

STATE OF GEORGIA

COUNTY OF GWINNETT

A RESOLUTION ADOPTING A LAND ACQUISITION POLICY

WHEREAS, the Report of the Special Purpose Grand Jury dated October 22, 2010 recommended to the Board of Commissioners that Gwinnett County's current Land Acquisition Process should be re-evaluated and restructured; and

WHEREAS, the Report recommended to the Board of Commissioners that the Land Acquisition Process should be based upon a philosophy of obtaining the best value for the taxpayer's dollar and that each transaction should be critically examined to determine a property's current or future use and value; and

WHEREAS, the Report recommended to the Board of Commissioners that the Land Acquisition Process should be as transparent as possible, based on the best information made equally available to all Commissioners and should promote accountability; and

WHEREAS, the Report recommended to the Board of Commissioners that the Land Acquisition Process should follow a clearly defined system of policies and procedures designed to make the acquisition decision as objective as possible and that each transaction should be justified under stringent standards known to all parties involved; and

WHEREAS, in response to the recommendations contained in the Report of the Special Purpose Grand Jury, the Board of Commissioners has undertaken a thorough and comprehensive review of its current Land Acquisition Process; and

WHEREAS, the Board of Commissioners finds that it would be in the best interest of the citizens of Gwinnett County to adopt a new Land Acquisition Policy that reflects the concerns and priorities of the Special Purpose Grand Jury;

NOW, THEREFORE, THE BOARD OF COMMISSIONERS DOES HEREBY RESOLVE AS FOLLOWS:

1.

The Land Acquisition Policy attached hereto as Exhibit "A" is hereby adopted.

2.

The Resolution adopted by the Gwinnett County Board of Commissioners regarding real estate acquisition dated November 1, 2005 is hereby repealed.

3.

Any and all policies and procedures in conflict with this Resolution are hereby repealed.

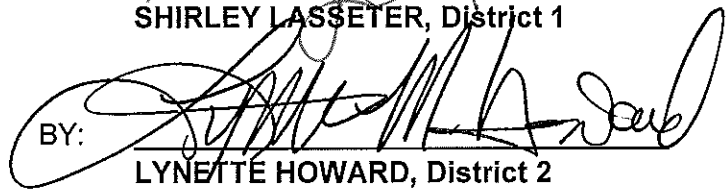
[Signatures on Following Page]

THIS RESOLUTION is adopted this the _____ day of July, 2011.

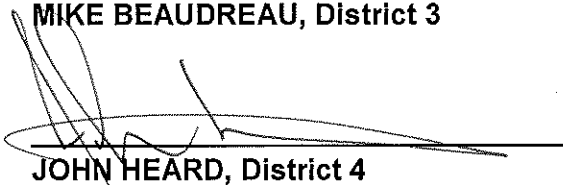
**BOARD OF COMMISSIONERS
GWINNETT COUNTY, GEORGIA**

BY: 
CHARLOTTE J. NASH, CHAIRMAN

BY: 
SHIRLEY LASSETER, District 1

BY: 
LYNETTE HOWARD, District 2

BY: 
MIKE BEAUDREAU, District 3

BY: 
JOHN HEARD, District 4

ATTEST:

DIANE KEMP, COUNTY CLERK

(SEAL)

APPROVED AS TO FORM:


VAN STEPHENS
ACTING COUNTY ATTORNEY

EXHIBIT “A”

GWINNETT COUNTY LAND ACQUISITION POLICY

I. Introduction

This Land Acquisition Policy shall apply to the acquisition of all real property by Gwinnett County.

II. Conformity with Applicable Laws and Regulations

All land acquisition activities undertaken by Gwinnett County shall conform to applicable federal, state and local laws and regulations.

III. Code of Ethics

This Policy shall be subject to and governed by the provisions of the Gwinnett County Code of Ethics, as set forth in Chapter 60, Article II of the Gwinnett County Code of Ordinances, and by any subsequent Code of Ethics.

