

IN THE SUPERIOR COURT OF DEKALB COUNTY
STATE OF GEORGIA

DeKalb County, Georgia,)	
)	
Petitioner/Condemnor,)	
)	CAFN: _____
v.)	Parcel: 5
)	PI: 0024-03
Certain Easement Rights; and Phyu P. Mint; City of)	Judge: _____
Tucker, Georgia; Hon. Bedelia C. Hargrove, Judge,)	Pay-in: \$4,600.00
DeKalb County Probate Court; Irvin J. Johnson,)	
DeKalb County Tax Commissioner; and any and all)	
others having or claiming an interest in the herein)	
described lands, individually,)	
)	
Respondents/Condemnees.)	

DECLARATION OF TAKING

WHEREAS, DeKalb County, Georgia owns and operates a sanitary sewage collection and treatment and wastewater system and entered a Resolution and Order finding that the circumstances in connection with acquiring certain easements and rights for public sanitary sewer and wastewater purposes to install, inspect, operate, replace, construct, repair and maintain sewer and wastewater infrastructure as part of its capital improvement project known as Consent Decree – Gravity Sewer System Rehabilitation and Replacement Project are such that it is necessary to acquire the title, estate or interest in the lands as fully described in said Resolution and Order, a certified copy of which is attached to this Declaration identified as Appendix A and made a part hereof, under the Official Code of Georgia Annotated Sections 22-3-140 and 32-3-1 et seq.; and

WHEREAS, DeKalb County, Georgia finds the circumstances of this case make it necessary to employ the declaration of taking method as Condemnor believes the title of the apparent owner is defective, doubtful, incomplete, or in controversy, or that there are or may be unknown persons or nonresidents who have or may have some claim or demand thereon, or that

there are taxes due or that should be paid thereon, or that it is desirable to have a quick and effective judicial ascertainment of any question connected with Condemnor's acquisition of the property described herein by the exercise of the power of eminent domain including, but not limited to, a judicial ascertainment of the just and adequate compensation Condemnor shall pay, and a judicial ascertainment of what person or persons are entitled to such compensation; and

WHEREAS, said interests in property and easements are for public sanitary sewer and wastewater purposes described in Appendix A upon, across, and over the tract of land in said County as fully described in the attachment hereto identified as Appendix B and made a part hereof; and

WHEREAS, DeKalb County, Georgia caused an investigation and report to be made by a competent, state-licensed and independent land appraiser, upon which to estimate the sum of money to be deposited in the Court as just and adequate compensation for the 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 hereto, DeKalb County, Georgia estimates FOUR THOUSAND SIX HUNDRED and 0/100 Dollars (\$4,600.00) as just and adequate compensation to be paid for said easements and rights as fully described in Appendix A to Exhibit A, attached hereto, and now deposits said sum in the Court, to the use of the persons entitled hereto; and

WHEREAS, the property interests to be condemned and as herein described and identified in the Petition, attachments or below, are essential for the project's construction and maintenance; and

WHEREAS, to maintain a projected schedule of construction, it is necessary that the

property herein described be acquired without delay.

NOW, THEREFORE, the premises considered, DeKalb County, Georgia, under authority of the Official Code of Georgia Annotated Sections 22-3-140 and 32-3-1 et seq., hereby declares that it is necessary that the property or interest therein as described in Appendix B, attached to and a part of this Declaration, be acquired by condemnation and for the purposes described in Appendix A and that said property or interest therein as described is necessary for the construction and maintenance for the aforesaid public project.

DeKalb County, Georgia, through its Board of Commissioners and Chief Executive Officer, has authorized the acquisition of the title, estate or interest in the lands described herein 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's Registry the sum estimated as just and adequate compensation, all in accordance with the law. Let there be attached hereto as Appendix A to this Declaration of Taking the Resolution and Order of the DeKalb County Board of Commissioners finding that the circumstances are such that it is necessary to proceed in this particular case under the provisions of Article 1, Chapter 3, Title 32, Official Code of Georgia Annotated and as further set forth in Article 140, Chapter 3, Title 22 Official Code of Georgia Annotated.

ADOPTED by the DeKalb County Board of Commissioners this ____ day of _____, 2025.

**DEKALB COUNTY
BOARD OF COMMISSIONERS**

MICHELLE LONG SPEARS

Presiding Officer
Board of Commissioners

DeKalb County, Georgia

Approved by the Chief Executive Officer of DeKalb County, Georgia this __ day of _____, 2025.

