

TEMPORARY CONSTRUCTION EASEMENT/AGREEMENT

Georgia, Whitfield County

This **Temporary Construction Easement Agreement** (the "Agreement") is made this ____ day of _____, 20__ (the "Effective Date"), by and between **Sharon Beavers, as trustee of the John Willis Mashburn Charitable Trust, u/a April 29, 2008**, party of the first part (hereinafter "Grantor"), and the **City of Dalton, Georgia**, a municipal corporation of the State of Georgia, party of the second part (hereinafter "Grantee"), their respective successors and assigns:

WHEREAS, Grantor is the owner of certain real property and improvements in the City of Dalton, Whitfield County, Georgia, as described in **Exhibit "A" and Exhibit "B"** attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, Grantee is the owner of certain real property adjacent to the Property, and more particularly described as Mill Creek Riverwalk (the "City Property"); and

WHEREAS, Grantee desires non-exclusive temporary access and use of a portion of the Property to perform certain construction activities for the public good and welfare and Grantor is willing to grant the requested access and use on the Property and subject to the terms hereof; and

WHEREAS, upon completion of the construction identified therein said construction easement shall cease; and

NOW, THEREFORE, in consideration of the sum of Ten and No/100 Dollars (\$10.00) in hand paid, the covenants contained herein, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. **Temporary Construction Easement**. Grantor, and for and on behalf of its successors and assigns, does hereby grant unto Grantee, a temporary, non-exclusive easement in, on, over, under, across and through that certain portion of the Property shown on the Easement Exhibit: The City of Dalton Temporary Construction Easement Lot 19, North Park S/D by Lewis and Associates Land Surveying, LLC dated January 28, 2022 (designated by hash marking) and Easement Plat: Being PT. Tax Parcel No. 12-145-04, Located in Land Lot 237, 12th District, 3rd Section attached hereto as **Exhibit "C" and Exhibit "D"** and incorporated herein by reference (the "Construction Easement"). The rights, benefits, privileges, and easement granted herein is for the purpose of the construction identified therein. Said Construction Easement is temporary and shall expire upon completion of the construction therein.

2. **Term of Easement**. The parties contemplate that the construction project is estimated to begin in June 2022. However, the parties acknowledge that said construction start

date may be delayed. The project completion date is to be determined at this time. The parties shall reasonably cooperate to complete the project in a timely manner.

3. **Additional Rights.** The Temporary Construction Easement granted herein shall include:

(a) the right of entry into and upon the Property for the purpose of access and ingress to and egress from the Property in order to affect the rights, privileges and easements set forth herein;

(b) the right to cut away, remove and dispose of all trees, undergrowth or other obstructions which exist on the Easement, which removal is necessary for Grantee's construction identified herein;

(c) the right, when required by law, governmental regulation or necessity to conduct scientific, geotechnical, archaeological or other studies, investigation or other testing on or below the ground surface of the Property.

4. **Reservation of Rights.** Except for the rights, privileges, benefits and easements granted herein, Grantor hereby reserves all its right, title and interest in and to the Property.

5. **Conditions and Obligations of Easement Use.**

(a) The use of the Property by the Grantee shall be in accordance with all laws, ordinances, codes, and regulations of all governmental authorities having jurisdiction over the Easement. Any such use of the Easement by the Grantee shall be undertaken in such a manner as to minimize the disturbance to and interruption of Grantor's use of the Property to the greatest extent practicable.

(b) Any construction or activities performed on the Easement by Grantee shall be done in a good workmanlike manner and the Easement shall be left in a clean and orderly condition, with all debris removed therefrom, and any areas which may have been disturbed by such work shall be restored to their former condition as nearly as practicable and as generally provided in the Exhibit "C" and Exhibit "D".

