

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 PUBLIC ROAD AND/OR OTHER PUBLIC 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. Section 32-3-1, *et seq.* in the acquisition of certain interests in property for county road and/or other public 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. Section 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 **Soon R. Choi and Youn Hwan Choi**, as Joint Tenants with Rights of Survivorship; their successors or assigns. It is further resolved that payment of just and adequate compensation in the amount of Two Thousand Two Hundred dollars (\$2,200.00) 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 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

[SIGNATURE(S) CONTINUED ON THE FOLLOWING PAGE]

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:


KENNETH L. LEVY
Counsel for DeKalb County
ZACHARY & SEGRAVES, P.A.
1000 Commerce Drive
Decatur, GA 30030
(404) 373-1685 – Office; (404) 373-1938 – Fax
kennethlevy99@gmail.com

Parcel No. 44
Temporary Easement and
Temporary Driveway Easement

EXHIBIT "A"

PROJECT NO.: CSSTP-0008-00(268), CSHPP-0007-00(618),
CSHPP-0008-00(831); DeKalb Sidewalk Program, Phase 2C

P. I. NO.: 0008268, 0007618, 0008831

PARCEL NO.: 44

DATE OF R/W PLANS: April 13, 2010

REVISION DATE: December 23, 2015

Page 1 of 1

All that tract or parcel of land lying and being in Land Lots 227 & 252 of the 18th Land District and/or 572nd Georgia Militia District of DeKalb County, Georgia, being more particularly described as follows:

Beginning at a point 60.00 feet left of and opposite Station 83+24.08 on the construction centerline of HENDERSON ROAD on DeKalb Sidewalk Program, Phase 2C; Flat Shoals, Salem and Henderson Roads, on Georgia Highway Project No. CSSTP-0008-00(268), CSHPP-0007-00(618), CSHPP-0008-00(831); running thence S 21°48'51.2" E a distance of 153.29 feet to a point 40.34 feet left of and opposite Station 84+76.10 on said construction centerline laid out for HENDERSON ROAD; thence N 28°50'50.2" W a distance of 150.36 feet to a point 41.22 feet left of and opposite Station 83+25.74 on said construction centerline laid out for HENDERSON ROAD; thence N 55°46'11.9" E a distance of 18.85 feet back to the point of beginning.

Containing 0.032 acres, more or less, or 1,411.06 square feet, more or less.

Also granted is one Temporary Easement for the Construction of a Driveway as shown on the attached plat.

Said Easements shall expire upon completion and final acceptance of the Project by the Georgia Department of Transportation.

EXHIBIT "A"

DECLARATION OF TAKING

WHEREAS, DeKalb County, Georgia has made and passed a Resolution finding that the circumstances in connection with acquiring certain interests in property and easements for public (county) road or other public 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, a certified copy/duplicate original of which is attached to this Declaration as Appendix A to Exhibit "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 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 right-of-way and easements, above-referred 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 \$2,200.00 as just and adequate compensation to be paid for said right-of-way and 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 the Official Code of Georgia Annotated §§ 32-3-1 *et seq.* and O.C.G.A. § 22-3-140 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, replacing, extending, expanding, and/or installing infrastructure for a public (county) road or other 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:



KENNETH L. LEVY
Counsel for DeKalb County
ZACHARY & SEGRAVES, P.A.
1000 Commerce Drive
Decatur, GA 30030
(404) 373-1685 – Office; (404) 373-1938 – Fax
kennethlevy99@gmail.com

APPENDIX A TO EXHIBIT A

RESOLUTION AND ORDER OF BOARD OF COMMISSIONERS

**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 a public sidewalk or other transportation facility for DeKalb County at that certain parcel identified for tax purposes as parcel identification number 18 252 01 098 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 (Exhibit "A" to the Petition for Condemnation).

WHEREAS, the tract of property and other rights as herein described and as 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: 1,411.06 Square Feet of Temporary Easement
 One (1) Temporary Driveway Easement

Owner: **Soon R. Choi and Youn Hwan Choi**

Potentially Interested Parties: Mortgage Electronic Registration Systems, Inc., Flex Mortgage, Wells Fargo Bank, Shaheen & Company, discover Bank, FIA Cards Services, NA

NOW THEREFORE, in accordance with O.C.G.A. § 32-3-6(b)(6) and (c), 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. § 32-3-1 *et seq.* for public road purposes or other transportation purposes.