LORRAINE COCHRAN-JOHNSON

Chief Executive Officer
Board of Commissioners
DeKalb County, Georgia

Attest:

BARBARA H. SANDERS, CCC

Clerk to the Board of Commissioners
and Chief Executive Officer
DeKalb County, Georgia

Appendix A to Exhibit A

Resolution and Order of the DeKalb County Board of Commissioners

**RESOLUTION AND ORDER OF THE DEKALB COUNTY BOARD OF
COMMISSIONERS AUTHORIZING CONDEMNATION BY DECLARATION OF
TAKING METHOD PURSUANT TO O.C.G.A. §§ 22-3-140 and 32-3-1, ET SEQ. OF
CERTAIN PROPERTY SITUATED IN DEKALB COUNTY, GEORGIA,
FOR PUBLIC SANITARY SEWER COLLECTION AND TREATMENT AND
WASTEWATER 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, DeKalb County, Georgia has determined it necessary to inspect, repair, replace, construct and maintain a certain public sanitary sewer line or line(s), as part of a capital improvement project known as Consent Decree - Gravity Sewer System Rehabilitation and Replacement Project, and being more fully shown on a map and drawing on file in the office of the DeKalb County Watershed Management; and

WHEREAS, Section 140 of Chapter 3 of Title 22 and Section 1 of Chapter 3 of Title 32 of the Official Code of Georgia Annotated and the latter's subsequent sections authorized DeKalb County, Georgia to file a condemnation proceeding *in rem* under a method known as the Declaration of Taking to acquire certain private property interests for public sanitary sewage collection and treatment service and water and wastewater service purposes upon payment of just and adequate compensation therefore to the person(s) entitled to such payment upon the CEO and Board of Commissioner's finding that circumstances are appropriate and necessary for the use of said method; and

WHEREAS, the CEO and Board of Commissioners of DeKalb County, Georgia find and believe the circumstances are appropriate for the use of the Declaration of Taking method to

acquire property for public sanitary sewage collection and treatment and wastewater service purposes from property shown as project Parcel 5 for PI Number 0024-03 for one or more reasons as set forth in the above-mentioned code sections as the same may be amended from time to time, including, but not limited to, a desire in the interests of justice to have judicial ascertainment of any and all questions connected with the condemnation.

WHEREAS, to maintain DeKalb County, Georgia's projected schedule of said installation, inspection, maintenance, operation, repair, replacement and construction of said sanitary sewer and wastewater infrastructure, it is necessary that the easements for said project be acquired without delay; and

WHEREAS, the easements and other rights as herein described and as listed below, shown of record as owned by the person named herein, all as described and shown in the annexes/exhibits to this Resolution and Order hereinafter enumerated, all of said annexes/exhibits, being by reference made a part of this Resolution and Order, are essential for the construction of said project:

Certain Easement Rights:	1,655 sf of permanent sewer easement 2,278 sf of temporary construction easement
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Appendix A – Annex I -	Legal Description
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Appendix A – Annex II -	Plat
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Owner(s):	Phyu P. Myint; City of Tucker, Georgia; Hon. Bedelia C. Hargrove, Judge DeKalb County Probate Court; Irvin J. Johnson, DeKalb County Tax Commissioner; and any and all others having or claiming interest therein in the described lands, individually.
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NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED, the CEO and Board of

Commissioners of DeKalb County, Georgia finds that the circumstances are such that it is necessary that the easements, as described in the annexes/exhibits to this Resolution and Order, be acquired by condemnation under the provisions of the Official Code of Georgia Annotated Sections 22-3-140 and 32-3-1 et seq. for public sanitary sewer collection and treatment and water and wastewater purposes; and

IT IS ORDERED that DeKalb County, Georgia and the DeKalb County Attorney, or his/her designee or outside counsel, proceed to acquire the title, estate or interest in the lands hereinafter described in the Exhibits to this Resolution and Order by condemnation under the provisions of said Code for the aforesaid public purpose, and that DeKalb County, Georgia's attorneys, or its assignees, are authorized and directed to file condemnation proceedings, including a Declaration of Taking, to acquire said easements, estate or interest in said lands and to deposit in the Court the sum of \$4,600.00, said sum representing the estimated just compensation, all in accordance with the provisions of said Code, and that the Presiding Officer or the Chief Executive Officer is authorized to execute this Resolution and Order and any documents and/or pleadings required for the proper filing under the aforementioned Code including, but not limited to, a Declaration of Taking and any other documents necessary to effectuate the same.