6. **Covenants of Grantor.**

(a) Grantor waives all right to any compensation for the use and enjoyment of the rights and privileges granted herein and further acknowledges that the use granted herein does not constitute an action of eminent domain or condemnation by the Grantee. Grantor does not waive any claim for damages that may result from the negligent acts or omissions of the Grantee or its contractors in its use of the Temporary Construction Easement.

(b) Grantor does hereby covenant with the Grantee that Grantor is lawfully seized and possessed of the Property above described, that Grantor has a good and lawful right to convey said easements, rights and privileges granted herein.

7. **No Public Dedication.** Nothing contained in this Agreement shall be deemed to be a gift of dedication to the general public or for any general public use.

8. **Entire Agreement.** This Agreement constitutes the entire agreement between

the parties and understanding between Grantor and Grantee relating to the subject matter hereof and may not be amended, waived or discharged except by instrument in writing executed by the party against which enforcement of such amendment, waiver or discharge is sought.

9. **Severability.** The invalidity of any one of the covenants, agreements, conditions or provisions of this Agreement, or any portion thereof, shall not affect the remaining portions thereof, or any part thereof, and this Agreement shall be modified to substitute in lieu of the invalid provision, a like and valid provision which reflects the agreement of the parties with respect to the covenant, agreement, condition or provision which has been deemed invalid.

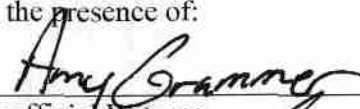
10. **Signatures.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and upon execution by the Grantor and Grantee.

11. **Time of Essence.** Time is of the essence with respect to this Agreement.

12. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia.

IN WITNESS WHEREOF, the Grantor has signed, sealed and delivered this Agreement as of the day and year first set forth above.

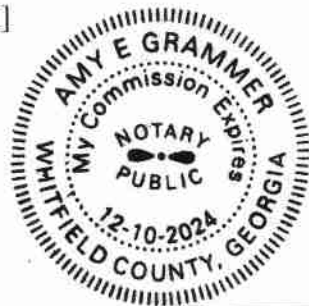
Signed, sealed and delivered
In the presence of:


Unofficial Witness


Notary Public


My commission expires:

[Notarial Seal]



Grantor:

**Sharon Beavers, as trustee of the John
Willis Mashburn Trust, u/a April 29,
2008**

By  (Seal)

Title: Trustee 3-4-22

EXHIBIT "A"

ALL THAT TRACT or parcel lying and being in Land Lot 161, in the 12th District and 3rd Section of Whitfield County, Georgia, and being more particularly described as follows:

BEGINNING at point on the western line of Lot 19 in North Park Subdivision; said point being located North 11 degrees 05 minutes 53 seconds West a distance of 20.97 feet from an iron pin at the southeastern corner of said lot; thence along the western property line of Lot 19 the following courses and distances: North 11 degrees 05 minutes 53 seconds West a distance of 160.74 feet; thence North 01 degrees 17 minutes 14 seconds West a distance of 102.92 feet; thence North 16 degrees 01 minutes 37 seconds West a distance of 57.59 feet; thence North 35 degrees 01 minutes 07 seconds West a distance of 109.48 feet; thence North 18 degrees 08 minutes 20 seconds West a distance of 16.34 feet; thence leaving said western line of Lot 19, running North 71 degrees 51 minutes 40 seconds East a distance of 10.00 feet; thence South 18 degrees 08 minutes 20 seconds East a distance of 14.85 feet; thence South 35 degrees 01 minutes 07 seconds East a distance of 109.67 feet; thence South 16 degrees 01 minutes 37 seconds East a distance of 60.56 feet; thence South 01 degrees 17 minutes 14 seconds East a distance of 103.36 feet; thence South 11 degrees 05 minutes 53 seconds East a distance of 159.89 feet; thence South 78 degrees 54 minutes 07 seconds West a distance of 10.00 feet to the POINT OF BEGINNING.

SAID TRACT or parcel having an area of 4477.0 square feet, 0.103 acres.