IT IS ORDERED that DeKalb County proceed to acquire the title, estate or interest in the lands hereinafter described in Appendix B of the Declaration of Taking (Exhibit "A" to the Petition for Condemnation) by condemnation under the provisions of said Code, and the County Attorney 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

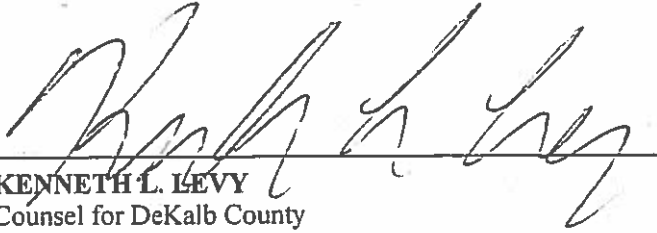
Attest:

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

[SIGNATURES CONTINUED ON THE FOLLOWING PAGE]

CSHPP-0008-00(831)
DeKalb County School Sidewalk Project; Tax Parcel ID No. 18 252 01 098
Parcel 44

APPROVED AS TO FORM:



KENNETH L. LEVY
Counsel for DeKalb County
ZACHARY & SEGRAVES, P.A.
1000 Commerce Drive
Decatur, GA 30030
(404) 373-1685 – Office; (404) 373-1938 – Fax
kennethlevy99@gmail.com

CSHPP-0008-00(831)
DeKalb County School Sidewalk Project; Tax Parcel ID No. 18 252 01 098
Parcel 44

APPENDIX B TO EXHIBIT A
LEGAL DESCRIPTION AND PLAT

Parcel No. 44
Temporary Easement and
Temporary Driveway Easement

EXHIBIT "A"

PROJECT NO.: CSSTP-0008-00(268), CSHPP-0007-00(618),
CSHPP-0008-00(831); DeKalb Sidewalk Program, Phase 2C
P. I. NO.: 0008268, 0007618, 0008831
PARCEL NO.: 44
DATE OF RW PLANS: April 13, 2010
REVISION DATE: December 23, 2015

Page 1 of 1

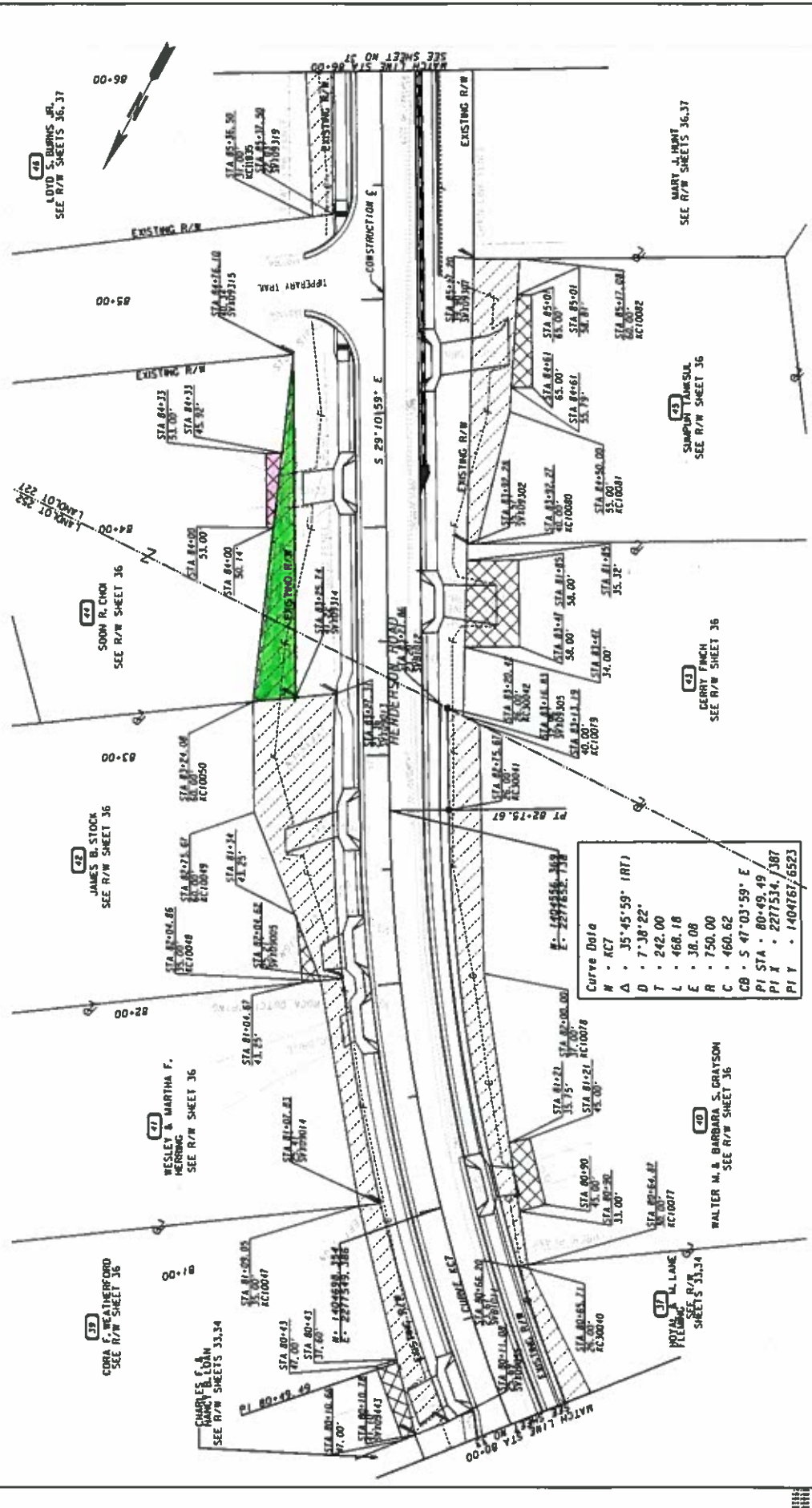
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Containing 0.032 acres, more or less, or 1,411.06 square feet, more or less.

