. From August 3, 2016 until the Closing Date, Seller hereby grants Purchaser the right to enter upon the Property at reasonable times after reasonable prior notice to the Seller, and at the Purchaser's sole risk, for the purpose of conducting such appraisals,

traffic studies, wetlands studies, environmental and soils tests and reports, engineering and any other inspections and investigations contemplated by this Agreement. Notwithstanding the foregoing, without the Seller's express consent, representatives of the Purchaser shall not enter the interior of the buildings located upon the Property, any fenced and gated areas without a representative of the Seller being present.

(b) Seller Due Diligence Deliveries. Seller shall deliver to the Purchaser within five (5) business days after the Effective Date complete and accurate copies of any surveys, inspections, leases, environmental test and reports, or other documents in Seller's possession evidencing any encumbrances existing on the Property.

(c) Purchaser's Right to Terminate. In the event that Purchaser's inspection and investigation of the Property results in a determination by the Purchaser that the Property is unsatisfactory for Purchaser's intended uses or is otherwise unsuitable or unacceptable in any respect, the Purchaser may terminate this Agreement by delivery to the Seller (with a copy to the Escrow Agent) of written notice of termination on or before close of business (5:00 p.m. local time) thirty days after acceptance of this Purchase and Sale Agreement The period beginning on the Effective Date and ending on the earlier of: (1) the date the Purchaser delivers written notice to the Seller that the Purchaser waives all rights to terminate this Agreement pursuant to this Subsection, or (2) thirty days after acceptance of this Purchase and Sale Agreement (sometimes referred to herein as the "Free Look Period"). Upon receipt of a timely notice of termination, the Escrow Agent shall promptly refund all Earnest Money paid (less the sum of TWO HUNDRED TWENTY-FIVE AND NO/100 DOLLARS ($225.00), which shall be paid to Seller in consideration for this Agreement), and, upon receipt of such refund, except as otherwise provided by this Agreement, neither Purchaser nor Seller shall have any further liability or obligations to the other. If the Purchaser does not deliver such written notice of termination on or before such date, Purchaser shall be deemed to have waived its right to terminate this Agreement pursuant to this **Section 5**, and such right shall expire, become null and void and shall have no further force or effect. Except in the case of an express written waiver, nothing herein shall be deemed, however, to result in a waiver of any other express right or option of the Purchaser to terminate this Agreement, including the Purchaser's right to terminate under Section 3. (Title), or the Environmental Condition, which shall be conditions separate from the Purchaser's termination right hereunder.

(d) Inspections at Purchaser's Risk and Expense. All inspections and testing of the Property by Purchaser and its agents shall be performed at the sole cost and risk of the Purchaser. If this Agreement is terminated, Purchaser shall promptly return to Seller all information that exists in any form or media regarding the Property provided by or on behalf of Seller, together with copies, at no cost to Seller, of all title, surveys, engineering, traffic, environmental, soils and other reports and studies obtained by Purchaser through its investigation of the Property assigned to Seller, if possible.

(e) Invasive Testing. Seller authorizes Purchaser to conduct environmental testing on the Property as determined appropriate by the Purchaser subject to the terms of Inspections set forth in this Agreement.

6. Escrow Instructions.

(a) Handling of Earnest Money. Escrow Agent shall promptly advise Seller and Purchaser if the Earnest Money is not received by Escrow Agent in a timely fashion. Escrow Agent shall promptly deposit and hold the Earnest Money in the federally insured account at the banking institution where the Escrow Agent maintains the other funds it holds in escrow for its clients and others ("Escrow Account"). Escrow Agent may commingle the Deposit with funds of other clients in the Escrow Account and shall retain the interest earned on the Earnest Money

to compensate the Escrow Agent for performing its obligations hereunder. Escrow Agent shall not be accountable for any direct or indirect incidental benefit which Escrow Agent may receive from the depository bank which is attributable to the Earnest Money.

