

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

THE CITY OF SMYRNA

Condemnor,

VS.

The hereinafter described lands
And rights in land; MICHAEL FARKAS;
MICHAEL'S CLOTHING, INC.;
ARTIZAN POTTERY, LLC.;
CARLA JACKSON, as Tax Commissioner;
KELLI WOLK, as Probate Judge
and any and all others having or claiming any
interest in the described lands,
Condemnees.

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CIVIL ACTION FILE
NO. _____

DECLARATION OF TAKING

WHEREAS, the City of Smyrna, by and through its Mayor and Council, has made a finding and determination that the circumstances in connection with acquiring property to construct improvements to a public transportation system, are such that it is necessary to acquire the title, estate or interest in the lands as fully described in this Declaration of Taking, by condemnation through the exercise of the power of eminent domain. A copy of the resolution making such finding is attached hereto as Appendix "I" to this Exhibit "A" and made a part hereof; and

WHEREAS, said property is for public transportation purposes upon, across, and over the tract of land in said City, as fully described in the attachment hereto identified as Appendix "2" to this Exhibit "A" and made a part hereof; and

EXHIBIT "A"

WHEREAS, the City of Smyrna 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 property, if any, above referred to, a copy of the appraiser's sworn statement being attached hereto, identified as Appendix "3" to this Exhibit "A" and made a part hereof; and

WHEREAS, in consequence of such sworn statement, Appendix "3" to Exhibit "A", the City of Smyrna estimates the sum of \$203,000 as just and adequate compensation to be paid for said property, as fully described in Appendix "2" to Exhibit "A", attached hereto, and now deposits said sum in the registry of the Court, to the use of the persons entitled thereto; and

WHEREAS, in order to maintain a projected schedule of construction it is necessary that the property for the construction of said project be acquired without delay; and

WHEREAS, the parcel of property as herein described and listed in the Petition, attachments, or below, are essential for the construction of said project;

NOW THEREFORE, the premises considered, the City of Smyrna, under authority of the laws of Georgia, Official Code of Georgia sections 32-3-1 through 32-3-19, declares that it is necessary that the property as described in annexes hereto, be acquired by condemnation, and that said property or interest therein as described in appendices hereto and in the Petition, is taken for public and governmental purposes, specifically for public transportation purposes, and that the same is necessary for the construction of a transportation project. The City of Smyrna has authorized the acquisition of the title, estate or interest in the lands described by condemnation under the provisions of law, has exercised its power of eminent domain, and has authorized the filing of condemnation proceedings, 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 law. Let there be attached hereto as Appendix "1" to this Exhibit "A" a copy of the Resolution of the City of Smyrna finding that circumstances are such that it is necessary to proceed in the particular case under the provisions of Article 1, Chapter 3, Title 32, of the Official Code of Georgia Annotated.

This 15th day of June 2020

THE CITY OF SMYRNA

CITY SEAL:

By: _____
Derek Norton, Mayor

ATTEST:

Heather K. Peacon – Corn, City Clerk

APPENDIX "I" TO EXHIBIT

"A" RESOLUTION 2020-05

A RESOLUTION AND ORDER OF THE CITY COUNCIL OF THE CITY OF SMYRNA, GEORGIA AUTHORIZING CONDEMNATION OF A TRACT OF LAND KNOWN AS A PORTION OF 2380 VENTURA ROAD SMYRNA, GEORGIA AND LOCATED IN LAND LOTS 347 OF THE 17th LAND DISTRICT OF COBB COUNTY, GEORGIA BY DECLARATION OF TAKING METHOD PURSUANT TO THE PROVISIONS OF O.C.G.A. § 32-3-4 *et seq.*

WHEREAS, Section 4 of Chapter 3 of Title 32 of the Official Code of Georgia Annotated and following sections authorize the City to file a condemnation proceeding in Cobb County Superior Court under a method known as declaration of taking to acquire private property interests for public road or transportation purposes upon payment of just and adequate compensation therefore to the person or persons entitled to such payment upon the Council's finding that circumstances are appropriate for the use of said method; and

WHEREAS, the City Council of the City of Smyrna, Georgia ("Council") finds and believes that circumstances are appropriate for the use of the declaration of taking method to acquire property for public road or transportation purposes. Said tract is owned by Michael Farkas and is acquired for one or more of the reasons set forth in O.C.G.A. § 32-3-4, including a desire in the interest of justice to have judicial ascertainment of any and all questions connected with the condemnation.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the Council that circumstances are such that it is necessary to proceed with condemnation proceedings by Declaration of Taking method on a portion of that tract of land known as 2380 Ventura Road (Parcel #51) located in land lot No. 347 of the 17th District in Cobb County, Georgia.