IV. Fundamental Duties of Commissioners

In the land acquisition process, the Board of Commissioners shall have the fundamental duties listed below:

- To ensure that land acquisitions serve the best interests of the County, based on available information and a reasonable level of care.
- To support and follow orderly decision making on proposed land acquisitions based upon sound and objective analysis.
- To maintain the confidentiality of the land acquisition process and related information until such time as public action occurs by refraining from communicating to any unauthorized person or group any aspect of the proposed land acquisition via any communication medium,

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including, but not limited to: phone, cell phone, email, text message, social media such as Twitter and Facebook, in-person communication, or mail.

- To avoid even the appearance of impropriety, personal gain or favoritism related to participation in land acquisitions by the County.

V. *Fundamental Duties of Staff*

In implementing this Policy and the Land Acquisition Process, County staff, including, but not limited to, the Director of Support Services, the Director of any Department directly affected by a land acquisition, the County Administrator, the Deputy County Administrator, and the County Attorney, shall have fundamental duties, as listed below:

- To assess and evaluate properties under consideration for acquisition in a thorough, comprehensive and objective manner.
- To ensure that the results of such analysis are provided to members of the Board of Commissioners fully, clearly and equitably.
- To maintain the confidentiality of the land acquisition process and related information until such time as public action occurs by refraining from communicating to any unauthorized individual or group any aspect of the proposed land acquisition via any communication medium, including, but not limited to: phone, cell phone, email, text message, social media such as Twitter and Facebook, in-person communication, or mail.
- To avoid even the appearance of impropriety, personal gain or favoritism related to participation in the County's land acquisitions.

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VI. Initiation of Land Acquisition Process

As a precondition to the initiation of the land acquisition process, the Board of Commissioners shall have approved for programming and budgeting purposes a project containing a specific and well-defined need for the acquisition of land. Exceptions to this precondition may be made for those historically or culturally significant properties that are not otherwise available on the open market and for which no comparable properties exist, as well as for those properties that present unique opportunities for critical purposes that will have an impact on a County-wide basis. An example of such a unique opportunity is the acquisition of the original site for Georgia Gwinnett College.

The land acquisition process shall be initiated with respect to a specific parcel of land only after discussion and an official action by the Board of Commissioners directing staff to proceed. Prior to such official action, staff may only perform a preliminary analysis necessary to answer questions about the suitability of the parcel for the stated purpose. Properties that are the subject of threatened or pending litigation concerning zoning matters may not be acquired by the County as a condition of settlement of the zoning matter as evidenced by inclusion of the proposed acquisition in a final consent order, settlement agreement, or other settlement document.

In the event that less than a quorum of the Board of Commissioners, or any person or persons acting for or on behalf of less than a quorum of the Board of Commissioners, or any party other than County staff, (1) initiates or attempts to initiate the land acquisition process by directly contacting a County employee regarding the proposed acquisition of specific property; or (2) attempts to stop or otherwise delay a previously approved land acquisition by directly contacting a County employee, the County employee shall be required to document the same by completing a form to be developed for this purpose and distributed to staff by the County Administrator. The form shall be completed and a copy forwarded to the County Attorney within twenty four hours of the time when contact was first made. Upon receipt of the form, the County Attorney shall promptly provide copies to the County Administrator and to each of the County Commissioners.

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Nothing in this paragraph shall be interpreted to imply that a quorum of the Board of Commissioners could initiate the land acquisition process other than by means of discussion and an official action as set forth above.

VII. Recommendation to the Board of Commissioners

After an official action by the Board of Commissioners directing staff to proceed with land acquisition activities, and upon the identification of property or properties which may be suitable for the needs of the project, the Department of Support Services and the affected County Department shall prepare and submit to the Board of Commissioners a written report regarding the property. The Report shall be based upon the best information available to the Departments at the time and shall, at a minimum, address the following subjects with regard to each property to be considered:

Purpose for which property is proposed for acquisition, including reference to applicable master plans, projects, programs or other documentation of a specific need to be satisfied by the proposed acquisition.

- Source and amount of funding budgeted or otherwise available for the proposed land acquisition.
- The size, location and zoning of the property.
- Description of surrounding properties, land uses, neighborhoods, businesses, and public facilities.
- Description of any adjoining or associated properties that may be the subject of future acquisitions in order to facilitate or enhance the use of the property proposed for acquisition or the project for which the property is being acquired.