EXHIBIT "B"

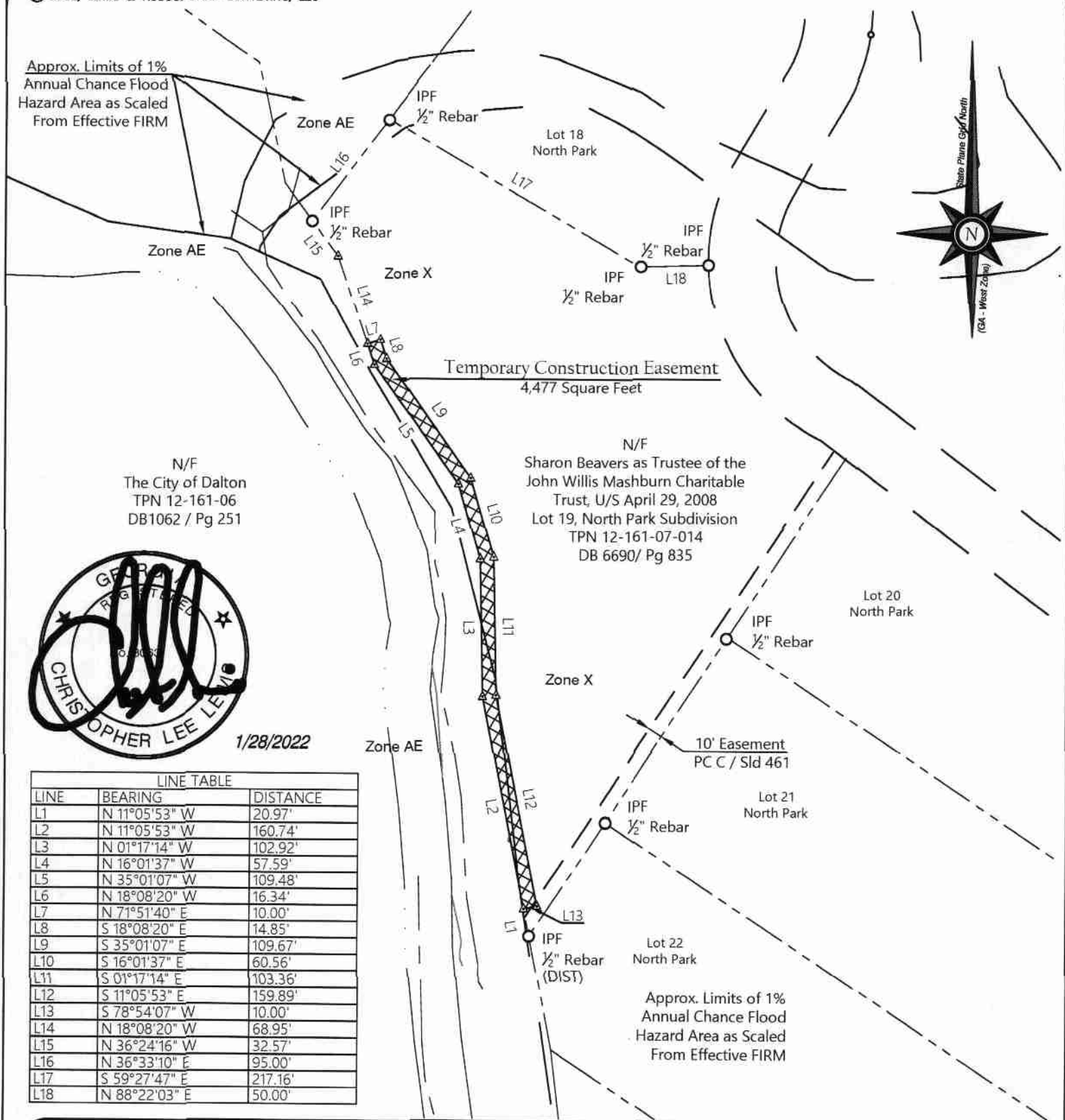
ALL THAT TRACT or parcel lying and being in Land Lot 145, in the 12th District and 3rd Section of Whitfield County, Georgia, and being more particularly described as follows:

BEGINNING at a concrete right of way monument located at the intersection of the southern right of way of the North Dalton Bypass (being U.S. Highway 41/State Route 3 and having a variable right of way) with the western right of way of North Thornton Avenue (having a variable right of way); thence South 04 degrees 23 minutes 05 seconds West a distance of 79.44 feet; thence North 85 degrees 36 minutes 55 seconds West a distance of 47.27 feet; thence North 05 degrees 19 minutes 57 seconds East a distance of 80.21 feet; thence South 84 degrees 40 minutes 03 seconds East a distance of 45.95 feet to the POINT OF BEGINNING.

SAID TRACT or parcel having an area of 3720.6 square feet, 0.085 acres

EXHIBIT "C"

Approx. Limits of 1% Annual Chance Flood Hazard Area as Scaled From Effective FIRM



N/F
The City of Dalton
TPN 12-161-06
DB1062 / Pg 251

N/F
Sharon Beavers as Trustee of the
John Willis Mashburn Charitable
Trust, U/S April 29, 2008
Lot 19, North Park Subdivision
TPN 12-161-07-014
DB 6690/ Pg 835



1/28/2022

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 11°05'53" W	20.97'
L2	N 11°05'53" W	160.74'
L3	N 01°17'14" W	102.92'
L4	N 16°01'37" W	57.59'
L5	N 35°01'07" W	109.48'
L6	N 18°08'20" W	16.34'
L7	N 71°51'40" E	10.00'
L8	S 18°08'20" E	14.85'
L9	S 35°01'07" E	109.67'
L10	S 16°01'37" E	60.56'
L11	S 01°17'14" E	103.36'
L12	S 11°05'53" E	159.89'
L13	S 78°54'07" W	10.00'
L14	N 18°08'20" W	68.95'
L15	N 36°24'16" W	32.57'
L16	N 36°33'10" E	95.00'
L17	S 59°27'47" E	217.16'
L18	N 88°22'03" E	50.00'