(b) Disbursement of Funds. At such time as Escrow Agent receives written notice from Seller or Purchaser, or both, stating the identity of the party to whom the Earnest Money is to be disbursed, Escrow Agent shall disburse such Earnest Money pursuant to such notice; provided, however, that if such notice is given by either Seller or Purchaser but not both, and the person to whom the Earnest Money is to be disbursed is other than the closing attorney, Escrow Agent shall notify the other party in writing of such notice and shall withhold disbursement of the Earnest Money for a period of five (5) calendar days after giving such notice. If the Escrow Agent receives written notice from either Seller or Purchaser within such five (5) day period, which notice countermands or objects to the earlier notice of disbursement, then Escrow Agent shall withhold such disbursement until both Seller and Purchaser can agree upon a disbursement of the Earnest Money. Notwithstanding the foregoing, if Purchaser notifies Escrow Agent on or before the expiration of the Inspection Period of its election to terminate this Agreement pursuant to **Section 5.** , then no confirming notice from Seller shall be required by Escrow Agent, and Escrow Agent shall promptly disburse the Earnest Money as provided in **Section 5.** without requesting or waiting for confirming notice from Seller. Seller and Purchaser agree to send to the other a duplicate copy of any written notice sent to Escrow Agent requesting disbursement or countermanding or objecting to a request for disbursement.

(c) Limited Liability. In performing any of its duties hereunder, Escrow Agent shall not incur any liability to anyone for any damages, losses or expenses, except for any negligence, willful misconduct or breach of trust by Escrow Agent under this Agreement, and, accordingly, Escrow Agent shall not incur any such liability with respect to the following: (1) any action taken or omitted in good faith upon advice of its legal counsel given with respect to any questions relating to the duties and responsibilities of Escrow Agent under this Agreement; or (2) any action taken or omitted in reliance on any instrument, including any written notice or instruction provided for in this Agreement, not only as to its due execution and the validity and effectiveness of its provisions but also as to the truth and accuracy of any information contained therein, which Escrow Agent shall in good faith believe to be genuine, to have been signed or presented by a person or persons having authority to sign or present such instrument, and to conform with the provisions of this Agreement.

(d) Disputes / Interpleader. Notwithstanding anything in this Agreement to the contrary, upon a dispute between Seller and Purchaser sufficient in the sole discretion of Escrow Agent to justify its doing so, or if Escrow Agent has not disbursed the Earnest Money on or before the thirtieth (30th) day following the Closing Date specified in **Section 7**, then Escrow Agent shall be entitled, but not required, to tender the Earnest Money into the registry or custody of any court of competent jurisdiction, together with such pleadings as it may deem appropriate, and thereupon be discharged from all further duties and liabilities under this Agreement (other than with respect to any liabilities for negligence, willful misconduct or breach of trust by Escrow Agent). The Escrow Agent may reimburse itself from the Earnest Money for a reasonable attorney's fee and other reasonable costs of filing any such interpleader action. The Escrow Agent may also, in its discretion, elect to refrain for any period from initiating any such interpleader action, and may in lieu thereof, continue to hold the Earnest Money in escrow subject to the terms and conditions of this Section pending a resolution of all disputes between the parties.

7. Closing. The term "Closing," as used herein, means the consummation of the purchase and sale of the Property pursuant to this Agreement. The Closing shall include, *inter alia*, the delivery and acceptance of the Purchase Price by the Seller and the execution and delivery by the Purchaser and Seller as applicable of the Closing Documents and other Deliveries described herein.

(a) Closing Date. The term "Closing Date," as used herein, means the date on which the Closing is consummated.

(1) Initial Closing Date. Subject to the rights of the Purchaser and the Seller to defer the Closing Date by exercising their respective extension rights as set forth in this Agreement, the Closing shall take place on or before SEPTEMBER 1, 2016, at a time and on a date specified by the Purchaser after at least five (5) business days prior written notice to Seller (or if no such notice has been received, on SEPTEMBER 1, 2016 at 1:00 p.m. local time)(the "Initial Closing Date") at City Hall, 7840 Roswell Road, Sandy Springs, Georgia 30350; or at the law office of the closing attorney, as elected by Purchaser within 15 miles of the City of Sandy Springs.