BE IT FURTHER RESOLVED AND ORDERED, that legal counsel for the City of Smyrna, Georgia is authorized and directed to file such proceedings and the Mayor is authorized to execute this Resolution and Order on behalf of the full Council, a Declaration of Taking, and any other documents necessary to effectuate same.

This 15th day of June 2020

THE CITY OF SMYRNA

CITY SEAL:

By: _____
Derek Norton, Mayor

ATTEST:

Heather K. Peacon – Corn, City Clerk

APPENDIX 2 TO EXHIBIT "A" (CONTINUED)

OSO-L1 **N88°49'27"W** 24.40'
 OSO-L2 **N7S°S3'37"W** 26.S4'
 OSO-L3 **NB9:0Q'31"W** 26.11'
 OSO-L4 **NO<T21':J:J"E** 17.49'
 CHORD BFARING: **N88.S0'26"E**

OSO-C5 CHORD LENGTH: **98.34'**

ARC LENGTH: **98.34'**
 RADIUS: **S93S.50'**

OSO-L6 **S.J9'30'39"W** 34.87'

REQ'D ARE"A • 1947 S.F.
 REQ'D ARE"A • 0.045 AC.
PMcu.0 50-... Rfo DmiP: -EASMT: -r ------

,-"RJ.i.r -... -r :-'tJ8iiliir-... .pJ"srANcf -

86

429.3 66 IO
3. LT
 CHORD BFARING: **588'50'26"W**
 CHORD LENGTH: **98.34'**
 OSO-CS ARC LENGTH: **98.34'**

RADIUS: **593S.S0'**

OSO-L7 **N00'21':J:J"E** 14.00'

OSO-L8 **NBtr49'19"E** 101.43'

CHORD BFARING: **S08'06'S0"E**
 CHORD LENGTH: **8.82'**
 OSO-C9 ARC LENGTH: **8.82'**
 RADIUS: **378.90'**

OSO-LtO **539*30*39-W** 6.96'

REQ'D ARE"A • 1436 S.F.
 REQ'D ARE"A • 0.033 AC.
PMcu.0 50-... REQ'D ARE"A • 0.033 AC. -i:An.-13-...-

.. pa9. -:-s w iN-T-T -0 TsEN& -

42 1+0B 96
29.S2 LT
 OSO-L11 **S7T21'53"W** 4.41'

OSO-L12 **N16'21'3S"W** 35.14'

OSO-L13 **N69'47'34"E** 5.11'

CHORD BFARING: **515'14'43"E**
 CHORD LENGTH: **35.78'**
 OSO-C14 ARC LENGTH: **35.79'**
 RADIUS: **378.90'**

THESE PLANS AND DRAWINGS ARE NOT TO BE
 FORM OF CONTRACT OR BASIS FOR FIRST

REQ'D ARE"A = 179 S.F.
 REQ'D ARE"A • 0.004 AC.

OBTAINING TIME EXPRESS WRITTEN PERMISSION
 AND CONSENT OF CROY ENGINEERING, U.C.
 NOR ARE THEY TO BE ASSIGNED TO ANY PARTY
 WITHOUT WRITTEN PERMISSION AND CONSENT.

CURVE NO. • 22
 PI STA. s **420+96.49**
 N • 141698 1.0977
 E • 2184117.7862
 d • 20'14'13.8"
 O- 19'0S'S4.9"
 T- 53.54
 Ls 105.96
 R- 300.00

421+48.61
28.79 L
421+48.61.
33.90 L
-1-60

42.1

MICHAEL FARKAS
 2380 VENTURA ROAD
 PIO/ 17034700790
 DB- 13825 PG-2561
 (SEE SHEETS 60-04, 60-05
 & 60-17 OF THE RIGHT OF

WAY PLANS FOR MORE INFO)

8 OSO-LJ

CURVE NO. • 3

PI STA. • **124+06.79**
 N- **1416879.1201** **123+37.28 -**
47.01 L

E- 2184054.7852
 ds 4'00'31.0"
 D • 0'57'17.7"
 T- 209.98
 Ls 419.78
 R • 6000.00

INTERSECTION
 WINDY HILL ROAD • 124+69.87
 VENTURA PLACE • 41 +S0.00
 VENTURA ROAD - 420+00.00
 N: 1416884.6068
 E: 2184117.8339

"EXHIBIT A"

C:ROV

420+00

Sketch of Right of Way & Easements

1 REQUIRED RIGHT OF WAY

1947 SF

g 15 : 30

60

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5
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W

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C:

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PARCEL 050 REQ'D R/W #1
POB BEARING DISTANCE