**Lewis & Associates
Land Surveying, LLC.**

P.O. Box 2046 | Dalton, GA 30722-2046 | 706.278.7516

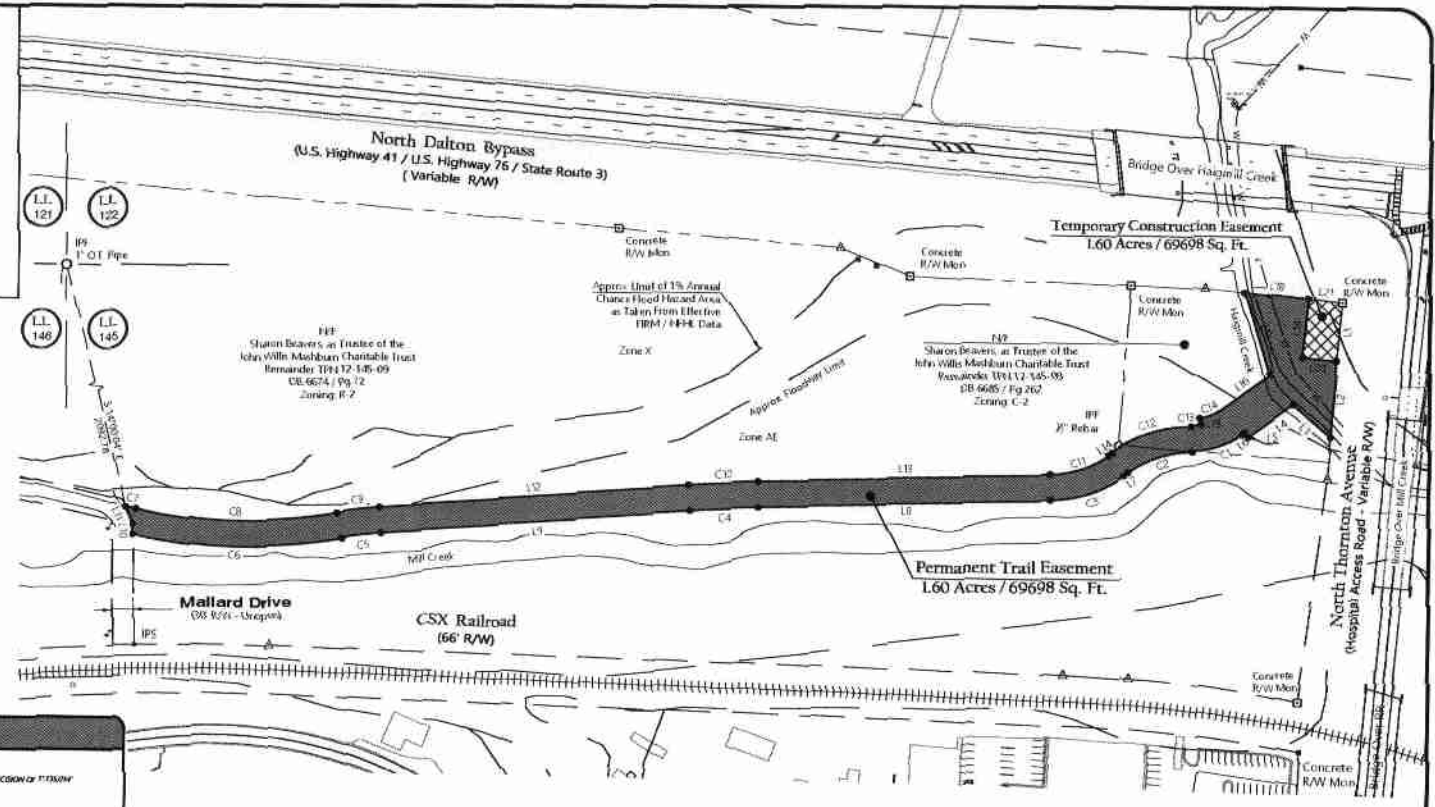
SURVEY DATE: 8/29/21-1015/21
CREW: DSM, CLL
DRAWN BY: CLL
DATE DRAWN: 1/24/2022
COMPUTED BY: CLL
CHECKED BY: CLL
REVISED:

EASEMENT EXHIBIT:
THE CITY OF DALTON
TEMPORARY CONSTRUCTION EASEMENT
LOT 19, NORTH PARK S/D
CITY OF DALTON, WHITFIELD COUNTY, GA

SCALE: 1" = 100'

JOB NO. 22-009

EXHIBIT "D"



PLAT NOTES

CLOSURE STATEMENT
 THE FIELD DATA CONTAINED ON THIS PLAT IS BASED UPON A CLOSURE PROCESSION OF 1.75 MILES AND AN ANGULAR ERROR OF 0" 10.0 ANGLES PER MINUTE.
 THE FIELD DATA WERE ADJUSTED USING LEAST SQUARES.
 THIS PLAT HAS A CLOSURE PROCESSION OF 1.74 MILES.

EQUIPMENT
 ALL FIELD MEASUREMENTS WERE MADE USING A SOKKIA TOTAL STATION AND SOKKIA SURVEYING CONTROLS.

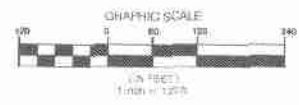
FLOOD STATEMENT
 A PORTION OF THE SUBJECT PROPERTY DOES LIE WITHIN A 1% ANNUAL CHANCE FLOOD HAZARD AREA (100-YEAR FLOOD ZONE) AS SHOWN ON FEMA MAP NO. 18588G001E (EFFECTIVE DATE 08/09/2017).

