

RESOLUTION

A RESOLUTION AUTHORIZING THE EXERCISE OF THE DEKALB COUNTY POWERS OF EMINENT DOMAIN IN THE ACQUISITION OF CERTAIN INTERESTS IN PROPERTY SITUATED IN DEKALB COUNTY, GEORGIA FOR WATER AND SEWERAGE PURPOSES

WHEREAS, pursuant to Article 9, Section 2, Paragraph 5 of the Georgia Constitution, counties may acquire private property in fee simple or in any lesser interest by eminent domain for public purposes; and,

WHEREAS, the governing authority of DeKalb County, Georgia, a political subdivision of the State of Georgia, has determined that the circumstances of this matter are such that there is a necessity for exercising its powers of eminent domain pursuant to O.C.G.A. § 22-1-1 *et seq.* in the acquisition of certain interests in property for county water and sewerage purposes:

NOW THEREFORE, BE IT AND IT IS HEREBY RESOLVED, that the DeKalb County Attorney, or her designee, is ordered and directed to institute proceedings in rem pursuant to O.C.G.A. § 22-1-1 *et seq.* in the DeKalb County Superior Court in order to condemn that certain property and interests therein more particularly described in Exhibit A which is attached hereto and made a part hereof by reference as though fully set forth at this point, all to the use of DeKalb County, said property now or formerly vested in Gary B. Kennedy and Amy G. Kennedy as well as their successors or assigns. It is further resolved that payment of just and adequate compensation in the amount of Seven Thousand, One Hundred dollars (\$7,100) be made to the person or persons entitled to such payment. The Chief Executive Officer or the Presiding Officer may sign any documents and/or pleadings required for proper filing under the aforementioned code sections, including, but not limited to, a Declaration of Taking and Order of the Board of Commissioners.

ADOPTED by the DeKalb County Board of Commissioners this _____ day of _____, 2019.

DEKALB COUNTY BOARD OF COMMISSIONERS:

JEFF RADER
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County this _____ day of _____, 2019.

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

Attest:

BARBARA H. SANDERS, CCC
Clerk to the Board of Commissioners
and Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO FORM:



Ashley C. Brown

Ga. Bar No. 287373

CAPLAN COBB LLP

75 Fourteenth Street, NE, Suite 2750

Atlanta, Georgia 30309

Tel: (404) 596-5600

Fax: (404) 596-5604

abrown@caplancobb.com

Counsel for DeKalb County, Georgia

EXHIBIT A

DECLARATION OF TAKING

WHEREAS, DeKalb County, Georgia has made and passed a Resolution, and entered an Order, finding that the circumstances in connection with acquiring certain interests in property and easements for public (county) water and sewerage purposes are such that it is necessary to acquire title, estate, or interest in the lands fully described in said Order to condemn contained in the Resolution. The Order is attached to this Declaration as Appendix A and made a part hereof, under O.C.G.A. § 22-1-1 *et seq.*; and

WHEREAS, said interests in property and easements are for public purposes upon, across and over the tract of land in said county, as fully described in the attachment hereto identified as Appendix B to Exhibit A and made a part hereof; and

WHEREAS, DeKalb County, Georgia has caused an investigation and report to be made by a competent land appraiser upon which to estimate the sum of money to be deposited in the Court as just and adequate compensation for the easements, above-referenced to, a copy of the appraiser's sworn statement being attached hereto identified as Appendix C to Exhibit A and made a part hereof; and

WHEREAS, in consequence of the sworn statement, Appendix C to Exhibit A, DeKalb County, Georgia estimates Seven Thousand, One Hundred dollars (\$7,100) as just and adequate compensation to be paid for said easements, as fully described in Appendix B to Exhibit A which is attached hereto and made a part hereof and now deposits said sum in the Court to the use of the persons entitled thereto.

NOW THEREFORE, the premises considered, DeKalb County, Georgia, under authority of O.C.G.A. § 22-1-1 *et seq.*, hereby declares that the property and interests as

described in Appendix B to Exhibit A, which is attached hereto and made a part hereof of this Declaration, is taken for purposes of locating, constructing, maintaining, repairing, extending, expanding, and/or installing a gravity sewer for public (county) water and sewerage purposes.

DEKALB COUNTY BOARD OF COMMISSIONERS:

JEFF RADER
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County this _____ day of _____, 2019.

