



TO: John McDonough, City Manager

FROM: Thomas Black, Public Works Director

DATE: June 29, 2010, for Submission onto Agenda of the July 13, 2010, City Council Meeting

ITEM: Consideration of Approval of the Appropriation of the Property Located at the Morgan Falls Athletic Field through the Use of Eminent Domain

Public Works Department's Recommendation:

The staff recommends that the Mayor and City Council approve the use of Eminent Domain for the condemnation of the property located at the Morgan Falls Athletic Field, lying within Land Lot 31 of the 17th District, Fulton County, Georgia.

Background:

The property is currently owned by MSD Holdings, LLC. The 1468 square feet of temporary easement and 3662 square feet of permanent easement was deemed necessary for acquisition as part of the Morgan Falls Athletic Field Project. The legal description and plan sheet of this property are attached. The City's consultant researched and prepared pertinent acquisition documents but was unable to negotiate a settlement with the property owner due to the owner's lack of response.

Discussion:

As the property owner has been non-responsive to numerous communication attempts, the purchase of the required temporary construction and driveway easements on the property cannot continue without the use of Eminent Domain. If the City is unable to obtain the temporary construction easement, the project for improvements will be compromised.

Alternatives:

The Mayor and City Council can choose not to utilize Eminent Domain to acquire this property.

Financial Impact:

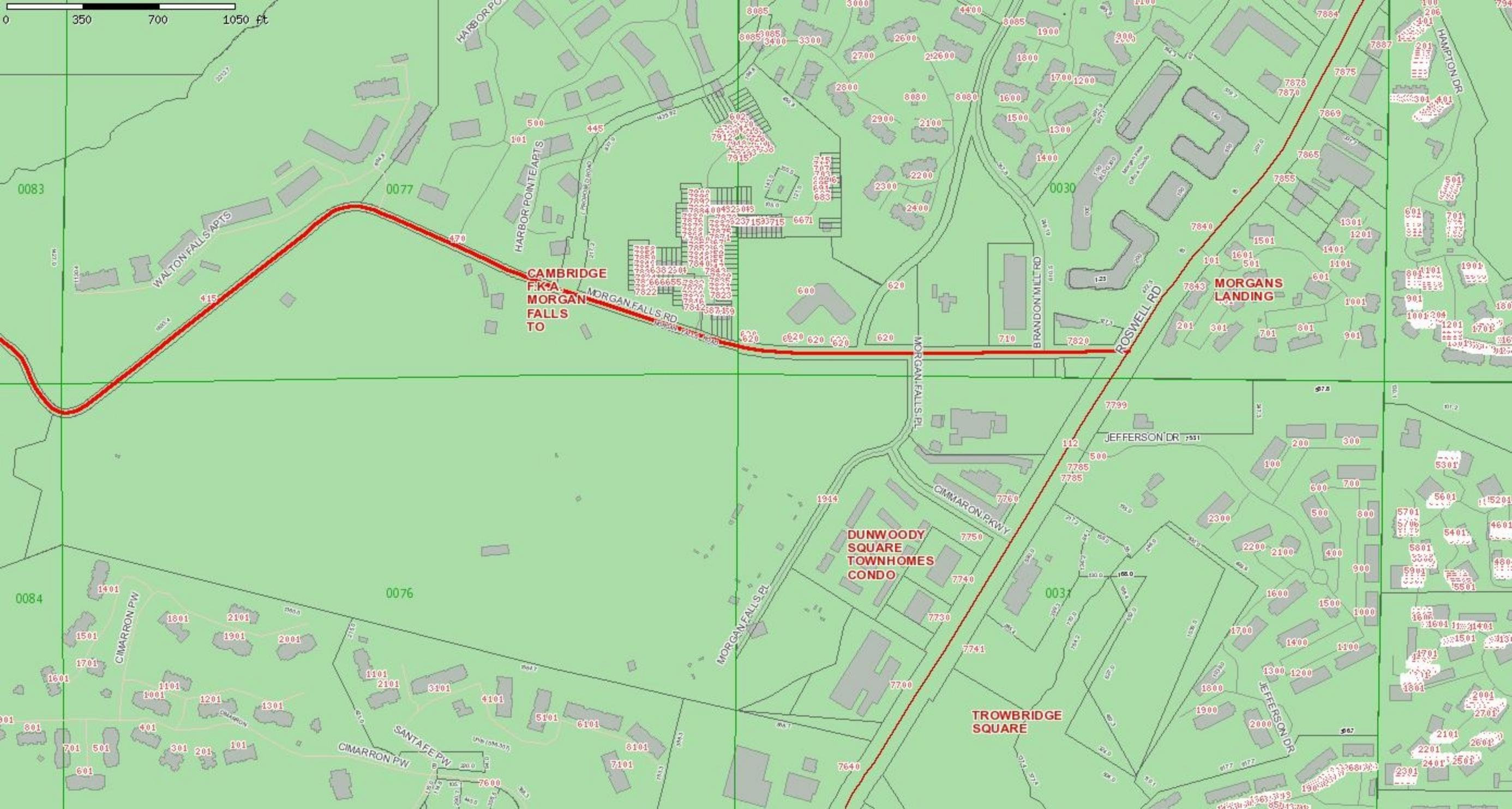
Acquisition of the Temporary Construction Easement and the Driveway Easement for this property has been budgeted in the Morgan Falls Athletic Fields project costs.

