

MEMORANDUM

To: Mayor and City Council

From: Mindy Sanders

Date: April 13, 2015

Subject: **Approval of Tilly Mill at North Peachtree Right of Way Acquisition, Parcel 22**

ITEM DESCRIPTION

Approval of Tilly Mill Road at North Peachtree Road right of way acquisition at 4770 North Peachtree Road (Parcel 22 of the Tilly Mill at North Peachtree Intersection Improvement Project)

BACKGROUND

The acquisition of 3,427 sq. ft (0.079 acres) is required as dedicated right of way from 4770 North Peachtree Road for the construction of this capital improvement project. This area is located on the southwest corner of Peeler Road and North Peachtree Road within a parcel known to the community as Brook Run Park, owned by the City of Dunwoody. The acquired portion of land will be used for the planned modifications at this intersection, which include a new traffic signal to address traffic operations, upgraded pedestrian accommodations, and improved stormwater infrastructure.

RECOMMENDED ACTION

The Assistant City Attorney and Public Works staff recommends that the Mayor and City Council approve the transfer of property from 4770 North Peachtree Road from Brook Run Park to city right of way in connection with the Tilly Mill at North Peachtree Intersection Improvement project.

Upon recording return to:

Riley McLendon, LLC
315 Washington Avenue
Marietta, Georgia 30360

RIGHT OF WAY DEED

STATE OF GEORGIA DEKALB COUNTY

THIS INDENTURE, made this _____ day of _____, 2015 between the CITY OF DUNWOODY, a Municipal Corporation of the State of Georgia, Party of the first part and as Fee Simple Owner of Brook Run Park, and CITY OF DUNWOODY, GEORGIA, a Municipal Corporation, Party of the second part and as the governmental entity with dominion and in charge of maintenance over Rights-of-Way within the geographic boundaries of the City of Dunwoody.

WITNESSETH, That for and in consideration of the sum of ONE DOLLAR (\$1.00) AND OTHER GOOD AND VALUABLE CONSIDERATIONS in hand paid and the project hereinafter described, party of the first part does grant and convey unto party of the second part, its successors and assigns, the following dedicated Right-of-Way to-wit:

That tract of land lying and being in Land Lot 354 of the 18th District of DeKalb County, Georgia, as described in **Deed Book# 22098 , Page# 35** and more particularly referred to as Brook Run Park. Said land is owned by party of the first part and said party hereby grants party of the second part dedicated Right-of-Way for an Intersection Improvement project along Tilly Mill Road and North Peachtree Road, said Right-of-Way more particularly described in **Exhibit "A", Legal Description**, attached hereto and incorporated herein, and in **Exhibit "B", Project Construction Plans**, attached hereto and incorporated herein.

To have and to hold the bargained premises unto grantee, its successors and assigns forever in fee simple as Right-of-Way.

Party of the first part will forever warrant and defend the title to the bargained premises unto party of the second part, its successors and assigns against the claims of the persons whomsoever.

IN WITNESS WHEREOF, party of the first part has hereunto set its hand and seal the day and year above written.

Signed, sealed and delivered
in the presence of:

Witness

BY: _____ (L.S.)
NAME:

Notary Public

EXHIBIT "A"

RIGHT-OF-WAY LEGAL DESCRIPTION

Beginning at a point 43.280 feet right of Peeler Road at Station 304+46.30 thence along an arc 92.521 feet to the right, having a radius of 499.360 feet, the chord of which is S 25°05'16.0" W for a distance of 92.389 feet, to a point 30.738 feet left of North Peachtree Road at Station 203+35.00 thence N 19°50'05.9" W a distance of 55.094 feet to a point 76.000 feet right of Peeler Road at Station 303+88.93 thence N 40°56'16.2" W a distance of 46.393 feet to a point 41.418 feet right of Peeler Road at Station 303+58.00 thence S 87°55'28.0" E a distance of 88.324 feet to a point 43.280 feet right of Peeler Road at Station 304+46.30 and the POINT OF BEGINNING.