Also granted is one Temporary Easement for the Construction of a Driveway as shown on the attached plat.

Said Easements shall expire upon completion and final acceptance of the Project by the Georgia Department of Transportation.



Curve Data

N	•	KC7
Δ	•	35°45'59" (RT)
D	•	7°38'22"
T	•	242.00
L	•	468.18
E	•	38.06
R	•	750.00
C	•	460.62
CB	•	S 47°03'59" E
PI	•	STA 80+49.49
PI X	•	2277534.7387
PI Y	•	1404767.6523

STATE OF GEORGIA
DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY MAP
 PROJECT NO. CS10P-0001-0017-01
 PROJECT NAME: 2000-0017-01-01
 COUNTY: FULTON
 LAND DISTRICT: 18
 DATE: 01/13/01

DATE	REVISIONS
01/13/01	PANEL 31 - EASEMENT DETERMINATION
01/13/01	PANEL 31 - EASEMENT DETERMINATION
01/13/01	PANEL 31 - EASEMENT DETERMINATION
12/21/01	WALTONLINE - SEE SHEET NUMBER 36

POND
 Architects-Engineers-Planners
 1000 Parkway Lane
 Suite 600
 Norcross, GA 30092
 Phone: 770-440-1100
 Fax: 770-440-1144
 Web: www.pondco.com

BEGIN LIMIT OF ACCESS.....BLA
 LIMIT OF ACCESS.....ELA
 RED'D R/W & LIMIT OF ACCESS.....

PROPERTY AND EXISTING R/W LINE
 REQUIRED R/W LINE
 CONSTRUCTION R/W LINE
 EASEMENT FOR CONSTRUCTION
 EASEMENT FOR CONSTRUCTION OF SLOPES
 EASEMENT FOR CONSTRUCTION OF DRAINS

SCALE IN FEET
 0 20 40 80

PANEL 41, DELETED

REPRODUCTION FOR CONSTRUCTION PURPOSES

PANEL 42, REDD EASPT. FOR CONSTR. OF SLOPES E20007
 JAMES B. STOKES
 PNT OFSET/ STATION/ BEARING/ ALIGNMENT
 SV109014 25.41 L 81+07.81 HEEDERSON ROAD
 EC10047 35.00 R 81+07.81 HEEDERSON ROAD
 EC10048 100.71 L 81+15.07 HEEDERSON ROAD
 SV109015 25.41 L 81+07.81 HEEDERSON ROAD
 EC10049 35.00 R 81+07.81 HEEDERSON ROAD
 EC10050 100.71 L 81+07.81 HEEDERSON ROAD
 TOTAL LOT AREA = 0.00 ACRES
 RADIUS = 100.00'