Attachments:

- I. Exhibits
 - A. Overview Map
 - B. Aerial Map
 - C. Plat
 - D. Legal Description

- II. Resolution

*Public
Works*



**CAMBRIDGE
F.K.A.
MORGAN
FALLS
TO**

**MORGAN'S
LANDING**

**DUNWOODY
SQUARE
TOWNHOMES
CONDO**

**TROWBRIDGE
SQUARE**

0083

0077

0030

0076

0037

0084



WALTON FALLS APTS

HARBOR POINT APTS

CAMBRIDGE
FKA
MORGAN
FALLS
TO

MORGAN FALLS RD

DUNWOODY
SQUARE
TOWNHOMES
CONDO

TROWBRIDGE
SQUARE

ROSWELL RD

CARRON PWY

SANTA FE PWY

MORGAN FALLS PL

CARRON PWY

BRANDON MILL RD

JEFFERSON

**LEGAL DESCRIPTION
RETAINING WALL EASEMENT
TEMPORARY CONSTRUCTION EASEMENT #1**

All that parcel of land lying in Land Lot 31 of the 17th District of Fulton County, Georgia, and being more particularly described as follows:

Commencing at the intersection of the south line of Land Lot 31 of said District with the northwesterly right-of-way line of Roswell Road (80 foot right-of-way); thence northeasterly and northwesterly along the northwesterly right-of-way line of Roswell Road (variable right-of-way), 1466.79 feet to a point, said point, along with the foregoing legal description, being the same as described in Deed Book 13963, page 89, Fulton County, Georgia, records; thence North 82°31'23" West, leaving said right-of-way line, 525.07 feet to a 1/2-inch rebar found; thence North 40°05'55" East along the boundary line between the property of Fulton County and MSD Holdings, LLC, 279.07 feet to a 1/2-inch rebar found; thence North 69°17'37" East, continuing along said boundary line, 96.28 feet to a point, said point being the Point of Beginning of the hereinafter described parcel and having state plane coordinates of North 1,442,257.28, East 2,236,219.78; thence North 69°17'37" East, continuing along said boundary line, 11.20 feet to a 1/2-inch rebar found; thence North 20°41'41" West, continuing along said boundary line, 2.76 feet to a point; thence North 50°32'48" East, leaving said boundary line and entering the property of MSD Holdings, LLC, 28.08 feet to a point; thence North 11°23'29" East, 39.98 feet to a point; thence North 02°27'39" East, 6.31 feet to a point, thence South 88°02'49" East, 11.36 feet to a point; thence North 01°57'11" East, 26.44 feet to a point; thence South 87°58'11" East, 8.31 feet to a point; thence North 02°37'04" East, 34.16 feet to a point; thence North 87°22'56" West, 2.00 feet to a point; thence North 47°37'04" East, 16.35 feet to a point; thence South 42°22'56" East, 10.00 feet to a point; thence South 47°37'04" West, 12.21 feet to a point; thence South 02°37'04" West, 37.93 feet to a point; thence North 87°58'11" West, 8.22 feet to a point; thence South 01°57'11" West, 26.43 feet to a point; thence North 88°02'49" West, 11.59 feet to a point; thence South 11°23'29" West, 42.44 feet to a point; thence South 50°32'48" West, 42.42 feet to a point; thence North 39°27'12" West, 8.99 feet to the Point of Beginning.

Containing 1,468 Square Feet or 0.034 Acre and being shown as Construction Easement #1 on Retaining Wall Easement Survey, prepared by Jordan Jones & Goulding, for JHC Corporation, dated May 22, 2009.