(2) Purchaser's Right to Extend. Should Purchaser, in Purchaser's sole discretion, desire to extend the Closing Date by up to an additional thirty (30) days, Purchaser may obtain such extension upon delivery of written notice of such 30-day extension to Seller before the end of the Free Look Period and the payment to Escrow Agent of **SIX THOUSAND AND NO/100 DOLLARS ($6,000.00)** as an additional Earnest Money. If this Agreement should terminate without Closing, all additional Earnest Money shall be treated as Earnest Money subject to the provisions of this Agreement.

(b) Closing Documents. On the Closing Date:

(1) Seller Deliveries. Seller shall deliver to Purchaser the following documents and instruments, all in a standard form and substance reasonably satisfactory to legal counsel for the Purchaser and Seller, duly executed by or on behalf of Seller (where applicable under oath or in proper legal form for recording): (i) a warranty deed conveying Seller's Good and Marketable Fee Simple Title to the Property to the Purchaser, subject only to Permitted Exceptions; (ii) any curative documents which the Seller may agree to furnish in connection with the Closing pursuant to **Section 4** hereof; (iii) a Sellers' affidavit of ownership with respect to the Property, qualified to the knowledge of Seller and providing that nothing contained therein shall in any way enlarge or otherwise modify the warranty of title given in the deed of conveyance at Closing; (iv) a tenant estoppel certificate satisfactory to Purchaser that the Property is unencumbered by any leases or tenants in possession; and (v) such tax certifications, affidavits of authority and residency, and other customary closing documents as reasonably requested.

(2) Purchaser Deliveries. Purchaser shall pay the Purchase Price to Seller in accordance with the provisions of this Agreement, and shall also execute and deliver other customary closing documents as reasonably requested..

(3) Closing Memorandum. Purchaser and Seller shall execute and deliver a settlement statement, HUD-1 Form or closing memorandum disclosing the prorations, adjustments, funds paid and received by and to all parties at the Closing in reasonable detail, together with such other information concerning the Closing as the closing attorney should reasonably consider necessary and proper to properly and accurately document the Closing.

(c) Prorations and Adjustments to Purchase Price. The following prorations and adjustments shall be made between Purchaser and Seller at Closing, or thereafter if Purchaser and Seller shall agree:

(1) All city, state and county ad valorem taxes and similar impositions levied or imposed upon or assessed against the Property, hereinafter called the "Taxes", for the year in which Closing occurs shall be prorated between the Seller and the Purchaser.

(2) Any other items which are customarily prorated in connection with the purchase and sale of properties similar to the Property shall be prorated as of the Closing Date. All such prorations and adjustments to be made in conjunction with the Closing shall be made as of the Closing Date and shall be effective at Closing, except as otherwise provided and as further specified herein.

(d) Costs of Closing. At Closing:

(1) the Seller shall pay: (i) the fees of the Seller's attorney and any other advisors, (ii) the cost of satisfying all Monetary Encumbrances and removing the same from the public records, (iii) the cost of preparing and filing any curative documents which the Seller may agree to deliver pursuant to **Section 4.** Hereof, and (iv) any other costs which the Seller may expressly agree to pay pursuant to this Agreement, but no other charges;

(2) The Purchaser shall pay: (i) the State of Georgia Real Estate Transfer Tax payable on the recording of the Seller's deed, (ii) all recording costs not payable by the Seller, (iii) all costs of Purchaser's title examination, title commitment and any updates and Purchaser's title premiums, (iv) all costs of Purchaser's surveys, appraisals, soils and environmental testing, wetlands investigations and other due diligence costs incurred in connection with the Purchaser's due diligence investigation of the Property; (v) the fees of Purchaser's attorney and other advisors, and (vi) any other costs and expenses of the transaction which are not the obligation of any other person hereunder.