BOUNDARY SURVEY
 MEASUREMENTS WERE MADE TO ADJACENT PROPERTY OWNERS LOCATED BY GPS OR BY MEANS OF A SOKKIA TOTAL STATION. ALL MEASUREMENTS WERE MADE USING A SOKKIA TOTAL STATION AND SOKKIA SURVEYING CONTROLS OPERATED BY A LICENSED SURVEYOR.

SCOPE OF SURVEY
 THIS IS THE SUBJECT PARCEL AS SHOWN BY THE SHOWN MARKS AS TRUSTEE OF THE JOHN WILLS MACHBURN CHARITABLE TRUST FOR CHILDREN, AND NOT THE WHOLE TRACT.

REFERENCES

1. SURVEY FOR BRICK LANE BY DONALD G. BARR DATED SEPTEMBER 26, 2012 PLAT CANNON 8, 2012-09-26.
2. SURVEY FOR BRICK LANE BY DONALD G. BARR DATED AUGUST 10, 2012 PLAT CANNON 8, 2012-08-10.
3. PLAT FOR CORNER MARKING BY D.E. ROSS DATED MAY 26, 2008 PLAT CANNON 8, 2008-05-26.
4. SURVEY FOR JOHN WILLS MACHBURN CHARITABLE TRUST BY THE UNDATED OCTOBER 4, 2014.



SURVEYOR'S CERTIFICATION

I, DONALD G. BARR, A LICENSED SURVEYOR IN THE STATE OF GEORGIA, DO HEREBY CERTIFY THAT I AM THE SURVEYOR OF THIS SURVEY AND THAT I AM A MEMBER IN GOOD STANDING OF THE SURVEYING BOARD OF PROFESSIONAL ENGINEERS AND SURVEYORS OF THE STATE OF GEORGIA, SECTION 1, 1-1.

(Signature)
 DONALD G. BARR
 LICENSE NO. 11111

NOTE
 X-CARRIED BEARS TO BE RELEASED AT END OF EASEMENT, PROPERTY LINE RIGHT OF WAY CROSSINGS AND ALL CHANGES IN DIRECTION ALONG LANEWAY.

ANGLE TABLE

LINE	BEARING	DISTANCE
1	S 89° 00' 00" W	39.44
2	S 04° 30' 00" W	104.43
3	N 10° 00' 00" E	45.37
4	S 83° 30' 00" W	73.49
5	N 10° 00' 00" E	8.00
6	S 89° 00' 00" W	7.89
7	S 83° 30' 00" W	7.48
8	N 10° 00' 00" E	104.55
9	N 10° 00' 00" E	14.23
10	N 10° 00' 00" E	23.90
11	N 10° 00' 00" E	42.43
12	S 89° 00' 00" W	200.00
13	N 10° 00' 00" E	7.48
14	N 10° 00' 00" E	104.55
15	N 10° 00' 00" E	0.00
16	N 10° 00' 00" E	104.55
17	N 10° 00' 00" E	104.55
18	N 10° 00' 00" E	104.55
19	N 10° 00' 00" E	104.55
20	S 89° 00' 00" W	41.99
21	N 10° 00' 00" E	41.99

