

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 TRANSPORTATION 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. § 32-3-1, *et seq.* in the acquisition of certain interests in property for county transportation 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. § 32-3-1, *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 First United Methodist Church of Tucker, Inc., Atlanta Business Bank, and Georgia Power Company, as well as their successors or assigns. It is further resolved that payment of just and adequate compensation in the amount of Fifty-Eight Thousand, Seven Hundred dollars (\$58,700) be made to the person or persons entitled to such payment. The Chief Executive Officer, Interim Chief Executive Officer, or the Presiding Officer may sign any documents and/or pleadings required for proper filing under the aforementioned code sections including a Declaration of Taking and Order of the Board of Commissioners.

ADOPTED by the DeKalb County Board of Commissioners this _____ day of _____, 2017.

DEKALB COUNTY BOARD OF COMMISSIONERS:

KATHIE GANNON
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County this _____ day of _____, 2017.

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

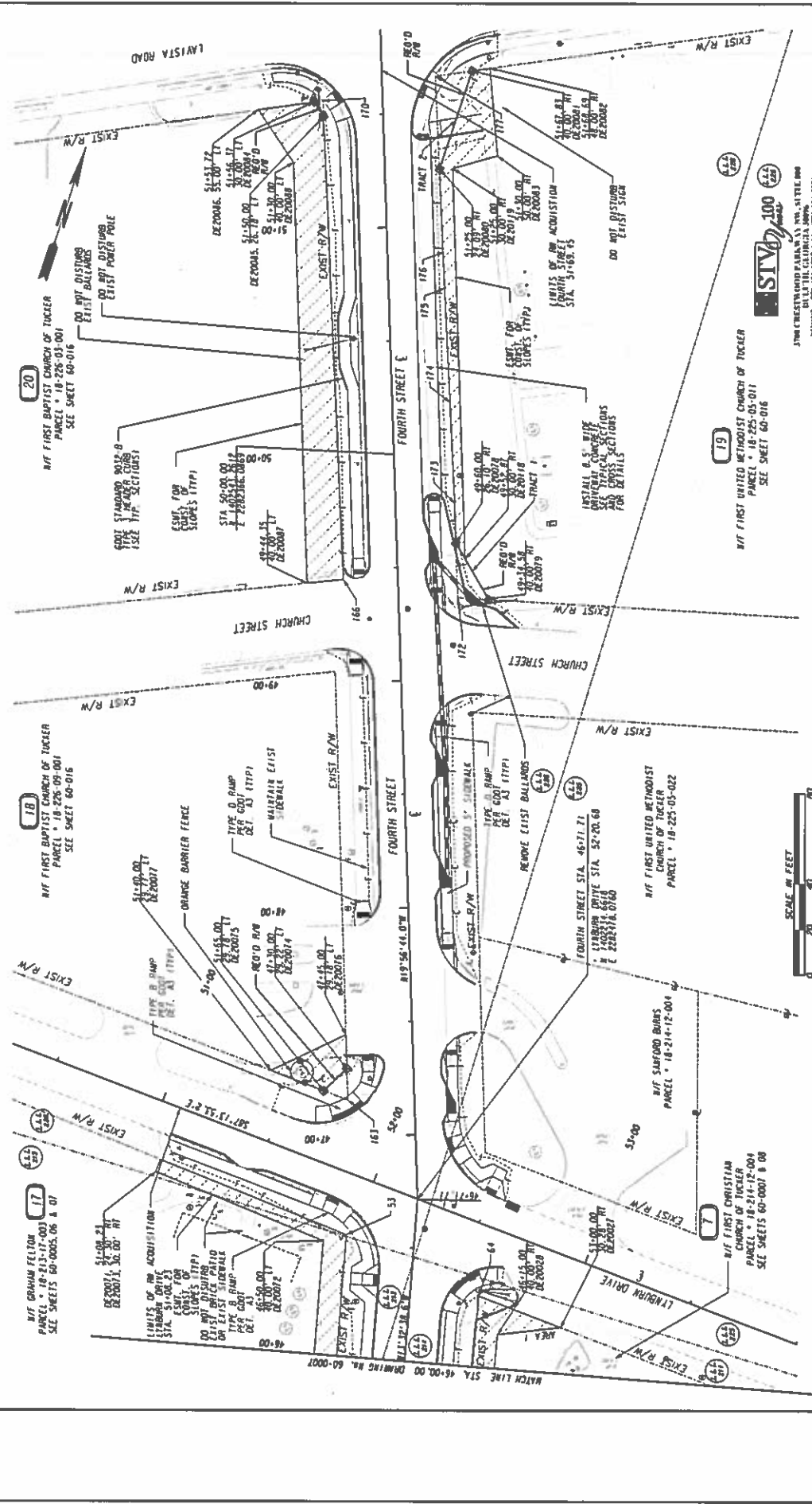
APPROVED AS TO FORM:



Benjamin W. Cheesbro
Ga. Bar No. 648368

CAPLAN COBB LLP
75 Fourteenth Street, NE, Suite 2750
Atlanta, Georgia 30309
Tel: (404) 596-5600
Fax: (404) 596-5604
bcheesbro@caplancobb.com

Counsel for DeKalb County, Georgia



PROPERTY AND EXISTING AND LINE	DATE	REVISIONS
REQUIRED NEW LINE		
EASEMENT FOR UTILITY		
EASEMENT FOR CONSIDER OF SLOPES		
EASEMENT FOR CONSIDER OF SLOPES		
EASEMENT FOR CONSIDER OF SLOPES		
EASEMENT FOR CONSIDER OF SLOPES		
REVISIONS	07/14/2016	REVISED EASEMENT FOR PARCEL 17. ADDED DO NOT DISTURB NOTE TO PARCEL 17. ADDED REMOVE EXIST. BALLARDS NOTE TO PARCEL 19.
REVISIONS	02/27/2017	REVISED SIDEWALK IN FRONT OF PARCEL 19. REVISED SIDEWALK IN FRONT OF PARCEL 19. REVISED DO NOT DISTURB TRACT 1 AND EASEMENT FOR PARCEL 19.
REVISIONS	11/21/2015	REVISED SIDEWALK IN FRONT OF PARCEL 20. ADDED HEADER COMB BEHIND SIDEWALK. ADDED DO NOT DISTURB NOTE TO PARCEL 19.
REVISIONS	11/21/2015	REVISED SIDEWALK IN FRONT OF PARCEL 20. ADDED DO NOT DISTURB TRACT 1 AND EASEMENT FOR PARCEL 19.

STV 100
 SURVEYING & ENGINEERING
 3700 CHESTERWOOD PARKWAY, SUITE 100
 TROY, MI 48063-2977 & 48063-2971

18 W/F FIRST BAPTIST CHURCH OF TUCKER
 SEE SHEET 60-0015

PAR 18 - SW 44 - BEYOND
 REF: 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100
 REF: 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

19 W/F FIRST UNITED METHODIST CHURCH OF TUCKER
 SEE SHEET 60-0015

PAR 19 - SW 44 - BEYOND
 REF: 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100
 REF: 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

20 W/F FIRST BAPTIST CHURCH OF TUCKER
 SEE SHEET 60-0015

PAR 20 - SW 44 - BEYOND
 REF: 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100
 REF: 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

DATE	REVISIONS	DATE	REVISIONS
02/24/2017	REVISED ROW RUN TRACT I AND EASEMENT FOR PARCEL 19.		

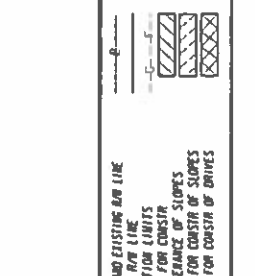
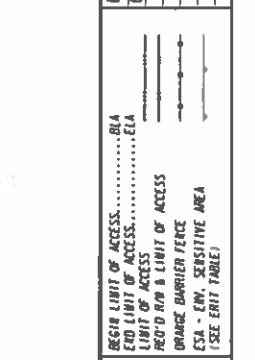


EXHIBIT A

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) transportation 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. §§ 32-3-1, *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 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 and made a part hereof; and

WHEREAS, in consequence of the sworn statement, Appendix C, DeKalb County, Georgia estimates \$58,700.00 as just and adequate compensation to be paid for said easements, as fully described in Appendix B 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 the Official Code of Georgia Annotated § 32-3-1, *et seq.*, hereby declares that the property and interests as described in Appendix B, which is attached hereto and made a part hereof of this

Declaration, is taken for purposes of locating, constructing, maintaining, repairing, replacing, extending, expanding, and/or installing infrastructure for a public (county) transportation purposes.