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

Attest:

BARBARA H. SANDERS-NORWOOD, CCC
Clerk to the Board of Commissioners
and Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO FORM:



Ashley C. Brown

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Counsel for DeKalb County, Georgia

Exhibit A

Appendix A (Order to Condemn)

**ORDER OF THE DEKALB COUNTY BOARD OF COMMISSIONERS
TO CONDEMN PROPERTY FOR WATER AND SEWERAGE PURPOSES**

WHEREAS, the Board of Commissioners of DeKalb County has laid out and determined to construct a gravity sewer for DeKalb County at that certain parcel identified for tax purposes as parcel identification number 18-256-05-018 by the DeKalb County Board of Tax Assessors, the same being more fully described and shown in the description and drawing attached as Appendix B to the Declaration of Taking.

WHEREAS, the tract of property and other rights as herein described and listed below shown of record as owned by the persons named herein, all as described and shown in Appendix B to the Declaration of Taking (Exhibit A to the Petition for Condemnation) incorporated herein by reference and made a part of this Order are essential for the construction of said project:

Property/Rights:	2,163 Square Feet of Permanent Easement 1,613 Square Fee of Temporary Construction Easement
Owner:	Gary B. Kennedy and Amy G. Kennedy

NOW THEREFORE, in accordance with O.C.G.A. § 22-1-1 *et seq.*, it is hereby found by the Board of Commissioners of DeKalb County that the circumstances are such that it is necessary that the property as described in Appendix B to Exhibit A of the Declaration of Taking (Exhibit A to the Petition for Condemnation) be acquired by condemnation under the provisions of O.C.G.A. § 22-1-1 *et seq.* for public water and sewer purposes.

IT IS ORDERED, that DeKalb County proceed to acquire the title, estate or interest in the lands hereinafter described as Appendix B of the Declaration of Taking by condemnation under the provisions of said Code, and the County Attorney, or his or her designees, are authorized and directed to file condemnation proceedings, including, but not limited to, a

Declaration of Taking, to acquire said title, estate or interest in said lands and to deposit in the Court the sum estimated as just compensation all in accordance with the provisions of said law.

SO ORDERED by the DeKalb County Board of Commissioners, this _____ day of _____, 2019.

DEKALB COUNTY BOARD OF COMMISSIONERS:

JEFF RADER
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County this _____ day of _____, 2019.

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

Attest:

**BARBARA H. SANDERS-
NORWOOD, CCC**
Clerk to the Board of Commissioners
and Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO FORM:



Ashley C. Brown

Ga. Bar No. 287373

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Counsel for DeKalb County, Georgia

Exhibit A

Appendix B (Property Description)

SEWER EASEMENT

Permanent Easement

Being a strip or parcel of land running in, through, over and across the property now or formerly owned by **Gary B. Kennedy**, as described in a deed recorded among the Land Records of DeKalb County, Georgia in Deed Book 7131, Page 380, and said strip or parcel being shown on an Easement Sketch prepared by TerraMark Land Surveying, Inc. and attached hereto, said strip or parcel lying and being in Land Lot 256, 18th District of DeKalb County, Georgia and being more particularly described as follows:

Beginning for the same at a point on the East Right of Way Line of Sandpiper Drive, said point being at State Plane Coordinate (Georgia West Zone) of North: 1,405,144.190; East 2,289,744.910; thence, leaving the said Point of Beginning and running with the said line of Sandpiper Drive,

1. North 09° 01' 47" West, 6.94 feet; thence, leaving the aforesaid line of Sandpiper Drive and running
2. North 80° 07' 09" East, 54.17 feet; thence,
3. North 80° 07' 09" East, 53.17 feet; thence,
4. North 80° 07' 09" East, 107.15 feet; thence,
5. South 08° 11' 52" East, 13.24 feet; thence,
6. South 81° 48' 08" West, 214.29 feet to the Point of Beginning, containing 2,163 square feet or 0.0497 of an acre of land, more or less.

The permanent easement granted hereunder shall be perpetual.

Temporary Easements

Being two (2) strips or parcels of land running in, through, over and across the property now or formerly owned by **Gary B. Kennedy**, as described in a deed recorded among the Land Records of DeKalb County, Georgia in Deed Book 7131, Page 380, and said strip or parcel being shown on an Easement Sketch prepared by TerraMark Land Surveying, Inc. and attached hereto, said strip or parcel lying and being in Land Lot 256, 18th District of DeKalb County, Georgia and being more particularly described as follows:

Temporary Easement 1

The first strip or parcel of land lying north of the above described strip or parcel of land and adjacent, contiguous and parallel thereto and being ten (10) feet wide along line 2 above, containing 541 square feet or 0.0124 of an acre of land, more or less.