5/27/09

**LEGAL DESCRIPTION
RETAINING WALL EASEMENT
TEMPORARY CONSTRUCTION EASEMENT #2**

All that parcel of land lying in Land Lot 31 of the 17th District of Fulton County, Georgia, and being more particularly described as follows:

Commencing at the intersection of the south line of Land Lot 31 of said District with the northwesterly right-of-way line of Roswell Road (80 foot right-of-way); thence northeasterly and northwesterly along the northwesterly right-of-way line of Roswell Road (variable right-of-way), 1466.79 feet to a point, said point, along with the foregoing legal description, being the same as described in Deed Book 13963, page 89, Fulton County, Georgia, records; thence North 82°31'23" West, leaving said right-of-way line, 525.07 feet to a 1/2-inch rebar found; thence North 40°05'55" East along the boundary line between the property of Fulton County and MSD Holdings, LLC, 279.07 feet to a 1/2-inch rebar found; thence North 69°17'37" East, continuing along said boundary line, 96.28 feet to a point, said point having state plane coordinates of North 1,442,257.28, East 2,236,219.78; thence North 69°17'37" East, continuing along said boundary line, 11.20 feet to a 1/2-inch rebar found; thence North 20°41'41" West, continuing along said boundary line, 2.76 feet to a point; thence North 20°41'41" West, continuing along said boundary line, 52.76 feet to a 1/2-inch rebar and cap set; thence North 41°53'19" East, continuing along said boundary line, 130.25 feet to a point; thence North 41°53'19" East, continuing along said boundary line, 26.75 feet to a 1/2-inch rebar and cap set; thence North 23°25'04" East, continuing along said boundary line, 37.18 feet to a point, said point being the Point of Beginning of the hereinafter described parcel; thence North 23°25'04" East, continuing along said boundary line, 20.29 feet to point; thence South 62°06'43" East, leaving said boundary line and entering the property of MSD Holdings, LLC, 7.67 feet to a point; thence South 27°53'17" West, 20.23 feet to a point; thence North 62°06'43" West, 6.09 feet to the Point of Beginning.

Containing 139 Square Feet or 0.003 Acre and being shown as Construction Easement #2 on Retaining Wall Easement Survey, prepared by Jordan Jones & Goulding, for JHC Corporation, dated May 22, 2009.



5/27/09

**LEGAL DESCRIPTION
RETAINING WALL EASEMENT
PERMANENT EASEMENT**

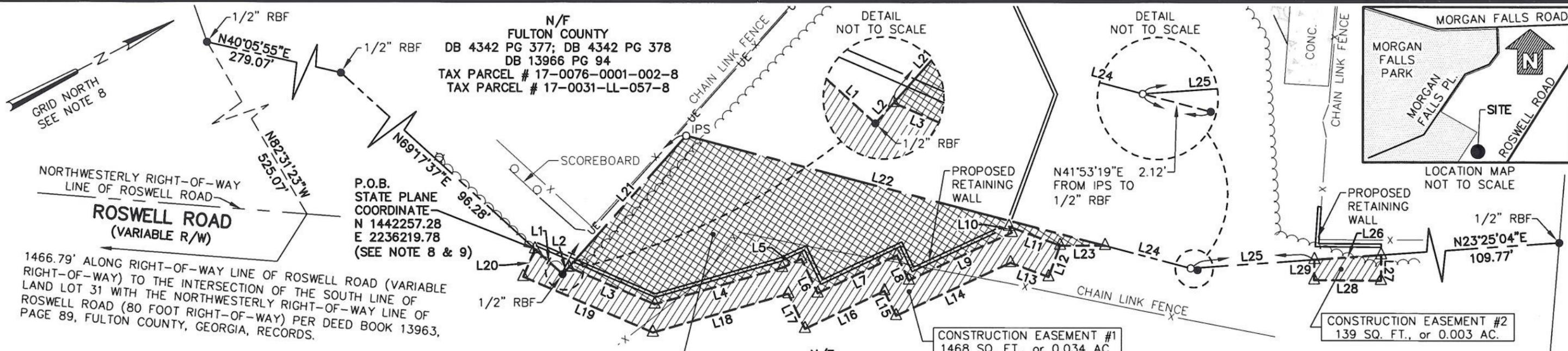
All that parcel of land lying in Land Lot 31 of the 17th District of Fulton County, Georgia, and being more particularly described as follows:

Commencing at the intersection of the south line of Land Lot 31 of said District with the northwesterly right-of-way line of Roswell Road (80 foot right-of-way); thence northeasterly and northwesterly along the northwesterly right-of-way line of Roswell Road (variable right-of-way), 1466.79 feet to a point, said point, along with the foregoing legal description, being the same as described in Deed Book 13963, page 89, Fulton County, Georgia, records; thence North 82°31'23" West, leaving said right-of-way line, 525.07 feet to a 1/2-inch rebar found; thence North 40°05'55" East along the boundary line between the property of Fulton County and MSD Holdings, LLC, 279.07 feet to a 1/2-inch rebar found; thence North 69°17'37" East, continuing along said boundary line, 96.28 feet to a point, said point having state plane coordinates of North 1,442,257.28, East 2,236,219.78; thence North 69°17'37" East, continuing along said boundary line, 11.20 feet to a 1/2-inch rebar found; thence North 20°41'41" West, continuing along said boundary line, 2.76 feet to a point, said point being the Point of Beginning of the hereinafter described parcel; thence North 20°41'41" West, continuing along said boundary line, 52.76 feet to a 1/2-inch rebar and cap set; thence North 41°53'19" East, continuing along said boundary line, 130.25 feet to a point; thence South 27°34'52" West, leaving said boundary line and entering the property of MSD Holdings, LLC, 13.54 feet to a point; thence South 47°37'04" West, 16.35 feet to a point; thence South 87°22'56" East, 2.00 feet to a point, thence South 02°37'04" West, 34.16 feet to a point, thence North 87°58'11" West, 8.31 feet to a point; thence South 01°57'11" West, 26.44 feet to a point; thence North 88°02'49" West, 11.36 feet to a point; thence South 02°27'39" West, 6.31 feet to a point; thence South 11°23'29" West, 39.98 feet to a point; thence South 50°32'48" West, 28.08 feet to the Point of Beginning.

Containing 3662 Square Feet or 0.084 Acre and being shown as Permanent Easement on Retaining Wall Easement Survey, prepared by Jordan Jones & Goulding, for JHC Corporation, dated May 22, 2009.



5/27/09



N/F
FULTON COUNTY
 DB 4342 PG 377; DB 4342 PG 378
 DB 13966 PG 94
 TAX PARCEL # 17-0076-0001-002-8
 TAX PARCEL # 17-0031-LL-057-8

P.O.B.
 STATE PLANE
 COORDINATE
 N 1442257.28
 E 2236219.78
 (SEE NOTE 8 & 9)

PERMANENT EASEMENT
 3662 SQ. FT., or 0.084 AC.

N/F
MSD HOLDINGS, LLC
 DB 38140 PG 223
 TAX PARCEL # 17-0031-LL-058-6

CONSTRUCTION EASEMENT #1
 1468 SQ. FT., or 0.034 AC.

CONSTRUCTION EASEMENT #2
 139 SQ. FT., or 0.003 AC.

LINE TABLE

LINE	LENGTH	BEARING	LINE	LENGTH	BEARING
L1	11.20	N69°17'37"E	L16	26.43	S01°57'11"W
L2	2.76	N20°41'41"W	L17	11.59	N88°02'49"W
L3	28.08	N50°32'48"E	L18	42.44	S11°23'29"W
L4	39.98	N11°23'29"E	L19	42.42	S50°32'48"W
L5	6.31	N02°27'39"E	L20	8.99	N39°27'12"W
L6	11.36	S88°02'49"E	L21	52.76	N20°41'41"W
L7	26.44	N01°57'11"E	L22	130.25	N41°53'19"E
L8	8.31	S87°58'11"E	L23	13.54	S27°34'52"W
L9	34.16	N02°37'04"E	L24	26.75	N41°53'19"E
L10	2.00	N87°22'56"W	L25	37.18	N23°25'04"E
L11	16.35	N47°37'04"E	L26	20.29	N23°25'04"E
L12	10.00	S42°22'56"E	L27	7.67	S62°06'43"E
L13	12.21	S47°37'04"W	L28	20.23	S27°53'17"W
L14	37.93	S02°37'04"W	L29	6.09	N62°06'43"W
L15	8.22	N87°58'11"W			