The above described parcel contains ± 0.08 acres (3427.220 sq. ft.)

Please return to:
Miles & Reese, L.L.C.
4360 Chamblee Dunwoody Rd. Suite 400
Atlanta, Ga. 30341
File No. 980039

FILED & RECORDED
DEKALB

MAY 7 12 24 PM '98

CLERK OF SUPERIOR COURT
DEKALB COUNTY, GA.

RECORDED
STATE PROPERTIES COMMISSION

APR 29 1998

009036 204

REAL PROPERTY RECORDS

SHORT FORM LEASE

This SHORT FORM LEASE, dated as of April 29, 1998 between THE STATE OF GEORGIA, acting by and through the State Properties Commission and the Georgia Building Authority (Hospital) ("Landlord"), and DEKALB COUNTY, GEORGIA ("Tenant").

W I T N E S S E T H

1. That the Landlord has granted, bargained, leased and conveyed a leasehold estate to Tenant in that certain parcel of improved real estate (the "Property") being in Dekalb County, Georgia, and more particularly described on Exhibit "A" attached hereto and made a part hereof.

2. Said Lease/Purchase Agreement was executed by the parties on April 17, 1998, and is for a primary term (the "Primary Term") of five (5) years, such term to commence on April 17, 1998.

3. Said Lease Agreement provides the Tenant with the option to purchase the Property on or before the end of the Primary Term upon terms more particularly described in said Lease/Purchase Agreement.

IN WITNESS WHEREOF, the Landlord and Tenant have caused this instrument to be executed on their behalf and their respective seals hereunto affixed as of this 17th day of April, 1998.

LANDLORD:

Signed, sealed and delivered
as to Landlord, in our presence:

Mark H. Cohen
Unofficial Witness

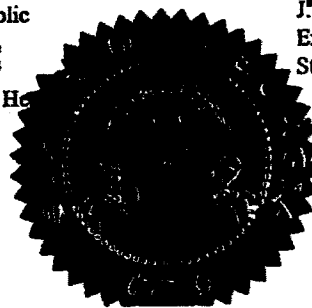
STATE OF GEORGIA
Acting By and Through Its State Properties
Commission

By: [Signature] (Seal)
ZELL MILLER, Governor, as
Chairman of the State Properties
Commission

Attest: [Signature] (Seal)
J. RAY CRAWFORD, JR.
Executive Director
State Properties Commission

Christy R. Bennett
Official Witness, Notary Public

My Commission Expires
Notary Public, Dekalb County, Georgia
My Commission Expires July 17, 1998



Commission Seal Affixed Here
The State of Georgia

BOOK 0083 PAGE 301

009036 204

Signed, sealed and delivered
as to Landlord, in our presence:

Mark H. Miller

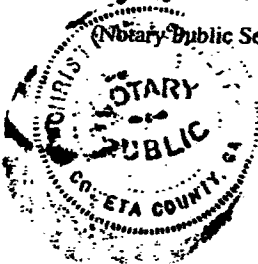
Unofficial Witness

Christy J. Bennett

Official Witness, Notary Public

My Commission Expires:

Notary Public, Coweta County, Georgia
My Commission Expires July 17, 1998



(Notary Public Seal Affixed Here)

GEORGIA BUILDING AUTHORITY
(HOSPITAL)

By: Zell Miller (Seal)

ZELL MILLER, Governor, as
Chairman of the Georgia Building
Authority (Hospital)

Attest: Luther C. Lewis (Seal)

LUTHER C. LEWIS
Executive Director
Georgia Building Authority (Hospital)

(Seal of the State of Georgia Affixed Here)



Signatures continued on following page

Signed, sealed and delivered
as to Tenant, in our presence:

Emme J. Moss
Unofficial Witness

Jim B. Dilley
Official Witness, Notary Public
My Commission Expires:
Notary Public, Gwinnett County, Georgia
My Commission Expires October 9, 1998
(Notary Public Seal Affixed Here)