DEKALB COUNTY BOARD OF COMMISSIONERS:

KATHIE GANNON
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

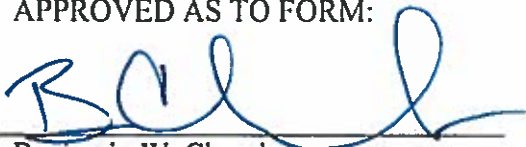
APPROVED by the Chief Executive Officer of DeKalb County this _____ day of _____, 2017.

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:



Benjamin W. Cheesbro

Ga. Bar No. 648368

CAPLAN COBB LLP

75 Fourteenth Street, NE, Suite 2750

Atlanta, Georgia 30309

Tel: (404) 596-5600

Fax: (404) 596-5604

bcheesbro@caplancobb.com

Counsel for Condemnor

APPENDIX A

**ORDER OF THE DEKALB COUNTY BOARD OF COMMISSIONERS
TO CONDEMN PROPERTY FOR PURPOSES OF CONSTRUCTING AND
IMPROVING A PUBLIC TRANSPORTATION PROJECT**

WHEREAS, the Board of Commissioners of DeKalb County has laid out and determined to construct and improve a public streetscape project for DeKalb County at that certain parcel identified for tax purposes as parcel identification number 18-225-05-011 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 incorporated herein by reference and made a part of this Order are essential for the construction of said project:

Property/Rights:	503.48 Square Feet of Right of Way 336.13 Square Feet of Right of Way 1494.97 Square Feet of Temporary Easement
Owner:	First United Methodist Church of Tucker, Inc.
Potentially Interested Parties:	Atlanta Business Bank Georgia Power Company

NOW THEREFORE, in accordance with O.C.G.A. § 32-3-6, 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 be acquired by condemnation under the provisions of O.C.G.A. § 32-3-6, *et seq.* for public transportation 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 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 _____, 2017.

DEKALB COUNTY BOARD OF COMMISSIONERS:

KATHIE GANNON
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County this _____ day of _____, 2017.

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:



Benjamin W. Cheesbro

Ga. Bar No. 648368

CAPLAN COBB LLP

75 Fourteenth Street, NE, Suite 2750

Atlanta, Georgia 30309

Tel: (404) 596-5600

Fax: (404) 596-5604

bcheesbro@caplancobb.com

Counsel for Condemnor

APPENDIX B

EXHIBIT "A"

PROJECT NO.: 0012617, 0010633; Tucker Streetscape, Phase II

DeKalb County

P. I. NO.: 0012617, 0010633

PARCEL NO.: 19

DATE OF R/W PLANS: January 29, 2016

REVISION DATE: February 24, 2017

Page 1 of 2

All that tract or parcel of land lying and being in Land Lots 225 and 226 of the 18th Land District of DeKalb County, Georgia, being more particularly described as follows:

Right of Way:

Tract 1:

Beginning at a point 40.00 feet right of and opposite station 49+34.58 on said construction centerline laid out for Fourth Street C/L; running thence S 75°15'32.9" W a distance of 13.92 feet to a point 26.14 feet right of and opposite station 49+35.85 on said construction centerline laid out for Fourth Street C/L; thence N 20°02'26.0" W a distance of 24.15 feet to a point 26.10 feet right of and opposite station 49+60.00 on said construction centerline laid out for Fourth Street C/L; thence S 48°37'09.8" E a distance of 28.97 feet back to the point of beginning.

Containing 0.004 acres or 503.48 square feet, more or less.

Tract 2:

Beginning at a point 24.09 feet right of and opposite station 51+25.00 on said construction centerline laid out for Fourth Street C/L; running thence N 20°33'55.1" W a distance of 41.07 feet to a point 23.65 feet right of and opposite station 51+66.07 on said construction centerline laid out for Fourth Street C/L; thence N 63°54'17.9" E a distance of 16.44 feet to a point 40.00 feet right of and opposite station 51+67.83 on said construction centerline laid out for Fourth Street C/L; thence S 0°25'36.8" W a distance of 45.69 feet back to the point of beginning.

Containing 0.008 acres or 336.13 square feet, more or less.