[Signature Page Follows]

SO ORDERED by the DeKalb County Board of Commissioners this ____ day of March,
2025.

MICHELLE LONG SPEARS

Presiding Officer
Board of Commissioners
DeKalb County, Georgia

Approved by the Chief Executive Officer of DeKalb County, Georgia this __ day of
_____, 2025.

LORRAINE COCHRAN-JOHNSON

Chief Executive Officer
Board of Commissioners
DeKalb County, Georgia

Attest:

BARBARA H. SANDERS, CCC

Clerk to the Board of Commissioners
and Chief Executive Officer DeKalb County, Georgia

Annex I of Appendix A of Exhibit A

Legal Description

PROJECT: Consent Decree - Gravity Sewer System Rehabilitation and Replacement Project
PI NO.: 0024-03
PARCEL NO: 5 (1558 Brockett Road) (TPID 18 167 01 075)
INTERESTS: Certain easement rights
DATE OF PLANS: February 16, 2024
Property Owner(s): Phyu P. Myint; City of Tucker, Georgia; Hon. Bedelia C. Hargrove, Judge DeKalb County Probate Court; Irvin J. Johnson, DeKalb County Tax Commissioner; and any and all others having or claiming interest therein in the described lands, individually

All that tract or parcel lying in Land Lots 166 and 167 of the 18th District of DeKalb County, Georgia being more particularly described as follows:

Permanent Sewer Easement (1,655 sf or 0.038 acres)

COMMENCING AT NGS MONUMENT STONE MOUNTAIN RESET; THENCE N 71° 30' 09" W FOR A DISTANCE OF 27348.21 FEET TO THE **POINT OF BEGINNING (POB PE)**. THENCE S 46° 44' 42" E FOR A DISTANCE OF 20.68 FEET TO A POINT; THENCE S 18° 35' 33" W FOR A DISTANCE OF 109.15 FEET TO A POINT; THENCE N 46° 20' 39" W FOR A DISTANCE OF 12.75 FEET TO A POINT; THENCE N 14° 54' 27" E FOR A DISTANCE OF 112.60 FEET TO THE **POINT OF BEGINNING**.

Said tract or parcel of land containing 1,655 square feet or 0.038 acres more or less.

Said permanent sewer easement is being acquired for the purpose of constructing, installing, inspecting, maintaining, operating, repairing, and replacing sanitary sewer infrastructure for public sanitary sewer treatment and collection and wastewater purposes, including the right to access, ingress and egress the easement area for the aforementioned purpose and along with the right to clear, and keep clear and to remove all undergrowth, tree and other obstructions, objects and structures from, or, over and across said easement area that interfere with, injure or endanger the construction, installation, inspection, maintenance, operation, repair and replacement of the sanitary sewer and wastewater infrastructure. The owner of the land and the successors thereof may use the easement areas provided that such use is not inconsistent with the rights acquired hereby and that such uses do not interfere with, injure or endanger the construction, installation, inspection, maintenance, operation, repair and replacement of the sanitary sewer and wastewater infrastructure, which prohibitions shall include, but are not limited to, grading, adding or moving dirt on, over or across the easement area or creating conditions on the surface whereby standing water would accumulate upon, over and across the easement area without prior permission from Petitioner.

Temporary Construction Easement #1 (234 sf or 0.005 acres)

COMMENCING AT NGS MONUMENT STONE MOUNTAIN RESET; THENCE N 71° 40' 53" W FOR A DISTANCE OF 27364.70 FEET TO THE **POINT OF BEGINNING (POB TE1)**. THENCE S 71° 24' 27" E FOR A DISTANCE OF 11.69 FEET TO A POINT; THENCE S 14° 54' 27" W FOR A DISTANCE OF 22.13 FEET TO A POINT; THENCE N 46° 20' 39" W FOR A DISTANCE OF 14.48 FEET TO A POINT; THENCE N 18° 35' 33" E FOR A DISTANCE OF 15.95 FEET TO THE **POINT OF BEGINNING**.

Said tract or parcel containing 234 square feet or 0.005 acres more or less.