8. Warranties and Representations of the Seller / Limitations and Merger. Seller represents, warrants and covenants that, to the best of Seller's present knowledge, information and belief:

(a) Seller or its assigns is/are duly authorized and existing under the laws of the State of Georgia. Seller has the right, power, authority, discretion and capacity to sell the Property in accordance with the terms, provisions and conditions of this Agreement. Any individuals who may have executed this Agreement on behalf of the Seller in their representative capacities are duly constituted, appointed or elected and authorized to do so; any consent required by the Seller's members or shareholders to make such action effective has been obtained,

(b) There are no lawsuits pending or threatened against or involving Seller or the Property which affect Seller's title;

(c) Seller has not received notice of pending or threatened claims, special assessments, or other adverse claims affecting the Property;

(d) On the Closing Date, Seller will not be indebted to any contractor, laborer, mechanic, materialman, architect or engineer for work, labor or services performed or rendered, or for materials supplied or furnished, in connection with the Property for which any such person could claim a lien against the Property;

(e) On the Closing Date, Seller warrants that the Property will not be encumbered by any leases, and that there will be no Tenants in possession of the Property;

(f) Seller will pay or cause to be paid promptly when due all city, state and county ad valorem taxes and similar taxes and assessments, all sewer and water charges and all other governmental charges levied or imposed upon or assessed against the Property between the Effective Date and the Closing Date.

(g) On the Closing Date, Seller shall provide Purchaser with all keys, door openers, codes, and other similar equipment pertaining to the Property.

9. Purchaser's Representations and Warranties: The Purchaser is municipal corporation duly authorized and existing under the laws of the State of Georgia. Subject to the conditions specified herein below, Purchaser has the right, power, authority, discretion and capacity to buy the Property in accordance with the terms, provisions and conditions of this Agreement. The individual who has executed this Agreement on behalf of the Purchaser in his representative capacities is duly constituted, appointed or elected and authorized to do so.

10. Default and Remedies.

(a) If the purchase and sale of the Property contemplated hereby does not close in accordance with the terms and conditions of this Agreement as the result of actions, failures or circumstances which constitute a breach or default by Purchaser of Purchaser's obligations under this Agreement, and if the Purchaser fails or refuses to cure such default within ten (10) days after delivery of notice thereof from Seller describing the default and, if any action is possible to cure the same, describing such action, Seller shall retain the Earnest Money as bargained for liquidated damages incurred by the Seller arising from the Purchaser's failure to close, and not a penalty.

(b) If the purchase and sale of the Property contemplated hereby does not close in accordance with the terms and conditions of this Agreement as the result of actions, failures or circumstances which constitute a breach or default by Seller of Seller's obligations under this Agreement, and if the Seller fails or refuses to cure such default within ten (10) days after delivery of notice thereof from Purchaser describing the default and, if any action is possible to cure the same, describing such action, then Purchaser's sole remedy is to elect one of the following: (a) to terminate this Agreement, in which event Escrow Agent will return the Earnest Money to Purchaser, or (b) to bring a suit for specific performance, provided that Purchaser is entitled to this remedy only if Purchaser files the suit within ninety (90) days of Seller's default, and further provided that Purchaser shall have no right to bring a suit for specific performance unless Purchaser (i) was not in default under this Agreement, and (ii) tendered performance on its part. The inability of Seller to convey the Property to the Purchaser on the Closing Date with the quality of title required by this Agreement shall not constitute a default by Seller under this Agreement unless the title restriction causing such inability arises after the Effective Date by reason of a willful action of the Seller in violation of this Agreement or the failure to take an action required by this Agreement which Seller could have taken.

11. Damage or Destruction Before Closing. Seller shall continue to maintain its current property and casualty and general liability insurance coverages in effect through the later of the Closing Date or the date Seller tenders possession of the Property to the Purchaser.

12. Assignment. This Agreement may not be assigned by Purchaser, in whole or in part, without the prior written consent of Seller.

13. Binding Effect. This Agreement shall be binding upon and enforceable against, and shall inure to the benefit of, Purchaser and Seller and their respective legal representatives, successors and permitted assigns.

14. Brokerage Commission; Disclosure.

Seller and Purchaser hereby represent and warrant to the other that he/she/they have not dealt with any real estate Broker, agent or salesperson so as to create any legal right or claim in any such Broker, agent or salesperson for a commission or similar fee or compensation with respect to the negotiation and/or consummation of this Contract. Purchaser and Seller acknowledge that they are not represented by a Broker unless they have signed a brokerage agreement with said Broker. Each party acknowledges full responsibility for protecting his/her/their own interests.