EXHIBIT "A"

PROJECT NO.: 0012617, 0010633; Tucker Streetscape, Phase II DeKalb County
P. I. NO.: 0012617, 0010633
PARCEL NO.: 19
DATE OF R/W PLANS: January 29, 2016
REVISION DATE: February 24, 2017 Page 2 of 2

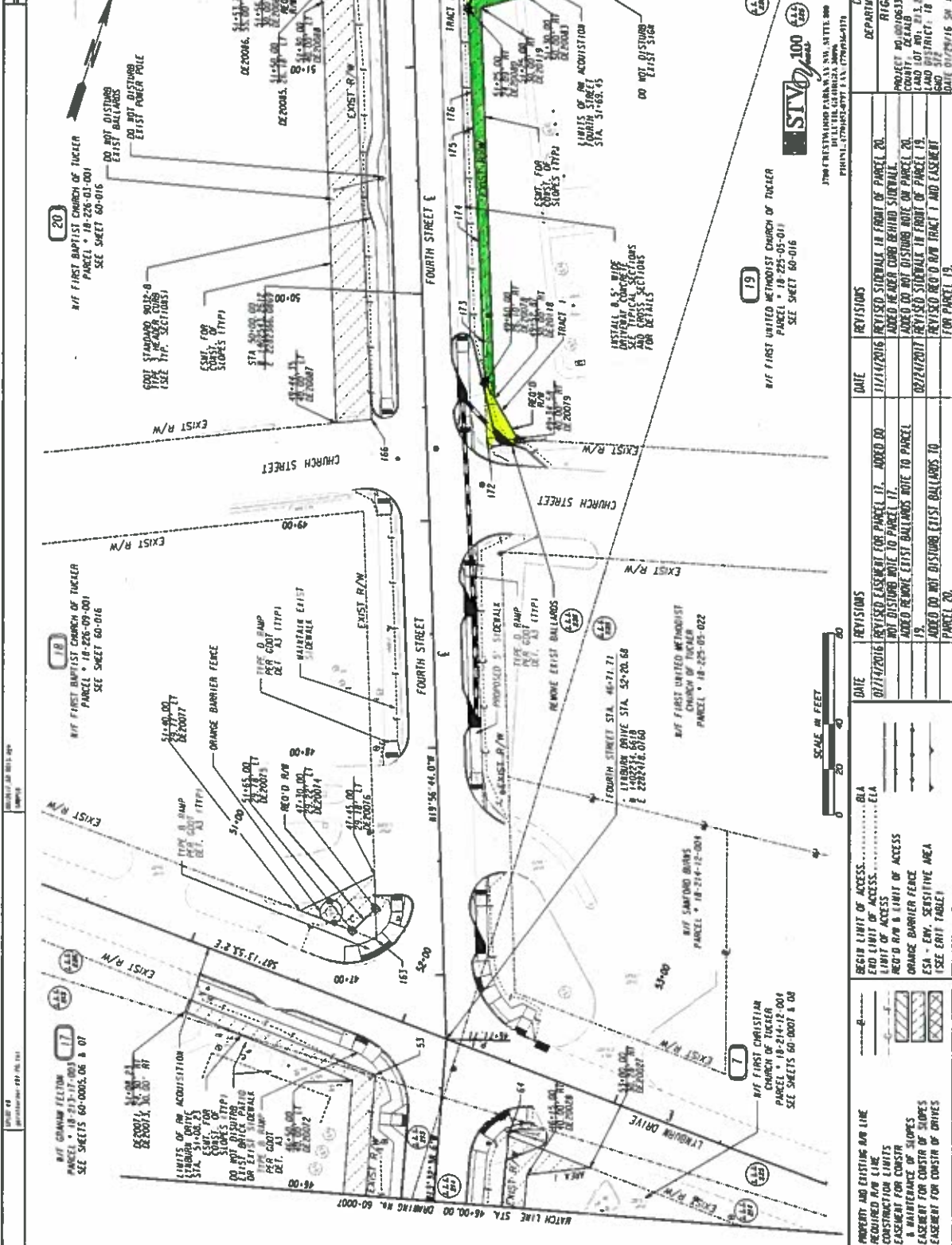
All that tract or parcel of land lying and being in Land Lots 225 and 226 of the 18th Land District of DeKalb County, Georgia, being more particularly described as follows:

Temporary Easement:

Beginning at a point 26.10 feet right of and opposite station 49+60.00 on said construction centerline laid out for Fourth Street C/L; running thence N 20°02'26.0" W a distance of 17.60 feet to a point 26.07 feet right of and opposite station 49+77.60 on said construction centerline laid out for Fourth Street C/L; thence N 20°38'42.2" W a distance of 44.53 feet to a point 25.53 feet right of and opposite station 50+22.12 on said construction centerline laid out for Fourth Street C/L; thence N 20°50'38.7" W a distance of 50.25 feet to a point 24.74 feet right of and opposite station 50+72.37 on said construction centerline laid out for Fourth Street C/L; thence N 20°50'20.4" W a distance of 15.88 feet to a point 24.49 feet right of and opposite station 50+88.25 on said construction centerline laid out for Fourth Street C/L; thence N 20°33'55.1" W a distance of 36.76 feet to a point 24.09 feet right of and opposite station 51+25.00 on said construction centerline laid out for Fourth Street C/L; thence N 0°25'36.8" E a distance of 45.69 feet to a point 40.00 feet right of and opposite station 51+67.83 on said construction centerline laid out for Fourth Street C/L; thence N 63°54'17.9" E a distance of 8.05 feet to a point 48.00 feet right of and opposite station 51+68.69 on said construction centerline laid out for Fourth Street C/L; thence S 22°54'16.0" E a distance of 38.75 feet to a point 50.00 feet right of and opposite station 51+30.00 on said construction centerline laid out for Fourth Street C/L; thence S 56°01'05.5" W a distance of 20.62 feet to a point 30.00 feet right of and opposite station 51+25.00 on said construction centerline laid out for Fourth Street C/L; thence S 19°56'44.0" E a distance of 172.13 feet to a point 30.00 feet right of and opposite station 49+52.87 on said construction centerline laid out for Fourth Street C/L; thence N 48°37'09.8" W a distance of 8.13 feet back to the point of beginning.

Containing 0.034 acres or 1,494.97 square feet, more or less.

ALSO, granted is the right to execute certain construction over and upon my land abutting on and adjacent to the right of way in such manner as said County may deem proper to support or accommodate the improvement of said road, including the right to slope the adjacent ground to tie in with the roadway or sidewalk elevations and to construct any required slopes within the easement areas shown colored green on the attached plats. Any slopes constructed will remain in place and DeKalb County will cease to maintain said slopes upon expiration of said easement. Said easement is to become effective at the beginning of construction of the above numbered project and will expire upon completion and final acceptance of said project by DeKalb County. Said easement is more particularly described as follows:



18
W/F FIRST BAPTIST CHURCH OF TUCKER
PARCEL # 18-226-01-001
SEE SHEET 60-016

17
W/F CHURCH FELLOWSHIP
PARCEL # 18-226-01-001
SEE SHEETS 60-0005.06 & 07

19
W/F FIRST UNITED METHODIST CHURCH OF TUCKER
PARCEL # 18-225-05-011
SEE SHEET 60-016

REVISIONS	DATE	DESCRIPTION
1	07/17/2016	REVISED EASEMENT FOR PARCEL 17. ADDED DO NOT DISTURB NOTE TO PARCEL 17.
2	11/11/2016	REVISED SIDEWALK IN FRONT OF PARCEL 20. ADDED REAR CURB BEHIND SIDEWALK. ADDED DO NOT DISTURB NOTE TO PARCEL 20.
3	02/27/2017	REVISED SIDEWALK IN FRONT OF PARCEL 19. REVISED RECD R/W TRACT 1 AND EASEMENT FOR PARCEL 19.

REVISIONS	DATE	DESCRIPTION
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PROPERTY AND EXISTING ROW LINE
ACQUIRED ROW LINE
EASEMENT FOR CONDUITS
EASEMENT FOR CONDUITS OF SLOPES
EASEMENT FOR CONDUITS OF SLOPES
EASEMENT FOR CONDUITS OF DRIVES

SCALE IN FEET
0 20 40 60

STV 100
JPM CONSULTING PARANALYSIS, L.L.C. 1770W/16118
PHOENIX, ARIZONA 85024-1178

DETAILS COUNTY
DEPARTMENT OF PUBLIC WORKS
RIGHT OF WAY PLAN
PROJECT: 18-226-01-001
COUNTY: DEARBORN
LAND LOT NO.: 213, 214 & 226
LAND DISTRICT: 18
DATE: 11/11/2016 10:52 AM
60-0015