124+13.92
38.19 LT

PERMANENT EASEMENT

050-S-

TEMPORARY CONST. EASEMENT = 1436 SF

TEMPORARY DRIVEWAY EASEMENT • 179 SF

RIGHT OF WAY

PERMANENT EASEMENT

SCALE IN FEET

CONSTRUCTION EASEMENT

DRIVEWAY EASEMENT

EXISTING RIGHT OF WAY

WWW.RRHINI

surveyors

200 NORTH COBB PARKWAY, BLDG.

400, SUITE 413

MARIETTA, GA 30082

PHONE: (404) 971-4407

FAX: (404) 971-0620

REVISION DATES

1 1
1 1

050-L13
Required by CrTY OF SMYRNA

through the Property of
MICHAEL PARKAS

Locat d - 11th
2nd Section, Land District 17th

Land Lot 347 Parcel 050
2380 VENTURA ROAD
COBB County, Georgia

LIMITS OF RIGHT OF
WAY ACQUISITION
STA 421+48.61
(VENTURA ROAD)

t:'. . . . 0J

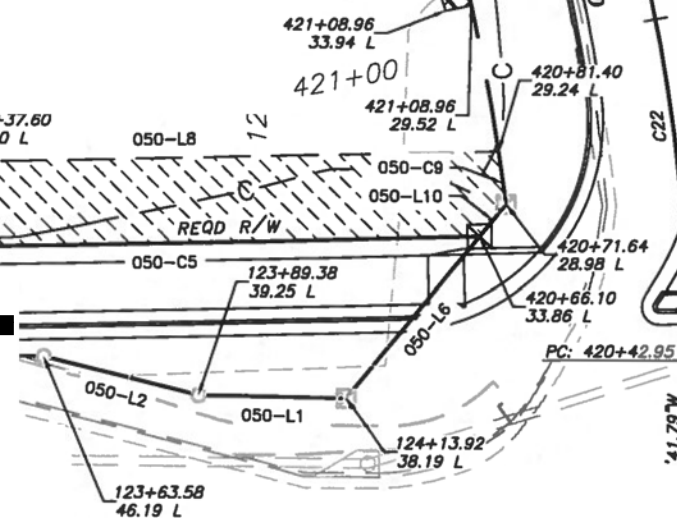
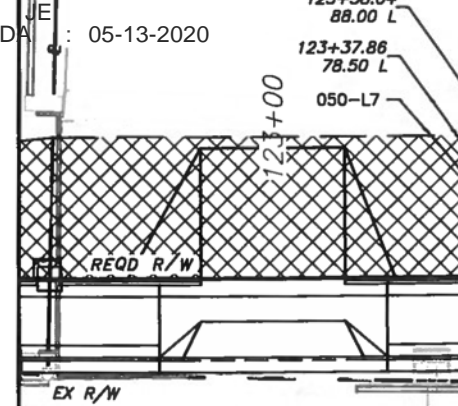
CONSTRUCTION

r\$2SMMW

DRIVEWAY EASEMENT

DATE: 05-13-2020

PROPERTY LINES
PROPOSED RIGHT OF WAY



APPENDIX 2 TO EXHIBIT "A"

Legal Description for:
Michael Farkas
Required Right-of-Way

All that tract or parcel of land lying and being in Land Lot 347 of the 17th District, 2nd Section, City of Smyrna, Cobb County, Georgia, aka 2380 Ventura Road and shown as Parcel 50 in design plans titled Windy Hill Boulevard being prepared by Croy Engineering, Marietta, Georgia, and also being more particularly described as follows:

COMMENCING at the southwesterly-most point of a right-of-way miter at the intersection of the westerly right-of-way line of Ventura Road (SO' right-of-way) with the northerly right-of-way line of Windy Hill Road (Variable Right-of-Way); said point also being the POINT OF BEGINNING.

THENCE, from the POINT OF BEGINNING, northwesterly on a bearing of North 88 degrees 49 minutes 27 seconds West for a distance of 24.40 feet to a point;

THENCE, northerly on a bearing of North 75 degrees 53 minutes 37 seconds West for a distance of 26.54 feet to a point;

THENCE, westerly on a bearing of North 89 degrees 00 minutes 31 seconds West for a distance of 26.11 feet to a point;

THENCE, northerly on a bearing of North 00 degrees 21 minutes 33 seconds East for a distance of 17.49 feet to a point;

THENCE, easterly along a curve to the left with a radius of 5935.50 feet with an arc length of 98.34 feet subtended by a chord of North 88 degrees 50 minutes 26 seconds East for a distance of 98.34 feet to a point;

THENCE, southwesterly on a bearing of South 39 degrees 30 minutes 39 seconds West for a distance of 34.87 feet to the POINT OF BEGINNING;

The herein described right-of-way area of land is **1,947 Square Feet** or 0.045 acres of land, more or less. The above described property is subject to any and all Easements, Encumbrances and or Restrictions of record.