TENANT:

DEKALB COUNTY, GEORGIA

By: Liane Levitan (Seal)
LIANE LEVETAN
Chief Executive Officer

Attest: Michael J. Bell (Seal)
MICHAEL J. BELL
Ex Officio Clerk of the Chief Executive
Officer and the Board of Commissioners of
DeKalb County, Georgia

APPROVED AS TO FORM:

Jonathan Weintraub
for Jonathan Weintraub
County Attorney

LEGAL DESCRIPTION

PARCEL NO. 1

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 333 AND 334 OF THE 18TH DISTRICT OF DEKALB COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A CORNELL COUNTY MONUMENT WITH DESCRIPTION C-081 THENCE NORTH 20 DEGREES 17 MINUTES 39 SECONDS EAST FOR A DISTANCE OF 2,246.12 FEET TO A IRON PIN SET ON THE SOUTHERLY RIGHT OF WAY OF PEELER ROAD AND THE INTERSECTION OF SAID POINT WITH THE WESTERLY RIGHT OF WAY OF NORTH PEACHTREE ROAD, THIS BEING THE TRUE POINT OF BEGINNING.

THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 486.38 FEET AND AN ARC LENGTH OF 867.78 FEET, BEING SUBTENDED BY A CHORD OF SOUTH 28 DEGREES 40 MINUTES 35 SECONDS WEST FOR A DISTANCE OF 157.13 FEET TO A IRON PIN SET ON THE WESTERLY RIGHT OF WAY OF NORTH PEACHTREE ROAD AND FOLLOWING THE CURVATURE THEREOF.

THENCE SOUTH 33 DEGREES 28 MINUTES 47 SECONDS WEST FOR A DISTANCE OF 62.18 FEET TO A IRON PIN SET.

THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 742.85 FEET AND AN ARC LENGTH OF 486.43 FEET, BEING SUBTENDED BY A CHORD OF SOUTH 19 DEGREES 22 MINUTES 38 SECONDS WEST FOR A DISTANCE OF 472.28 FEET TO A IRON PIN SET.

THENCE SOUTH 01 DEGREES 38 MINUTES 28 SECONDS EAST FOR A DISTANCE OF 186.78 FEET TO A IRON PIN SET ON THE NORTHERLY RIGHT OF WAY OF BARCLAY DRIVE (80' R/W) AND ON THE WESTERLY RIGHT OF WAY OF NORTH PEACHTREE ROAD, THENCE LEAVING SAID RIGHT OF WAY OF NORTH PEACHTREE ROAD ALONG THE NORTHERLY RIGHT OF WAY OF BARCLAY DRIVE.

THENCE SOUTH 88 DEGREES 44 MINUTES 43 SECONDS WEST FOR A DISTANCE OF 336.88 FEET TO A IRON PIN SET.

THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1072.33 FEET AND AN ARC LENGTH OF 116.67 FEET, BEING SUBTENDED BY A CHORD OF SOUTH 83 DEGREES 27 MINUTES 11 SECONDS WEST FOR A DISTANCE OF 116.61 FEET TO A IRON PIN SET.

THENCE NORTH 37 DEGREES 45 MINUTES 03 SECONDS WEST FOR A DISTANCE OF 52.32 FEET TO A IRON PIN SET.

THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 238.73 FEET AND AN ARC LENGTH OF 52.82 FEET, BEING SUBTENDED BY A CHORD OF SOUTH 37 DEGREES 19 MINUTES 45 SECONDS WEST FOR A DISTANCE OF 55.70 FEET TO A IRON PIN SET ON THE NORTH RIGHT OF WAY OF BARCLAY DRIVE (80' R/W).

THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1072.33 FEET AND AN ARC LENGTH OF 122.09 FEET, BEING SUBTENDED BY A CHORD OF SOUTH 72 DEGREES 47 MINUTES 13 SECONDS WEST FOR A DISTANCE OF 121.02 FEET TO A IRON PIN SET.