15. Modification. This Agreement supersedes all prior discussions and agreements between Seller and Purchaser with respect to the purchase and sale of the Property and other matters contained herein, and this Agreement contains the sole and entire understanding between Seller and Purchaser with respect thereto. This Agreement shall not be modified or amended except by an instrument in writing signed by or on behalf of Seller and Purchaser.

16. Applicable Law. This Agreement shall be governed by, construed under and interpreted and enforced in accordance with the laws of the State of Georgia.

17. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

18. Time. Time is and shall be of the essence of this Agreement.

19. Captions. The captions and headings used in this Agreement are for convenience only and do not in any way restrict, modify or amplify the terms of this Agreement.

20. Exhibits. Each and every Exhibit referred to or otherwise mentioned in this Agreement is attached to this Agreement and is and shall be construed to be made a part of this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each Exhibit were set forth in full and at length every time it is referred to or otherwise mentioned.

21. Notices. All notices, requests, demands, tenders and other communications hereunder shall be in writing. Any such notice, request, demand, tender or other communications shall be deemed to have been duly given if personally delivered or on the third business day after being deposited in the United States Mail, Certified Mail, Return Receipt Requested, with all postage prepaid, to the address for each party set forth below its execution hereof. Any party, by written notice to the others in the manner herein provided, may designate an address different from that set forth herein.

Seller:	Betsy Babbit Perkel c/o Andrew Perkel 665 River Chase Ridge Sandy Springs GA 30328
Purchaser:	City of Sandy Springs, Georgia Attn: John McDonough, City Manager 7840 Roswell Road Sandy Springs, Georgia 30350

With a copy to: Wendell K. Willard, Esq. and Cecil G. McLendon, Jr., Esq.
City of Sandy Springs, Georgia
7840 Roswell Road
Sandy Springs, Georgia 30350

Escrow Agent: Andy Meyer
Meyer Closings, LLC
One Premier Plaza
5605 Glenridge Drive
Suite 800
Atlanta, Georgia 30342

22. Survival. Except as otherwise specified in this Agreement, all conditions or stipulations shall merge with the closing herein.

23. Miscellaneous. If the final date for any period provided for herein for the performance of any obligation or for the taking of any action falls on Saturday, Sunday, or banking holiday, then the time of the period shall be deemed extended to the next day which is not a Saturday, Sunday, or banking holiday.

24. Special Stipulations. The following Special Stipulations, if conflicting or inconsistent with any of the preceding portions of this Agreement, or any exhibit, addendum attached hereto, shall control the rights and obligations of the parties and the interpretation of this Agreement:

(a) Environmental Condition. Seller acknowledges that Purchaser's obligation to close the purchase the Property shall be conditioned upon the receipt of a Phase I and, if recommended by the Purchaser's environmental engineer or consultant, a Phase II environmental assessment of the Property with the scope and specific tests recommended by the Purchaser's environmental engineer or consultant. All such environmental testing shall be at the Purchaser's sole cost and risk. Purchaser shall order any applicable Phase II testing before the end of the Free Look Period. In the event that; (1) any Phase II testing has been ordered within the time provided herein, but the report with the results of such tests has not been completed and received by the Purchaser before the end of the Free Look Period, and (2) if the Purchaser elects, in Purchaser's discretion, to extend the Closing to the Seller Extended Closing Date, as permitted by **Paragraph 7(a)(2)** hereof, and (3) if, after the results of such Phase II testing reveals contamination of the improvements, soil or groundwater of the Property at levels which are reasonably unacceptable to the Purchaser, the Purchaser may terminate this Agreement by delivery of written notice of termination to the Seller within ten (10) days after the delivery of the such Phase II environmental report to the Purchaser, but not later than thirty (30) days after acceptance of this Purchase and Sale Agreement in any event, in which case this Agreement shall terminate, the Escrow Agent shall refund the Earnest Money to Purchaser (less $225 to be paid to the Seller for entering into this Agreement), and neither party shall have any further obligation or liability to the other, except as otherwise specifically provided by this Agreement. If the Purchaser has not delivered Purchaser's notice of termination to the Seller within the time provided herein, the Purchaser's right to terminate the Agreement pursuant to this **Subsection (a)** of this Stipulation shall expire