APPENDIX 2 TO EXHIBIT "A" (CONTINUED)

Legal Description for:

Michael Farkas

Required Driveway Easement

All that tract or parcel of land lying and being in Land Lot 347 of the 17th District, 2nd Section, City of Smyrna, Cobb County, Georgia, aka 2380 Ventura Road and shown as Parcel 50 in design plans titled Windy Hill Boulevard being prepared by Croy Engineering, Marietta, Georgia, and also being more particularly described as follows:

COMMENCING at the southwesterly-most point of a right-of-way miter at the intersection of the westerly right-of-way line of Ventura Road (50' right-of-way) with the northerly right-of-way line of Windy Hill Road (Variable Right-of-Way); THENCE northerly on a bearing of North 39 degrees 30 minutes 39 seconds East for a distance of 41.83 feet; THENCE, along a curve to the left with a radius of 378.90 feet with an arc length of 33.68 feet subtended by a chord of North 09 degrees 59 minutes 36 seconds West for a distance of 33.66 to a point, said point also being the POINT OF BEGINNING.

THENCE, from the POINT OF BEGINNING westerly on a bearing of South 77 degrees 21 minutes 53 seconds West for a distance of 4.41 feet to a point;

THENCE, northerly on a bearing of North 16 degrees 21 minutes 35 seconds West for a distance of 35.14 feet to a point;

THENCE, easterly on a bearing of North 69 degrees 47 minutes 34 seconds East for a distance of 5.11 feet to a point;

THENCE, southerly along a curve to the right with a radius of 378.90 feet with an arc length of 35.79 feet subtended by a chord of South 15 degrees 14 minutes 43 seconds East for a distance of 35.78 feet to the POINT OF BEGINNING;

The herein described required driveway easement area of land is **179 Square Feet** or 0.004 acres of land, more or less. The above described property is subject to any and all Easements, Encumbrances and or Restrictions of record.

APPENDIX 2 TO EXHIBIT "A" (CONTINUED)
Legal Description for:
Michael Farkas
Temporary Construction Easement

All that tract or parcel of land lying and being in Land Lot 347 of the 17th District, 2nd Section, City of Smyrna, Cobb County, Georgia, aka 2380 Ventura Road and shown as Parcel 50 in design plans titled Windy Hill Boulevard being prepared by Croy Engineering, Marietta, Georgia, and also being more particularly described as follows:

COMMENCING at the southwesterly-most point of a right-of-way miter at the intersection of the westerly right-of-way line of Ventura Road (SO' right-of-way) with the northerly right-of-way line of Windy Hill Road (Variable Right-of-Way); THENCE northerly on a bearing of North 39 degrees 30 minutes 39 seconds East for a distance of 34.87 feet; said point also being the POINT OF BEGINNING.

THENCE, from the POINT OF BEGINNING westerly along a curve to the right with a radius of 5935.50 feet with an arc length of 98.34 feet subtended by a chord of South 88 degrees 50 minutes 26 seconds West for a distance of 98.34 feet to a point;

THENCE, northerly on a bearing of North 00 degrees 21 minutes 33 seconds East for a distance of 14.00 feet to a point;

THENCE, easterly on a bearing of North 88 degrees 49 minutes 19 seconds East for a distance of 101.43 feet to a point;

THENCE, easterly along a curve to the right with a radius of 378.90 feet with an arc length of 8.82 feet subtended by a chord of South 08 degrees 06 minutes 50 seconds East for a distance of 8.82 feet to a point

THENCE, southerly on a bearing of South 39 degrees 30 minutes 39 seconds West for a distance of 6.96 feet to the POINT OF BEGINNING;

The herein described temporary construction easement area of land is **1,436 Square Feet** or 0.033 acres of land, more or less. The above described property is subject to any and all Easements, Encumbrances and or Restrictions of record.

APPENDIX 3 TO EXHIBIT "A"

AFFIDAVIT OF HALL RIGDON, MAI

Personally, comes Hall Rigdon, who after being sworn, deposes and states as follows:

1. Affiant was employed by the City of Smyrna to appraise a portion of 2380 Ventura Road, Smyrna, Ga for said City 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 property.
2. Affiant is familiar with real estate values in said city and in the vicinity where said property is located. Affiant has personally inspected the property and rights to be condemned. In appraising said property affiant took into consideration the Fair Market Value of said parcel, as well as any consequential damages to any remaining property of the Condemnees by reason of the taking and the use of said parcel, and other rights for the construction of said project, and any consequential benefits which may result to said parcel 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 the just and adequate compensation for said parcel, and any consequential damages or benefits considered, is in the amount of \$203,000.00.

Hall Rigdon, MAI
Georgia Certified General Appraiser
Certification CG680

Sworn to and subscribed before me
This _____ day of _____, 2020

Notary Public