THENCE SOUTH 70 DEGREES 18 MINUTES 33 SECONDS WEST FOR A DISTANCE OF 545.48 FEET TO A IRON PIN SET.

THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 177.85 FEET AND AN ARC LENGTH OF 289.42 FEET, BEING SUBTENDED BY A CHORD OF SOUTH 30 DEGREES 18 MINUTES 16 SECONDS WEST FOR A DISTANCE OF 244.34 FEET TO A IRON PIN SET.

THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 888.87 FEET AND AN ARC LENGTH OF 342.33 FEET, BEING SUBTENDED BY A CHORD OF SOUTH 25 DEGREES 32 MINUTES 29 SECONDS EAST FOR A DISTANCE OF 338.63 FEET TO A IRON PIN SET.

LEGAL DESCRIPTION

PARCEL NO. 1 CONTINUED

THENCE SOUTH 44 DEGREES 15 MINUTES 42 SECONDS EAST FOR A DISTANCE OF 86.35 FEET TO AN IFF 1" C/P PIPE.

THENCE SOUTH 80 DEGREES 47 MINUTES 20 SECONDS WEST FOR A DISTANCE OF 1734.84 FEET TO AN IFF 1 1/2" REBAR.

THENCE NORTH 23 DEGREES 34 MINUTES 44 SECONDS WEST FOR A DISTANCE OF 82.72 FEET TO AN IFF 1 1/2" REBAR.

THENCE NORTH 01 DEGREES 18 MINUTES 22 SECONDS WEST FOR A DISTANCE OF 206.53 FEET TO A C/P.

THENCE NORTH 01 DEGREES 34 MINUTES 02 SECONDS EAST FOR A DISTANCE OF 206.78 FEET TO AN IRON PIN SET.

THENCE NORTH 00 DEGREES 00 MINUTES 22 SECONDS WEST FOR A DISTANCE OF 304.80 FEET TO A C/P.

THENCE NORTH 01 DEGREES 22 MINUTES 32 SECONDS EAST FOR A DISTANCE OF 488.48 FEET TO A C/P.

THENCE NORTH 01 DEGREES 01 MINUTES 39 SECONDS WEST FOR A DISTANCE OF 388.36 FEET TO A C/P.

THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 5787.11 FEET AND AN ARC LENGTH OF 383.58 FEET, BEING SUBTENDED BY A CHORD OF NORTH 88 DEGREES 30 MINUTES 54 SECONDS EAST FOR A DISTANCE OF 383.58 FEET TO A C/P.

THENCE SOUTH 80 DEGREES 27 MINUTES 21 SECONDS EAST FOR A DISTANCE OF 334.70 FEET TO A C/P.

THENCE SOUTH 88 DEGREES 28 MINUTES 24 SECONDS EAST FOR A DISTANCE OF 383.88 FEET TO A C/P.

THENCE NORTH 01 DEGREES 22 MINUTES 33 SECONDS EAST FOR A DISTANCE OF 388.36 FEET TO AN IFF 1 1/2" REBAR.

THENCE NORTH 75 DEGREES 14 MINUTES 43 SECONDS EAST FOR A DISTANCE OF 415.55 FEET TO A IRON PIN SET ON THE SOUTHERLY RIGHT OF WAY OF PEELER ROAD, AND FOLLOWING THE CURVATURE THEREOF.

THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 2287.24 FEET AND AN ARC LENGTH OF 522.53 FEET, BEING SUBTENDED BY A CHORD OF NORTH 82 DEGREES 22 MINUTES 28 SECONDS EAST FOR A DISTANCE OF 521.29 FEET TO A IRON PIN SET.

THENCE NORTH 88 DEGREES 12 MINUTES 08 SECONDS EAST FOR A DISTANCE OF 481.78 FEET TO A IRON PIN SET.

THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 14823.01 FEET AND AN ARC LENGTH OF 728.08 FEET, BEING SUBTENDED BY A CHORD OF SOUTH 88 DEGREES 21 MINUTES 12 SECONDS EAST FOR A DISTANCE OF 739.00 FEET TO A IRON PIN SET.

THENCE SOUTH 87 DEGREES 55 MINUTES 28 SECONDS EAST FOR A DISTANCE OF 284.17 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY OF PEELER ROAD (70' R/W) AND THE WESTERLY RIGHT OF WAY OF NORTH PEACHTREE ROAD (70' R/W) AND THE TRUE POINT OF BEGINNING.

TOGETHER WITH AND SUBJECT TO COVENANTS, EASEMENTS, AND RESTRICTIONS OF RECORD.

SAID PROPERTY CONTAINS 102.5869 ACRES MORE OR LESS.

LEGAL DESCRIPTION

PARCEL NO. 2

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 334 OF THE 18TH DISTRICT OF DEKALB COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A CORNELL COUNTY MONUMENT WITH DESCRIPTION C-081 THENCE NORTH 24 DEGREES 28 MINUTES 13 SECONDS EAST FOR A DISTANCE OF 1333.80 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY OF BARCLAY DRIVE (80' R/W) AND THE INTERSECTION OF THE WESTERLY RIGHT OF WAY OF NORTH PEACHTREE ROAD (70' R/W).

THENCE SOUTH 86 DEGREES 45 MINUTES 22 SECONDS WEST FOR A DISTANCE OF 304.31 FEET TO A IRON PIN SET ON THE SOUTHERLY RIGHT OF WAY OF BARCLAY DRIVE, THIS BEING THE TRUE POINT OF BEGINNING.

THENCE LEAVING SAID RIGHT OF WAY SOUTH 53 DEGREES 45 MINUTES 07 SECONDS WEST FOR A DISTANCE OF 45.71 FEET TO A IRON PIN SET.

THENCE NORTH 37 DEGREES 44 MINUTES 39 SECONDS WEST FOR A DISTANCE OF 48.88 FEET TO A IRON PIN SET ON THE SOUTHERLY RIGHT OF WAY OF BARCLAY DRIVE.

THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1012.33 FEET AND AN ARC LENGTH OF 42.81 FEET, BEING SUBTENDED BY A CHORD OF NORTH 85 DEGREES 25 MINUTES 00 SECONDS EAST FOR A DISTANCE OF 42.81 FEET TO A IRON PIN SET.

THENCE NORTH 88 DEGREES 45 MINUTES 23 SECONDS EAST FOR A DISTANCE OF 341.14 FEET TO THE TRUE POINT OF BEGINNING.

TOGETHER WITH AND SUBJECT TO COVENANTS, EASEMENTS, AND RESTRICTIONS OF RECORD.

SAID PROPERTY CONTAINS 0.0241 ACRES MORE OR LESS.

BOOK 9983 PAGE 304

009036 244

RECORDED
STATE PROPERTIES COMMISSION

APR 16 2001
009472
REAL PROPERTY RECORDS

Deed Book 12038 Pg 26
Filed and Recorded Apr-20-2001 03:20pm
2001-0047352
Real Estate Transfer Tax \$0.00

Linda Carter

Linda Carter
Clerk of Superior Court DeKalb Cty. Ga.
1000 1000 1000 1000 1000 1000 1000 1000 1000 1000

STATE OF GEORGIA,
COUNTY OF DEKALB

After Filing Please Return To:
County Attorney, DeKalb County, Georgia
The Maloof Building
Law Department, 5th Floor
1300 Commerce Drive
Decatur, Georgia 30030