25. Time for Acceptance. This Agreement shall be regarded as an offer made by the Purchaser to the Seller on JULY 28, 2016, and is open for acceptance by the Purchaser on or before 5:00 p.m. Eastern Daylight Savings Time on JULY 29, 2016 ("Acceptance Date"). The only manner of acceptance binding upon the Seller shall be the execution of this Agreement by the Purchaser and receipt by the Seller of one fully executed copy not later than 5:00 p.m. on the Acceptance Date. The actual date of the receipt by the Seller of a fully executed copy of this Agreement is sometimes

referred to herein as the "Effective Date." The Seller shall confirm the Effective Date by entering the date of receipt in the space provided below and returning one copy to the Purchaser.

26. Ratification by City of Sandy Springs. The approval and enforceability of this Agreement shall be subject to the Approval of the Agreement by the Mayor and Council of the City of Sandy Springs, Georgia. Should the Mayor and Council fail to approve this Agreement, the Agreement shall become void and all Escrow Funds shall be refunded to Purchaser. The Purchaser shall place the approval of the Agreement before the Mayor and Council of the City of Sandy Springs on August 2, 2016.

[THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY. SIGNATURES BEGIN ON THE FOLLOWING PAGE.]

IN WITNESS WHEREOF, Seller and Purchaser have caused this Agreement to be executed and sealed by their duly authorized representatives on the dates written below.

SELLER:

By: _____
Betsy Babbit Perkel

Seller confirms that the Effective Date of this Agreement is July 29, 2016. BB
Initial here

[THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY. SIGNATURES CONTINUE ON THE FOLLOWING PAGE.]

PURCHASER'S ACCEPTANCE:

THE CITY OF SANDY SPRINGS, GEORGIA, a municipal corporation of the State of Georgia

Acceptance Date: _____ 2016

By: _____
John McDonough
Its: City Manager

[CORPORATE SEAL]

[THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY. SIGNATURES CONTINUE ON THE FOLLOWING PAGE.]

ESCROW AGENT:

MEYER CLOSINGS, LLC

Date: _____, 20__

By: _____
Andy Meyer
Its: Manager

Meyer Closings, LLC
One Premier Plaza
5605 Glenridge Drive
Suite 800
Atlanta, Georgia 30342

EXHIBIT "A"
LEGAL DESCRIPTION

All that tract or parcel of land lying in and being in Land Lot 71 of the 17th District of Fulton County, Georgia, being Lot 26, Block B, Sandy Springs Realty Company Property Subdivision as per plat recorded in plat book 32, page 62, Fulton County, Georgia records, which recorded plat is incorporated herein by this reference and made a part of this description, said property being known as 418 Hammond Drive, according to the present system of numbering houses in Fulton County, Georgia.

RESOLUTION NO. 2016-08-XX

STATE OF GEORGIA
COUNTY FULTON

A RESOLUTION TO ACCEPT THE PURCHASE AND SALE AGREEMENT FOR PROPERTY LOCATED AT 418 HAMMOND DRIVE

WHEREAS, the City has determined it is necessary to construct certain improvements for the widening of Hammond Drive (the "Project"); and

WHEREAS, in order to construct the Project, fee simple rights are required over, under, and through the property located at 418 Hammond Drive (hereafter, the "**Property**"); and

WHEREAS, City Staff has negotiated a Purchase and Sale Agreement wherein the City may acquire the Property for the purchase price of $350,000.00; and

WHEREAS, the Mayor and City Council have considered the Purchase and Sale Agreement and have decided the most efficient way to ensure the timely completion of the Project is to acquire the Property by purchase under the terms and conditions of the Agreement.

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

The Mayor and City Council authorize the City Manager to accept the Purchase and Sale Agreement to acquire the fee simple rights over, under, and across the property located at 418 Hammond Drive, as more particularly described herein, in order to ensure the timely completion of the Project. The City Manager is hereby authorized to execute any documents in the furtherance of this Resolution, subject to approval by Legal and Finance.

RESOLVED this the 2nd day of August, 2016.

Approved:

_____
Russell K. Paul, Mayor

Attest:

_____
Michael D. Casey, City Clerk

(Seal)