PANEL 43, REDD EASPT. FOR CONSTR. OF SLOPES E20007
 JAMES B. STOKES
 PNT OFSET/ STATION/ BEARING/ ALIGNMENT
 SV109014 25.41 L 81+07.81 HEEDERSON ROAD
 EC10047 35.00 R 81+07.81 HEEDERSON ROAD
 EC10048 100.71 L 81+15.07 HEEDERSON ROAD
 SV109015 25.41 L 81+07.81 HEEDERSON ROAD
 EC10049 35.00 R 81+07.81 HEEDERSON ROAD
 EC10050 100.71 L 81+07.81 HEEDERSON ROAD
 TOTAL LOT AREA = 0.00 ACRES
 RADIUS = 100.00'

PANEL 44, REDD EASPT. FOR CONSTR. OF SLOPES E20007
 JAMES B. STOKES
 PNT OFSET/ STATION/ BEARING/ ALIGNMENT
 SV109014 25.41 L 81+07.81 HEEDERSON ROAD
 EC10047 35.00 R 81+07.81 HEEDERSON ROAD
 EC10048 100.71 L 81+15.07 HEEDERSON ROAD
 SV109015 25.41 L 81+07.81 HEEDERSON ROAD
 EC10049 35.00 R 81+07.81 HEEDERSON ROAD
 EC10050 100.71 L 81+07.81 HEEDERSON ROAD
 TOTAL LOT AREA = 0.00 ACRES
 RADIUS = 100.00'

PANEL 45, REDD EASPT. FOR CONSTR. OF SLOPES E20007
 JAMES B. STOKES
 PNT OFSET/ STATION/ BEARING/ ALIGNMENT
 SV109014 25.41 L 81+07.81 HEEDERSON ROAD
 EC10047 35.00 R 81+07.81 HEEDERSON ROAD
 EC10048 100.71 L 81+15.07 HEEDERSON ROAD
 SV109015 25.41 L 81+07.81 HEEDERSON ROAD
 EC10049 35.00 R 81+07.81 HEEDERSON ROAD
 EC10050 100.71 L 81+07.81 HEEDERSON ROAD
 TOTAL LOT AREA = 0.00 ACRES
 RADIUS = 100.00'

PANEL 46, REDD EASPT. FOR CONSTR. OF SLOPES E20007
 JAMES B. STOKES
 PNT OFSET/ STATION/ BEARING/ ALIGNMENT
 SV109014 25.41 L 81+07.81 HEEDERSON ROAD
 EC10047 35.00 R 81+07.81 HEEDERSON ROAD
 EC10048 100.71 L 81+15.07 HEEDERSON ROAD
 SV109015 25.41 L 81+07.81 HEEDERSON ROAD
 EC10049 35.00 R 81+07.81 HEEDERSON ROAD
 EC10050 100.71 L 81+07.81 HEEDERSON ROAD
 TOTAL LOT AREA = 0.00 ACRES
 RADIUS = 100.00'

PANEL 47, REDD EASPT. FOR CONSTR. OF SLOPES E20007
 JAMES B. STOKES
 PNT OFSET/ STATION/ BEARING/ ALIGNMENT
 SV109014 25.41 L 81+07.81 HEEDERSON ROAD
 EC10047 35.00 R 81+07.81 HEEDERSON ROAD
 EC10048 100.71 L 81+15.07 HEEDERSON ROAD
 SV109015 25.41 L 81+07.81 HEEDERSON ROAD
 EC10049 35.00 R 81+07.81 HEEDERSON ROAD
 EC10050 100.71 L 81+07.81 HEEDERSON ROAD
 TOTAL LOT AREA = 0.00 ACRES
 RADIUS = 100.00'

PANEL 48, REDD EASPT. FOR CONSTR. OF SLOPES E20007
 JAMES B. STOKES
 PNT OFSET/ STATION/ BEARING/ ALIGNMENT
 SV109014 25.41 L 81+07.81 HEEDERSON ROAD
 EC10047 35.00 R 81+07.81 HEEDERSON ROAD
 EC10048 100.71 L 81+15.07 HEEDERSON ROAD
 SV109015 25.41 L 81+07.81 HEEDERSON ROAD
 EC10049 35.00 R 81+07.81 HEEDERSON ROAD
 EC10050 100.71 L 81+07.81 HEEDERSON ROAD
 TOTAL LOT AREA = 0.00 ACRES
 RADIUS = 100.00'