QUITCLAIM DEED

THIS INDENTURE made and entered into the 16th day of April, 2001, by and between the STATE OF GEORGIA and the GEORGIA BUILDING AUTHORITY (HOSPITAL), jointly acting by and through the State Properties Commission, Suite 204, 1 Martin Luther King, Jr., Drive, SW, Atlanta, Georgia 30334, authorized by Resolution Act 72 (Ga. Laws 1998, Vol. 1, p. 7), as party of the first part, hereinafter called the Grantor, and DEKALB COUNTY, GEORGIA, a political subdivision of the State of Georgia, whose address is The Maloof Building, 1300 Commerce Drive, Decatur, Georgia 30030, ATTN: Chief Executive Officer, as party of the second part, hereinafter called the Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WHEREAS, in March of 1997 Grantee brought suit against Grantor in the Superior Court of Fulton County, Georgia, the same being Case Number E-67520, to recover allegedly unremitted funds collected pursuant to DeKalb County's Homestead Option Sales Tax, in an amount alleged to be in excess of Thirty Million and NO/100 Dollars (\$30,000,000.00), such case involving O.C.G.A. § 48-8-67; and

WHEREAS, the Grantor has denied, and continues to deny, that there are funds unremitted to Grantee in the amounts alleged or in any amount whatsoever and asserts that at all times its conduct has been reasonable, proper and pursuant to the law; and

009472

WHEREAS, in an Acquisition Agreement dated December 18, 1997, Grantor agreed to rent and sell and Grantee agreed to rent and purchase certain property commonly known as Brook Run under terms and conditions set out in that certain Lease/Purchase Agreement between the Grantor and Grantee dated April 17, 1998; and

WHEREAS, since April 17, 1998, Grantee has faithfully and truly performed its obligations under the Lease/Purchase Agreement and is not in default of any of the provisions thereof; and

WHEREAS, the General Assembly, through Resolution Act 72 (Ga. Laws 1998, Vol. 1, p. 7) authorized the terms of the conveyance to DeKalb County and further granted the State Properties Commission to determine such other consideration and require such other provisions as the State Properties Commission in its discretion deemed to be in the best interests of the State of Georgia; and

WHEREAS, DeKalb County has paid to the State of Georgia in three annual payments an amount in excess of \$3,700,000 toward the purchase price of Brook Run; and

WHEREAS, Grantor and Grantee wish to resolve the issues between them in Civil Action E-67520, Fulton County Superior Court, and Grantor has determined, while denying all liability in that action and settling the action to resolve a disputed matter, that the value of such settlement to the State of Georgia is in excess of the Two Million Three Hundred Ninety Three Thousand Three Hundred Eighty and NO/100 Dollars (\$2,393,380.00) remaining to be paid by Grantee on the purchase price of Brook Run; and

WHEREAS, the State Properties Commission met on the 4th day of April, 2001, and approved this deed.

WITNESSETH THAT:

Grantor, for and in consideration of Grantee's dismissal with prejudice of Civil Action E-67520 in the Superior Court of Fulton County, Georgia, at or before the delivery of this Quitclaim Deed and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, by these presents does hereby remise, convey and forever QUITCLAIM unto the Grantee the following:

All that tract or parcel of land lying and being in Land Lots 353 and 354 of the 18th District of DeKalb County, Georgia, and being more particularly described as follows:

009472

length of 342.13 feet, being subtended by a chord of S 25°52'59"E for a distance of 338.63 feet to an iron pin set; thence, S 44°15'42" E for a distance of 89.35 feet to an IPF 1" CT pipe; thence, S 60°47'20" W for a distance of 1,734.94 feet to an IPF ½" rebar; thence, N 29°54'44" W for a distance of 612.72 feet to an IPF ½" rebar; thence, N 01°15'22" W for a distance of 208.53 feet to a CMF; thence, N 01°34'02" E for a distance of 205.78 feet to an iron pin set; thence, N 00°00'22" W for a distance of 504.80 feet to a CMF; thence, N 01°22'52" E for a distance of 459.45 feet to a CMF; thence, N 01°01'39" W for a distance of 380.16 feet to a CMF; thence, along a curve to the right having a radius of 57,670.11 feet and an arc length of 363.56 feet, being subtended by a chord of N 86°50'54" E for a distance of 363.56 feet to a CMF; thence, S 00°27'21" E for a distance of 334.70 feet to a CMF; thence, S 88°26'24" E for a distance of 363.33 feet to a CMF; thence, N 01°22'33" E for a distance of 388.18 feet to an IPF ½" rebar; thence, N 75°14'43" E for a distance of 415.55 feet to an iron pin set on the southern right-of-way of Peeler Road, and following the curvature thereof; thence, along a curve to the right having a radius of 2,187.04 feet and an arc length of 522.53 feet, being subtended by a chord of N 82°22'26" E for a distance of 521.29 feet to an iron pin set; thence, N 89°13'06" E for a distance of 461.79 feet to an iron pin set; thence, along a curve to the right having a radius of 14,822.01 feet and an arc length of 739.08 feet, being subtended by a chord of S 89°21'12" E for a distance of 739.00 feet to an iron pin set; thence, S 87°55'28" E for a distance of 264.17 feet to a point on the southerly right-of-way of Peeler Road (70' R/W) and the westerly right-of-way of North Peachtree Road (70' R/W) and the TRUE POINT OF BEGINNING.

Together with and subject to covenants, easements, and restrictions of record.

Said Parcel No. 1 contains 102.5569 acres, more or less.

and PARCEL NO. 2—

All that tract or parcel of land lying and being in Land Lot 354 of the 18th District of DeKalb County, Georgia, and being more particularly described as follows:

Commencing at a Gwinnett County monument with description G-081; thence, N 24°28'13" E for a distance of 1,333.09 feet to a point on the southerly right-of-way of Barclay Drive (60' R/W) and the intersection of the westerly right-of-way of North

Peachtree Road (70' R/W); thence, S 88°45'22" W for a distance of 304.91 feet to an iron pin set on the southerly right-of-way of Barclay Drive, this being the TRUE POINT OF BEGINNING; thence, leaving said right-of-way S 53°45'07" W for a distance of 114.14 feet to an iron pin set; thence, N 57°44'59" W for a distance of 45.09 feet to an iron pin set on the southerly right-of-way of Barclay Drive; thence, along a curve to the right having a radius of 1,012.33 feet and an arc length of 42.61 feet, being subtended by a chord of N 85°25'00" E for a distance of 42.61 feet to an iron pin set; thence, N 88°45'23" E for a distance of 34.14 feet to the TRUE POINT OF BEGINNING.

Together with and subject to covenants, easements, and restrictions of record.

Said Parcel No. 2 contains 0.0241 acres more or less.

This conveyance is made upon the following conditions:

1. The above-described property shall be used only for parks and recreation purposes, public education purposes, and public cultural purposes, or any combination thereof by DeKalb County, but any assignee of DeKalb County is limited to one of the specified uses and not a combination of uses.
2. No less than seventy percent (70%) of the above-described property shall be maintained as urban greenspace.
3. The above-described property, neither as a whole nor any subdivided portion, may be sold, leased, licensed or otherwise assigned without the expressed written consent of the Georgia State Properties Commission, which consent shall be given or not in the sole and absolute discretion of the State Properties Commission. Any sale, lease, license or other assignment made without the consent of the State Properties Commission shall be void *ab initio*. This provision shall not prohibit the County's allowing other parties to use the above-described property, or any portion thereof, on a short term basis, but only as a part of the County's use of the Property for parks and recreation purposes, public education purposes, public cultural purposes, or any combination thereof.
4. The Grantee, its successors and assigns, are responsible for all necessary licenses and permits for the construction and implementation of the approved conceptual plan attached as Exhibit "C" to the December 18, 1997, Acquisition Agreement between Grantor and Grantee, including, but not limited to, that portion which may lie within the

Linda Carter
Clerk of Superior Court Dekalb Cty. Ga.