- NOTES**
- 1) THIS DRAWING WAS CREATED ELECTRONICALLY. THIS MEDIA SHOULD NOT BE CONSIDERED A CERTIFIED DOCUMENT UNLESS IT HAS BEEN PROPERLY SEALED AND ORIGINALLY SIGNED IN BLUE INK BY A REGISTERED LAND SURVEYOR OF JORDAN JONES AND GOULDING, INC. AUTHORITY OF O.C.G.A. 43-15-22.
 - 2) THE LOCATIONS OF THE BOUNDARY LINES SHOWN WERE ESTABLISHED FROM OBSERVABLE EVIDENCE ON THE GROUND AND DEEDS OR PLATS PROVIDED BY THE CLIENT.
 - 3) NO EXISTING EASEMENTS ARE SHOWN.
 - 4) NO ABSTRACT OF TITLE HAS BEEN PROVIDED AS PART OF THIS SURVEY. JORDAN, JONES & GOULDING, INC. AND THE LAND SURVEYOR WHOSE SEAL IS AFFIXED HERETO DO NOT GUARANTEE THAT ALL IMPROVEMENTS, EASEMENTS, RIGHTS, OR CLAIMS WHICH MAY AFFECT THIS PROPERTY ARE SHOWN.
 - 5) THE FOLLOWING DEEDS, PLATS OR DRAWINGS PERTAINING TO THE SUBJECT PROPERTY WERE USED IN PREPARING THIS SURVEY:
 - A) WARRANTY DEED FROM THE HECUBA COMPANY TO FULTON COUNTY, DATED DECEMBER 11, 1964, RECORDED IN DEED BOOK 4342 PAGE 377, FULTON COUNTY, GEORGIA, RECORDS.
 - B) WARRANTY DEED FROM HECUBA COMPANY TO FULTON COUNTY, DATED DECEMBER 11, 1964, RECORDED IN DEED BOOK 4342 PAGE 378, FULTON COUNTY, GEORGIA, RECORDS.
 - C) QUITCLAIM DEED FROM FULTON COUNTY TO B & D PARTNERSHIP, DATED SEPTEMBER 1, 1989, RECORDED IN DEED BOOK 12846 PAGE 186, FULTON COUNTY, GEORGIA, RECORDS.
 - D) FEE SIMPLE DEED FROM FULTON COUNTY TO B & D PARTNERSHIP, DATED NOVEMBER 29, 1990, RECORDED IN DEED BOOK 13963 PAGE 089, FULTON COUNTY, GEORGIA, RECORDS.
 - E) LIMITED WARRANTY DEED FROM B & D PARTNERSHIP TO FULTON COUNTY, DATED NOVEMBER 30, 1990, RECORDED IN DEED BOOK 13963 PAGE 084, FULTON COUNTY, GEORGIA, RECORDS.
 - F) PLAT FOR FULTON COUNTY LAND DEPARTMENT TITLED REVISION PLAT FOR BOUNDARY PARCEL 1 AND 4 BY ESTON PENDLEY AND ASSOCIATES DATED SEPTEMBER 18, 2000.
 - 6) NOT ALL IMPROVEMENTS ARE SHOWN.
 - 7) THE LOCATIONS OF THE UNDERGROUND UTILITIES SHOWN ARE BASED ON VISIBLE APPURTENANCES, MAPS, OR MARKINGS PLACED ON THE GROUND BY UTILISURVEY, LLC AND ARE APPROXIMATE ONLY. UNDERGROUND UTILITIES WERE NOT MARKED FOR THE ENTIRE PROJECT. UNDERGROUND UTILITIES MAY EXIST WHICH ARE NOT SHOWN HEREON. THE UTILITIES PROTECTION CENTER SHOULD BE CONTACTED BEFORE BEGINNING ANY CONSTRUCTION.

- 8) THE DATUM FOR THIS SURVEY WAS ESTABLISHED UTILIZING GLOBAL POSITIONING SYSTEMS AND BASED ON POSITIONAL VALUES FOR THE VIRTUAL REFERENCE STATION NETWORK DEVELOPED BY eGPS SOLUTIONS. THE HORIZONTAL DATUM IS NAD83 (HARN) - COORDINATE SYSTEM OF GEORGIA - WEST ZONE. THE VERTICAL DATUM IS NAVD 88 (GEOID 2003).
- 9) THE SURVEY WAS TIED TO FULTON COUNTY MONUMENT #322 FOR REFERENCE PURPOSES. THE PUBLISHED VALUES FOR THE REFERENCED MONUMENT ARE N 1440973.215, E 2236270.163, ELEVATION 931.317. THE SURVEYED VALUES FOR THE REFERENCED MONUMENT ARE N 1440972.548, E 2236270.179, ELEVATION 931.78.
- 10) THE FIELD WORK FOR THIS SURVEY WAS COMPLETED ON MARCH 26, 2009. THE DATE OF THE DRAWING, OR ANY REVISIONS ARE BASED SOLELY ON FIELD OBSERVATIONS MADE AT THAT TIME.
- 11) AREAS AND DISTANCES SHOWN ARE STATE PLANE GRID VALUES. TO OBTAIN SURFACE DISTANCES, A COMBINATION FACTOR OF 1.000144792 MUST BE APPLIED.