PANEL 49, REDD EASPT. FOR CONSTR. OF SLOPES E20007
 JAMES B. STOKES
 PNT OFSET/ STATION/ BEARING/ ALIGNMENT
 SV109014 25.41 L 81+07.81 HEEDERSON ROAD
 EC10047 35.00 R 81+07.81 HEEDERSON ROAD
 EC10048 100.71 L 81+15.07 HEEDERSON ROAD
 SV109015 25.41 L 81+07.81 HEEDERSON ROAD
 EC10049 35.00 R 81+07.81 HEEDERSON ROAD
 EC10050 100.71 L 81+07.81 HEEDERSON ROAD
 TOTAL LOT AREA = 0.00 ACRES
 RADIUS = 100.00'

PROPERTY AND EXISTING R/W LINE
 REQUIRED R/W LINE
 CONSTRUCTION LIMITS
 EASEMENT FOR CONSTR
 & MAINTENANCE OF SLOPES
 EASEMENT FOR CONSTR OF SLOPES
 EASEMENT FOR CONSTR OF DRIVES

SCALE IN FEET
 0 20 40 80

DATE REVISIONS
 09/10/15 PANEL 41, EASEMENT DELETED, ONE EMPLOYED
 09/10/15 PANEL 46, EASEMENT EMPLOYED
 09/10/15 PANEL 47, ALL IMPACTS REVERSED

DATE REVISIONS

STATE OF GEORGIA
 DEPARTMENT OF TRANSPORTATION
 RIGHT OF WAY MAP
 PROJECT NO. CSSTP-0000-0017001
 PROJECT NO. CSSTP-0000-0017001
 COUNTY: DEKALB
 LAND DISTRICT: 27, 28
 DATE: APRIL 13, 2010 5:48 PM OF 67

APPENDIX C TO EXHIBIT A

APPRAISER'S AFFIDAVIT

APPENDIX "C" TO EXHIBIT "A"

GEORGIA, GWINNETT COUNTY

Personally comes Greg Malcolm, residing at 1243 Kylemore Lane, Snellville, Ga, Gwinnett County, Georgia 30078.

1. Affiant was employed by the Department of Transportation to appraise the property owned by Soon R. Choi and Youn Hwan Choi, Parcel 44, consisting of 0.032 acres of Temporary Construction Easement required for the proposed: Dekalb Sidewalk Program: Phase 2C, Flat Shoals, Salem Road and Henderson Road, CSSTP-0008-00 (268), CSHPP-0007-00 (618), CSHPP-0008-00 (831) improvement project, Project Number #0008260 Dekalb County, Georgia for Dekalb County. Affiant 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.

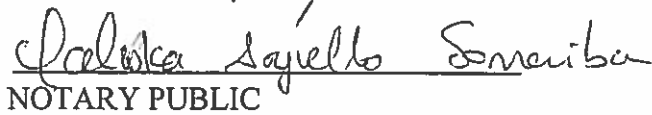
2. Affiant is familiar with real estate values in said county and in the vicinity where said parcel is located. Affiant has personally inspected the property or right condemned and in appraising said parcel affiant took into consideration the fair market value of said parcel, as well as any consequential damages to remaining property of the Condemnees by reason of 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 considered, is in the amount of \$2,200.00



Greg Malcolm

GA CERT. R.E. Appraiser No. 857

Sworn to and subscribed before me,
This 18th day of May, 2017,


NOTARY PUBLIC

My commission expires 12/09/19

Parcel No. 44





DeKalb County

Public Works

Transportation Division

1950 West Exchange Place, 4th Floor

Tucker, Georgia 30084

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

June 28, 2017

Soon R. Choi
Youn Hwan Choi
3902 Tiperary Trail
Tucker, Ga. 30084

Certified Mail Receipt:

Re: Intent to Condemn—DeKalb County, Georgia
DeKalb Sidewalk Program: Phase 2 C Flat Shoals Rd., Salem Rd., & Henderson Rd.
PI # 0008268, 0007618, & 0008831
Parcel # 44 Map Reference # 18-252-01-098

Dear Mr. and Mrs. Choi:

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 \$2,200.00. 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 **July 27, 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 actual 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 Jeff Joyner at 770-263-5945.

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

Sincerely,

A handwritten signature in black ink that reads "David Pelton". The signature is written in a cursive style with a large, prominent "D" and "P".

David Pelton, PE
Interim Associate Director
Transportation Division

DWP

Enclosure