And Also

Temporary Easement 2

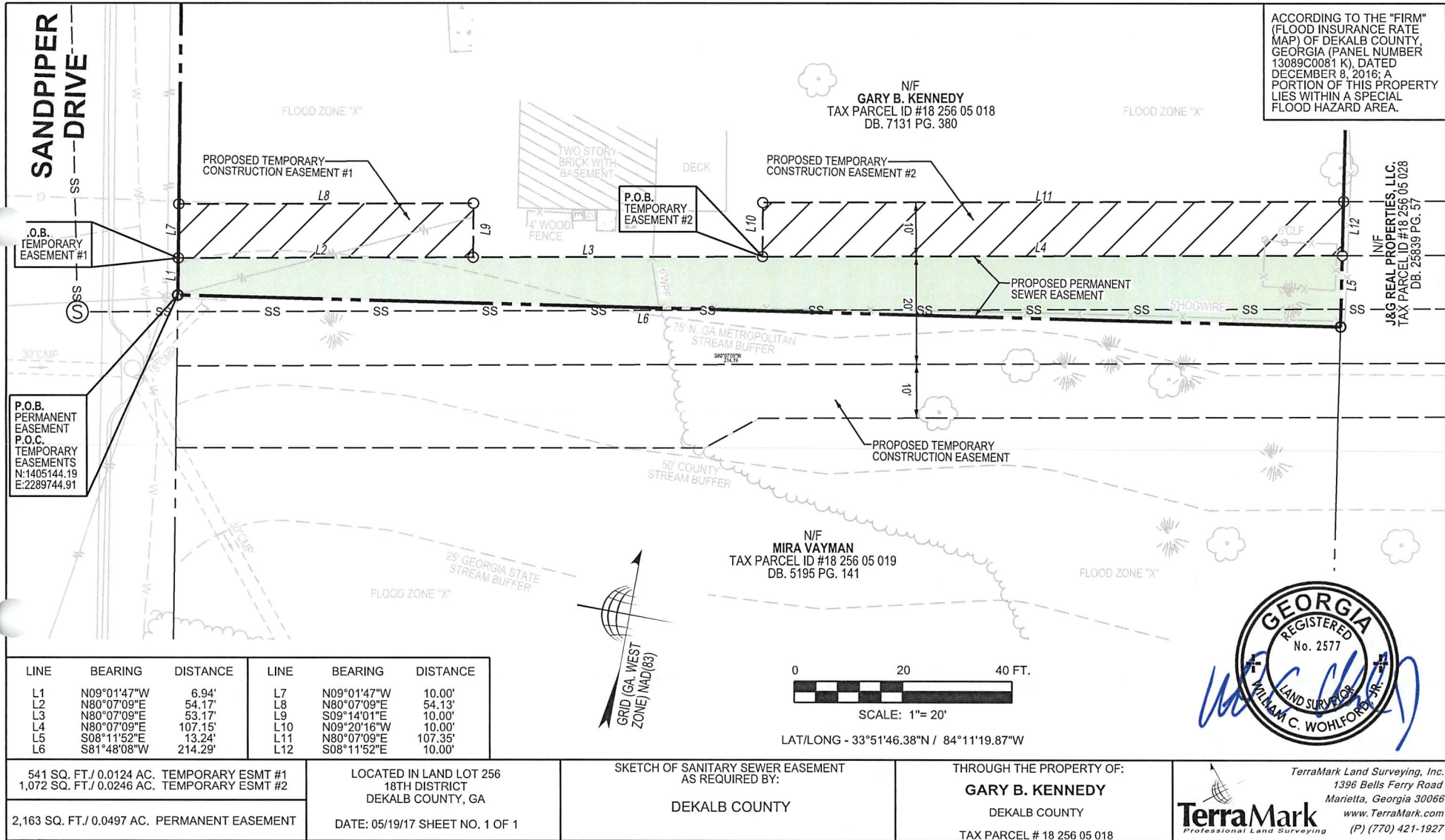
The second strip or parcel of land lying north of the above described strip or parcel of land and adjacent, contiguous and parallel thereto and being ten (10) feet wide along line 4 above, containing 1,072 square feet or 0.0246 of an acre of land, more or less.

10/16/17
MK

If applicable, any temporary easement(s) granted hereunder shall automatically terminate upon the completion of construction of the sewer line.