Temporary Construction Easement #2 (2,044 sf or 0.047 acres)

COMMENCING AT NGS MONUMENT STONE MOUNTAIN RESET; THENCE N 71° 33' 00" W FOR A DISTANCE OF 27299.47 FEET TO THE POINT OF BEGINNING (POB TE2). THENCE S 18° 35' 33" W FOR A DISTANCE OF 61.22 FEET TO A POINT; THENCE N 71° 24' 27" W FOR A DISTANCE OF 30.00 FEET TO A POINT; THENCE N 18° 35' 33" E FOR A DISTANCE OF 75.09 FEET TO A POINT; THENCE S 46° 36' 09" E FOR A DISTANCE OF 33.05 FEET TO THE POINT OF BEGINNING.

Said tract or parcel containing 2,044 square feet or 0.047 acres more or less.

Said temporary construction easements are being acquired for the purpose of constructing, installing, inspecting, maintaining, operating, repairing and replacing sanitary sewer infrastructure for public sanitary sewer treatment and collection and wastewater purposes, including the right to access, ingress and egress the easement area for the aforementioned purpose and along with the right to clear, and keep clear and to remove all undergrowth, tree and other obstructions, objects and structures from, or, over and across said easement area that interfere with, injure or endanger the construction, installation, inspection, maintenance, operation, repair and replacement of the sanitary sewer and wastewater infrastructure. The owner of the land and the successors thereof may use the easement areas provided that such use is not inconsistent with the rights acquired hereby and that such uses do not interfere with, injure or endanger the construction, installation, inspection, maintenance, operation, repair and replacement of the sanitary sewer and wastewater infrastructure, which prohibitions shall include, but are not limited to, grading, adding or moving dirt on, over or across the easement area or creating conditions on the surface whereby standing water would accumulate upon, over and across the easement area without prior permission from Petitioner. Said temporary construction easements are for a consecutive twelve (12)-month period between the date of filing the Declaration of Taking and December 31, 2026 and commences 30 days following certified mailing of the written notice of commencement of temporary construction easement to the property owner.

Annex II of Appendix A of Exhibit A

Plat

GEORGIA, DEKALB COUNTY

I, Barbara H. Sanders, do hereby certify that I am the Clerk of the DeKalb County Board of Commissioners.

I further certify that the foregoing ___ pages constitute a true and correct exact copy of a Resolution and Order of the DeKalb County Board of Commissioners entered on the ____ day of _____, 2025 as the same applies to the tract or parcel of land described in said ___ pages; and the original of said Resolution and Order is on file at my office at 1300 Commerce Drive, Decatur, Georgia.

Given under my hand and the Seal of the DeKalb County, Georgia Board of Commissioners, this ____ day of _____, 2025.

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

Appendix B to Exhibit A

Description of Property from which Certain Easements are Taken

PROJECT: Consent Decree - Gravity Sewer System Rehabilitation and Replacement Project

PI NO.: 0024-03

PARCEL NO: 5 (1558 Brockett Road) (TPID 18 167 01 075)

Property Owner(s): Phyu P. Myint; City of Tucker, Georgia; Hon. Bedelia C. Hargrove, Judge DeKalb County Probate Court; Irvin J. Johnson, DeKalb County Tax Commissioner; and any and all others having or claiming interest therein in the described lands, individually

Said easements as described in Annex I of Appendix A to Exhibit A are for public sanitary sewage collection and treatment and wastewater purposes, across and over certain tracts of land located in Land Lot(s) 166 and 167 of the 18th Land District of DeKalb County. Said tract of land, being identified by tax parcel ID number 18 167 01 075 and project parcel number 5, consisting of approximately 0.7 acres.

Appendix C to Exhibit A

Appraiser's Certificate

GEORGIA, DEKALB COUNTY

Personally comes, **Cynthia K. Milner** residing at _____.

1. DEKALB COUNTY, GEORGIA employed Affiant to appraise Parcel No. 5 and the EASEMENT RIGHTS required for construction of the Consent Decree – Gravity Sewer System Rehabilitation and Replacement Project in DeKalb County, Georgia. Affiant makes this sworn statement to be used in connection with condemnation proceedings under the Official Code of Georgia Annotated Sections 22-3-140 and 32-3-1 et seq. 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 the 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 for said parcel, and any consequential damages or benefits considered is in the amount of \$4,600.00.

Sworn to and subscribed before me,
This ____ day of _____, 2025.

Appraiser Signature

NOTARY PUBLIC
My Commission Expires: _____