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- Ownership of the property, which shall include the names of all managers and members of limited liability companies, partners in any form of partnership, stockholders who own at least 10% of shares in a corporation, brokers, agents, attorneys, and any other person or persons authorized to represent or act on behalf of the owner.
- Title history of the property for a period of ten years.
- The existence of pending option agreements, leases or other contracts affecting the property.
- Threatened or pending lawsuits affecting the property.
- Environmental issues affecting the property.
- Improvements to the property.
- Easements, covenants and other restrictions affecting the property.
- Utilities available to the property.
- Description of access to the property, relevant transportation issues and any other factors that may affect ingress and egress to the property.
- Topography, floodplain, known subsurface rock conditions, or drainage issues affecting the property.
- Any other conditions or circumstances that may affect the usefulness of the property for the intended purpose of the acquisition.
- Sales or listing price of the property during the previous ten-year period.

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VIII. Executive Session

The Board of Commissioners shall meet in Executive Session for the following purposes related to land acquisition:

- To authorize staff to proceed with land acquisition activities.
- To consider written reports recommending the acquisition of property or properties, to discuss same and to consider authorizing an appraisal or appraisals of property.
- To authorize negotiations for the purchase of property for the appraised amount, subject to the Board's consideration and approval of the purchase in an open meeting.

IX. Land Acquisition for the Department of Transportation and the Department of Water Resources

Approval by the Board of Commissioners of a project for the Department of Transportation or Department of Water Resources shall be sufficient authority to acquire rights-of-way and easements necessary for the project for the appraised value of the rights-of-way and easements. Acquisition of such necessary rights-of-way and easements in amounts over and above the appraised value shall be governed by the terms of the Gwinnett County Settlement Ordinance. All other land acquisitions for the Department of Transportation and the Department of Water Resources shall follow the general land acquisition process outlined in other sections of this Policy.

X. Condemnation of Property

When unable to successfully negotiate acquisition of property needed for County purposes, the County may utilize the powers of condemnation granted to

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it under State of Georgia law. Decisions related to the settlement of condemnation actions shall be treated as litigation matters.

XI. Acceptance of Donations of Land

Offers to donate land to the County shall be reviewed and evaluated for feasibility and utility to the County. Such offers shall not be accepted if determined to involve the assumption of unnecessary liability or loss of revenue by the County without benefits sufficient to fully offset these factors.

XII. Land Acquisitions to be Completed during Public Meetings.

The County shall vote on all final decisions to purchase land or accept donations of land in open meetings, subject to the provisions of Section IX herein concerning acquisition of rights of way and easements pursuant to previously approved projects for the Department of Transportation or the Department of Water Resources. Such Transportation or Water Resources projects shall have been approved by the County in an open meeting as set forth in Section IX herein.

XIII. Report of Land Acquisitions to the Grand Jury

On a quarterly basis, the County Attorney shall provide to the Gwinnett County Grand Jury a summary report of all land acquisitions by Gwinnett County other than rights-of-way and easements.

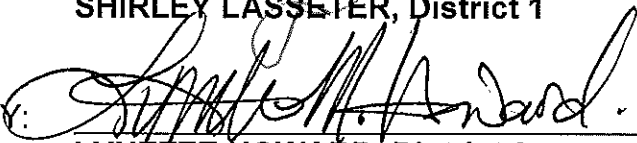
GWINNETT COUNTY LAND ACQUISITION POLICY

This Land Acquisition Policy is adopted this the 19th day of July, 2011.

**BOARD OF COMMISSIONERS
GWINNETT COUNTY, GEORGIA**

BY: 
CHARLOTTE J. NASH, CHAIRMAN

BY: 
SHIRLEY LASSETER, District 1

BY: 
LYNETTE HOWARD, District 2

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MIKE BEAUDREAU, District 3

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JOHN HEARD, District 4

ATTEST:

DIANE KEMP, COUNTY CLERK

(SEAL)

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**VAN STEPHENS
ACTING COUNTY ATTORNEY**