10/16/17
MK

Handwritten signature/initials



ACCORDING TO THE "FIRM" (FLOOD INSURANCE RATE MAP) OF DEKALB COUNTY, GEORGIA (PANEL NUMBER 13089C0081 K), DATED DECEMBER 8, 2016; A PORTION OF THIS PROPERTY LIES WITHIN A SPECIAL FLOOD HAZARD AREA.

N/F
GARY B. KENNEDY
 TAX PARCEL ID #18 256 05 018
 DB. 7131 PG. 380

N/F
J&G REAL PROPERTIES, LLC.
 TAX PARCEL ID #18 256 05 028
 DB. 25839 PG. 57

N/F
MIRA VAYMAN
 TAX PARCEL ID #18 256 05 019
 DB. 5195 PG. 141

SANDPIPER DRIVE

P.O.B. TEMPORARY EASEMENT #1

P.O.B. PERMANENT EASEMENT
 P.O.C. TEMPORARY EASEMENTS
 N:1405144.19
 E:2289744.91

LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	N09°01'47"W	6.94'	L7	N09°01'47"W	10.00'
L2	N80°07'09"E	54.17'	L8	N80°07'09"E	54.13'
L3	N80°07'09"E	53.17'	L9	S09°14'01"E	10.00'
L4	N80°07'09"E	107.15'	L10	N09°20'16"W	10.00'
L5	S08°11'52"E	13.24'	L11	N80°07'09"E	107.35'
L6	S81°48'08"W	214.29'	L12	S08°11'52"E	10.00'

541 SQ. FT./ 0.0124 AC. TEMPORARY ESMT #1
 1,072 SQ. FT./ 0.0246 AC. TEMPORARY ESMT #2

2,163 SQ. FT./ 0.0497 AC. PERMANENT EASEMENT

LOCATED IN LAND LOT 256
 18TH DISTRICT
 DEKALB COUNTY, GA

DATE: 05/19/17 SHEET NO. 1 OF 1

SKETCH OF SANITARY SEWER EASEMENT
 AS REQUIRED BY:
 DEKALB COUNTY

THROUGH THE PROPERTY OF:
GARY B. KENNEDY
 DEKALB COUNTY
 TAX PARCEL # 18 256 05 018



TerraMark
 Professional Land Surveying

TerraMark Land Surveying, Inc.
 1396 Bells Ferry Road
 Marietta, Georgia 30066
 www.TerraMark.com
 (P) (770) 421-1927

Exhibit A

Appendix C (Appraiser Certification)

CERTIFICATION OF APPRAISER

STATE OF GEORGIA
COUNTY OF DEKALB

PROJECT: Camp Creek / Leeshire Rd Lift Station Eliminations
PARCEL #: 5

I Hereby Certify:

I **have not** provided prior appraisal services regarding the subject property within a three-year period immediately preceding acceptance of this assignment.

That I have personally inspected the property appraised herein and that I have also made a personal field inspection of the comparable sales relied upon in making said appraisal. The subject and the comparable sales relied upon in making said appraisal were as represented in said appraisal. WS Bumgarner, IV, Georgia Registered Appraiser #344780 provided significant professional assistance to the appraiser in the completion of this report and in the collection of the comparable sales data.

That to the best of my knowledge and belief, the statements contained in the appraisal herein set forth are true and correct, the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions, and conclusions. That my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice. The appraiser is currently certified under the continuing education program of the State of Georgia through the date of January 2018.

That I understand that such appraisal may be used in connection with the acquisition of the rights need for the completion of a DeKalb County Georgia sanitary sewer project.

That such appraisal has been made in conformity with the appropriate State laws, regulations, and policies and procedures applicable to appraisal of right-of-way for such purposes; and that to the best of my knowledge, no portion of the value assigned to such property consists of items, which are non-compensable under the established law of said State.

That my compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the Client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event. That I have no personal interest in or bias with respect to the parties involved and that I have no present or prospective interest in the property that is the subject of this report.

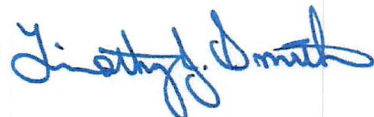
That I have not revealed the findings and results of such appraisal to anyone other than the officials of the acquiring agency of said client and I will not do so until so authorized by said officials, or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified as to such findings.

That my opinion of just compensation for the acquisition as of the 8th day of July 2017 is \$7,100 based upon my independent appraisal and the exercise of my professional judgment.

Name: Timothy J. Smith

Date: 7/16/2017

Appraiser's Signature:



Telephone: (678) 591-2015

Email: tjsmith1959@bellsouth.net

Address: 3535 Woodbury Court, Cumming GA 30041