CURVE TABLE

LINE	RAVUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	CHORD ANGLE
C1	123.00	77.17	77.66	S 77° 04' 11" W	143° 08' 41"
C2	153.00	91.69	91.82	S 77° 04' 11" W	143° 08' 41"
C3	172.00	101.17	101.89	S 77° 04' 11" W	143° 08' 41"
C4	193.00	110.71	111.41	S 77° 04' 11" W	143° 08' 41"
C5	215.00	120.39	121.08	S 77° 04' 11" W	143° 08' 41"
C6	237.00	129.57	129.72	N 10° 00' 00" E	143° 08' 41"
C7	260.00	138.32	138.32	N 10° 00' 00" E	143° 08' 41"
C8	283.00	146.58	146.58	N 10° 00' 00" E	143° 08' 41"
C9	306.00	154.39	154.39	N 10° 00' 00" E	143° 08' 41"
C10	329.00	161.77	161.77	N 10° 00' 00" E	143° 08' 41"
C11	352.00	168.74	168.74	N 10° 00' 00" E	143° 08' 41"
C12	375.00	175.31	175.31	N 10° 00' 00" E	143° 08' 41"
C13	398.00	181.49	181.49	N 10° 00' 00" E	143° 08' 41"
C14	421.00	187.28	187.28	N 10° 00' 00" E	143° 08' 41"
C15	444.00	192.69	192.69	N 10° 00' 00" E	143° 08' 41"
C16	467.00	197.72	197.72	N 10° 00' 00" E	143° 08' 41"
C17	490.00	202.37	202.37	N 10° 00' 00" E	143° 08' 41"
C18	513.00	206.64	206.64	N 10° 00' 00" E	143° 08' 41"
C19	536.00	210.54	210.54	N 10° 00' 00" E	143° 08' 41"
C20	559.00	214.07	214.07	N 10° 00' 00" E	143° 08' 41"
C21	582.00	217.23	217.23	N 10° 00' 00" E	143° 08' 41"
C22	605.00	220.02	220.02	N 10° 00' 00" E	143° 08' 41"
C23	628.00	222.45	222.45	N 10° 00' 00" E	143° 08' 41"
C24	651.00	224.52	224.52	N 10° 00' 00" E	143° 08' 41"
C25	674.00	226.24	226.24	N 10° 00' 00" E	143° 08' 41"
C26	697.00	227.61	227.61	N 10° 00' 00" E	143° 08' 41"
C27	720.00	228.64	228.64	N 10° 00' 00" E	143° 08' 41"
C28	743.00	229.33	229.33	N 10° 00' 00" E	143° 08' 41"
C29	766.00	229.68	229.68	N 10° 00' 00" E	143° 08' 41"
C30	789.00	229.69	229.69	N 10° 00' 00" E	143° 08' 41"
C31	812.00	229.36	229.36	N 10° 00' 00" E	143° 08' 41"
C32	835.00	228.69	228.69	N 10° 00' 00" E	143° 08' 41"
C33	858.00	227.69	227.69	N 10° 00' 00" E	143° 08' 41"
C34	881.00	226.36	226.36	N 10° 00' 00" E	143° 08' 41"
C35	904.00	224.71	224.71	N 10° 00' 00" E	143° 08' 41"
C36	927.00	222.74	222.74	N 10° 00' 00" E	143° 08' 41"
C37	950.00	220.46	220.46	N 10° 00' 00" E	143° 08' 41"
C38	973.00	217.87	217.87	N 10° 00' 00" E	143° 08' 41"
C39	996.00	215.00	215.00	N 10° 00' 00" E	143° 08' 41"
C40	1019.00	211.85	211.85	N 10° 00' 00" E	143° 08' 41"
C41	1042.00	208.43	208.43	N 10° 00' 00" E	143° 08' 41"
C42	1065.00	204.75	204.75	N 10° 00' 00" E	143° 08' 41"
C43	1088.00	200.82	200.82	N 10° 00' 00" E	143° 08' 41"
C44	1111.00	196.65	196.65	N 10° 00' 00" E	143° 08' 41"
C45	1134.00	192.24	192.24	N 10° 00' 00" E	143° 08' 41"
C46	1157.00	187.60	187.60	N 10° 00' 00" E	143° 08' 41"
C47	1180.00	182.73	182.73	N 10° 00' 00" E	143° 08' 41"
C48	1203.00	177.64	177.64	N 10° 00' 00" E	143° 08' 41"
C49	1226.00	172.33	172.33	N 10° 00' 00" E	143° 08' 41"
C50	1249.00	166.81	166.81	N 10° 00' 00" E	143° 08' 41"
C51	1272.00	161.09	161.09	N 10° 00' 00" E	143° 08' 41"
C52	1295.00	155.17	155.17	N 10° 00' 00" E	143° 08' 41"
C53	1318.00	149.06	149.06	N 10° 00' 00" E	143° 08' 41"
C54	1341.00	142.76	142.76	N 10° 00' 00" E	143° 08' 41"
C55	1364.00	136.28	136.28	N 10° 00' 00" E	143° 08' 41"
C56	1387.00	129.62	129.62	N 10° 00' 00" E	143° 08' 41"
C57	1410.00	122.79	122.79	N 10° 00' 00" E	143° 08' 41"
C58	1433.00	115.79	115.79	N 10° 00' 00" E	143° 08' 41"
C59	1456.00	108.63	108.63	N 10° 00' 00" E	143° 08' 41"
C60	1479.00	101.32	101.32	N 10° 00' 00" E	143° 08' 41"
C61	1502.00	93.87	93.87	N 10° 00' 00" E	143° 08' 41"
C62	1525.00	86.28	86.28	N 10° 00' 00" E	143° 08' 41"
C63	1548.00	78.56	78.56	N 10° 00' 00" E	143° 08' 41"
C64	1571.00	70.71	70.71	N 10° 00' 00" E	143° 08' 41"
C65	1594.00	62.74	62.74	N 10° 00' 00" E	143° 08' 41"
C66	1617.00	54.65	54.65	N 10° 00' 00" E	143° 08' 41"
C67	1640.00	46.45	46.45	N 10° 00' 00" E	143° 08' 41"
C68	1663.00	38.14	38.14	N 10° 00' 00" E	143° 08' 41"
C69	1686.00	29.73	29.73	N 10° 00' 00" E	143° 08' 41"
C70	1709.00	21.23	21.23	N 10° 00' 00" E	143° 08' 41"
C71	1732.00	12.64	12.64	N 10° 00' 00" E	143° 08' 41"
C72	1755.00	4.06	4.06	N 10° 00' 00" E	143° 08' 41"