APPENDIX C

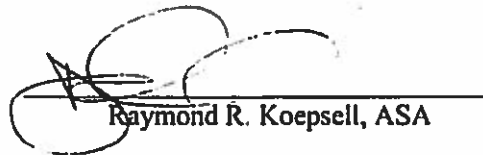
APPENDIX "C" TO EXHIBIT "A"

GEORGIA, DEKALB COUNTY

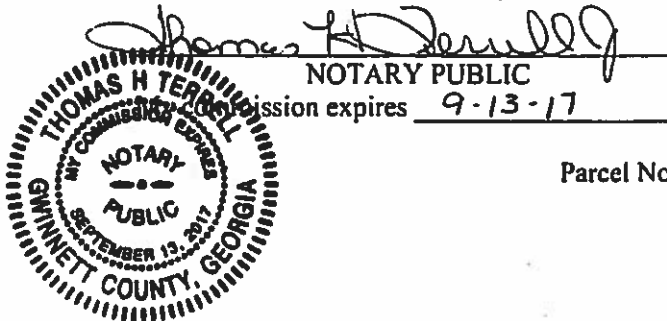
Personally comes, Raymond R. Koepsell, residing at 831 Richmond Hill Drive NE, Marietta, GA 30068.

1. Affiant was employed by DeKalb County to appraise Parcel No. 19 of the right of way and rights required for construction of Project No. 0012617 in DeKalb County, Georgia for said County and makes this sworn statement to be used in connection with condemnation proceedings under the Official Code of Georgia Annotated Sections 32-3-4 through 32-3-19, for the acquisition of said parcel.

2. Affiant is familiar with real estate values in said county and in the vicinity where said parcel is located. Affiant has personally inspected the property or right condemned and in appraising said parcel affiant took into consideration the Fair Market Value of said parcel, as well as any consequential damages to remaining property of the Condemnees by reason of the taking and use of said parcel and other rights for the construction of said project, and any consequential benefits which may result to such remaining property by reason of such taking and use (consequential benefits not, however, considered except as offsetting consequential damages). After said investigation and research, affiant has thus estimated that the just and adequate compensation for said parcel, and any consequential damages or benefits considered, is in the amount of \$58,700.00.


Raymond R. Koepsell, ASA

Sworn to and subscribed before me,
this 20th day of July, 2017.



Parcel No. 19



DeKalb County

Public Works

Transportation Division

1950 West Exchange Place, 4th Floor

Tucker, Georgia 30084

Phone: 770-492-5200 - Fax: 770-492-5201

July 26, 2017

First United Methodist Church of Tucker, Inc.
5095 LaVista Road
Tucker, GA 30084

CERTIFIED MAIL RECEIPT #7015 1730 0002 1138 9392

Re: Intent to Condemn—DeKalb County, Georgia
Tucker Streetscape
PI # 0012617
Parcel #: 19 Tax ID #:18-225-05-011

Dear Property Owners:

Under Georgia State Laws, a County is empowered to acquire private property for public use by payment of just and adequate compensation for that property. Based on our appraisal of your property, DeKalb County is offering payment to you in the amount of \$58,700.00. Since negotiations have failed, it is being recommended that your property be acquired through condemnation action, which will assure you of having opportunity to present evidence of value in a condemnation proceeding and the right of appeal for a jury trial.

The DeKalb County Board of Commissioners will consider a resolution to condemn your property at its regularly scheduled meeting held on **August 22, 2017 at 10:00 a.m.** at the Manuel J. Maloof Auditorium, 1300 Commerce Drive, Decatur, Georgia 30030. While your presence at this meeting is not required, you may attend if you so desire. Should the Board vote to condemn your property, you will be notified.

If you receive a carbon copy of this letter, we may not be condemning your ownership interest in this property; however, we are giving all parties who have any ownership interest in this property notice of this intent to condemn. For your review, we have attached a plat and legal description showing the location of the actual boundaries of the property being considered for condemnation so that you can determine if your ownership interest is affected.

I would like to point out that even after the initiation of condemnation proceedings, the County will work with you in an attempt to reach a mutual agreement. In the meantime, should you decide to reconsider the County's offer or if you have any questions, please call Thomas H. Terrell, Jr. at (678) 376-4614.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions regarding this correspondence.

Sincerely,



David Pelton, PE
Interim Associate Director
Transportation Division

DWP/ejb