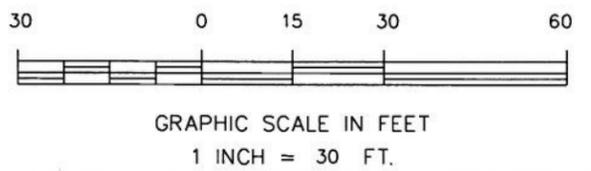
CERTIFICATION
 THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND FOUND TO BE ACCURATE WITHIN ONE FOOT IN 82,387 FEET.

A LEICA 1203 TOTAL STATION WAS USED TO OBTAIN THE LINEAR AND ANGULAR MEASUREMENTS USED IN THE PREPARATION OF THIS PLAT.

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE OF ONE FOOT IN 9,561 FEET AND AN ANGULAR ERROR OF 00°00'13" PER ANGLE POINT AND WAS ADJUSTED USING THE LEAST SQUARES RULE.



- LEGEND**
- X — FENCE LINE
 - UE, UT — UNDERGROUND ELECTRIC, TELEPHONE
 - — — BOUNDARY LINE
 - - - - - EASEMENT LINE
 - ~~~~~ TREE LINE OR VEGETATION LINE
 - IPS IRON PIN SET (1/2" REBAR & CAP)
 - RBF REBAR FOUND
 - △ P.O.B. POINT OF BEGINNING
 - △ CALCULATED POINT



LOCATED IN LAND LOT 31, 17TH DISTRICT, FULTON COUNTY, GEORGIA 5/22/09

NO.	DATE	DESCRIPTION OF REVISION

JORDAN JONES & GOULDING
 WWW.JJG.COM
 46 Liberty Industrial Parkway
 McDonough, GA 30253
 T: (678) 432-7908 F: (678) 432-7818

RETAINING WALL EASEMENT SURVEY
 ACROSS PROPERTY OF
 MSD HOLDINGS, LLC

CLIENT: JHC CORPORATION
 PROJECT: MORGAN FALLS PARK

JOB NO.: 8284-002
 DATE: 5-22-2009
 SCALE: 1" = 30'

DWG. NO.: F506-09-B
 DRAWN: DSW
 CHECKED: JAC

JPC002VB00.dwg

STATE OF GEORGIA
COUNTY OF FULTON

**A RESOLUTION TO APPROVE THE USE OF EMINENT DOMAIN TO CONDEMN THE
PROPERTY LOCATED AT THE MORGAN FALLS ATHLETIC FIELDS, IN LAND LOT 31 OF
THE 17TH DISTRICT, CITY OF SANDY SPRINGS, FULTON COUNTY, GEORGIA**

WHEREAS, it is necessary, from time to time, to establish policies, procedures and guidelines consistent with the administration of a municipal government consistent with the US Constitution, Federal Statutes, alignment with Federal, Georgia's State Constitution, and the Charter for the City of Sandy Springs, and

WHEREAS, the City Manager directed the Department of Public Works to develop standard policies for recurring matters, to establish appropriate internal controls and legal compliance, and to provide for an efficient and effective means to serve constituents; and

WHEREAS, the Department of Public Works, in response to the guidance provided by the City Manager, has reviewed and recommends the has reviewed and approves the use of Eminent Domain by the City of Sandy Springs for the property located at the Morgan Falls Athletic Fields, in Land Lot 31 of the 17th District, and

WHEREAS, upon adoption of this Resolution, the City Attorney will proceed with the steps required to utilize eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SANDY SPRINGS, GEORGIA

That they approve the use of Eminent Domain on the property located at the Morgan Falls Athletic Fields, in Land Lot 31 of the 17th District, for the purpose of the installation of a retaining wall for the Morgan Falls Athletic Fields Project.

RESOLVED this the 13th day of July 2010.

Approved:

Eva Galambos, Mayor

Attest:

Michael Casey, City Clerk
(Seal)