SYMBOL LEGEND

- ADJACENT MANHOLE (SYM)
- ADJACENT SEWER MANHOLE
- WATER METER
- FIRE HYDRANT
- WATER VALVE
- UTILITY POLE
- TELEPHONE PNEUMATIC
- LIGHT POLE
- IRON PIN FOUND (IP)
- IRON PIN SET (IPS)
- ALUMINUM SETBACK LINE
- CENTERLINE
- OVERHEAD POWER LINE
- CHAIN LINK FENCE
- CHAIN LINK FENCE
- CHAIN LINK FENCE
- CHAIN LINK FENCE
- POINT OF BEGINNING
- EXIST. ROOFTOP
- PLAT RECORDED
- THE PARCEL NUMBER

**Lewis & Associates
 Land Surveying, LLC.**
 P.O. BOX 2846 | DALTON, GA 30702-2846 | 706.278.7515

EASEMENT PLAT

THE CITY OF DALTON
 BEING PT. TAX PARCEL NO. 12-145-04
 LOCATED IN LAND LOT 237, 12TH DISTRICT, 3RD SECTION
 CITY OF DALTON, WHITFIELD COUNTY, GEORGIA

© 2021 LEWIS & ASSOCIATES SURVEYING, LLC

GEORGIA (PLAT 4) 11/15/2021
 NORTH GEORGIA (PLAT 4) 11/15/2021
 NORTH GEORGIA (PLAT 4) 11/15/2021
 NORTH GEORGIA (PLAT 4) 11/15/2021

SURVEY DATE: 5/25/2021-10/15/2021
SURVEY JOB #: CLL DGM
COMPILED BY: CLL
DATE DRAWN: 1/24/2022
DRAWN BY: CLL
CHECKED BY: CLL
REVISIONS: NONE ON DATE

DWG. SCALE: 1" = 100'
PLAT NO.: 21-054
SHEET NO.: 1/1