

**A RESOLUTION BY
THE GOVERNING AUTHORITY OF DEKALB COUNTY, GEORGIA,
DECLARING THE PROPERTY LOCATED AT 5932 E PONCE DE LEON
AVENUE, STONE MOUNTAIN, GEORGIA AS SURPLUS AND AUTHORIZING
SALE TO AN ABUTTING PROPERTY OWNER**

WHEREAS, the Governing Authority of DeKalb County, Georgia has control over all property owned and used by the County and may, by order entered on its minutes, direct the disposal of any such property on behalf of the County; and

WHEREAS, in accordance with O.C.G.A. § 36-9-3, the governing authority of any county disposing of real property generally makes such sales to the highest responsible bidder, either by sealed bids or by auction after due notice has been given; and

WHEREAS, O.C.G.A. § 36-9-3(h) provides that a county governing authority is authorized to sell and convey parcels of small or narrow strips of land, so shaped or so small as to be incapable of being used independently as zoned or under applicable subdivision or other development ordinances or land use plans, or as streets, whether owned in fee or used by easement, to abutting property owners where such sales and conveyances facilitate the enjoyment of the highest and best use of the abutting owner's property without first submitting the sale or conveyance to the process of an auction or the solicitation of sealed bids; and

WHEREAS, O.C.G.A. § 36-9-3(h) further provides that each that each abutting property owner shall be notified of the availability of the property and shall have the opportunity to purchase said property under such terms and conditions as set out by ordinance; and

WHEREAS, the Code of DeKalb County, as revised 1988 ("DeKalb County Code") provides for the disposition of county owned strips of land incapable of being used independently and DeKalb County Code Sec. 2-181 provides for the sale of such property to abutting landowners as long as the sale complies with the following requirements:

- (1) The planning director shall make a written determination that the real property to be conveyed is so small, narrow or shaped that it is incapable of being used independently given its zoning or provisions of applicable subdivision or other development ordinances or land use plans; and
- (2) The real property shall be surveyed by the county, and the county shall perform an appraisal to determine the fair market value of the property; and
- (3) The sale or conveyance complies with all applicable requirements of Georgia law including any requirements set forth in O.C.G.A. § 36-9-3, and as hereinafter may be amended; and
- (4) The planning director's written determination, the county's survey and appraisal shall be presented to the governing authority in an appropriate manner as authorized by state law, for a determination whether to authorize staff to proceed

to sell the property to the abutting property owners and to impose such conditions on the sale as desired by the governing authority; and

(5) If so authorized by the governing authority, each abutting property owner shall be notified in writing by the purchasing director of the availability of the property and shall have the opportunity to purchase said property under the terms and conditions imposed by the governing authority; and

(6) In the event the sale is authorized, the purchaser or purchasers shall pay no less than fair market value for the property and the fair market value shall be solely determined by the appraisal performed by the county; and

(7) In the event a sale occurs, the purchaser or purchasers shall reimburse the county for all due diligence costs incurred by the county in conducting such a sale of property, including but not limited to the county's attorney's fees, closing costs, survey costs and appraisal costs.

WHEREAS, DeKalb County owns the real property located at 5932 East Ponce de Leon Avenue, Stone Mountain, Georgia and has complied with the requirements of DeKalb County Code Sec. 2-181 related to selling this property to an abutting property owner and the following are attached to this Resolution: (1) The Planning Director's written determination related to 5932 East Ponce de Leon Avenue as Exhibit A, (2) The survey of 5932 East Ponce de Leon Avenue as Exhibit B and (3) The appraisal performed to determine the fair market value of 5932 East Ponce de Leon Avenue as Exhibit C.

WHEREAS, the Governing Authority of DeKalb County has determined that it is in the best interest of the public to declare the real property located at 5932 East Ponce de Leon Avenue, Stone Mountain, Georgia as surplus and sell it to an abutting property owner pursuant to O.C.G.A. § 36-9-3(h) and DeKalb County Code Sec. 2-181.

NOW, THEREFORE, BE IT RESOLVED, by DeKalb County's Governing Authority as follows:

1. The County shall dispose of the Property as provided in O.C.G.A. § 36-9-3(h) and DeKalb County Code Sec. 2-181, and the purchasing director shall notify each abutting property owner in writing of the availability of the property and each abutting property owner shall have the opportunity to purchase said property.
2. In the event the sale is authorized, the purchaser or purchasers shall pay no less than fair market value for the property and the fair market value shall be solely determined by the appraisal performed by the county.
3. In the event a sale occurs, the purchaser or purchasers shall reimburse the county for all due diligence costs incurred by the county in conducting such a sale of property, including but not limited to the county's attorney's fees, closing costs, survey costs and appraisal costs.

4. Nothing herein shall be construed to deprive any person or other legal entity of any private rights to the Property which have been acquired according to any recorded plat or to affect any existing easements upon, over, across and under the Property for stormwater, water, sewer, utilities or other purposes, held by DeKalb County, or other persons or legal entities.
5. Provided further that the County hereby reserves for itself, its successors and assigns an easement upon, over, across and under the Property for the pipes, collection, direction, concentration, discharge, ponding or retention of rain waters, surface waters or other waters from the roads, streets, alleys, parks, lots, ditches, culverts, drains, lakes, rivers, streams, ponds and properties of DeKalb County, Georgia, or other properties devoted to a public use;
6. The Chief Executive Officer is authorized to execute all necessary documents.

ADOPTED by the DeKalb County Board of Commissioners, this _____ day of _____, 2020.

STEVE BRADSHAW
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County this _____ day of _____, 2020.

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

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

APPROVED AS TO SUBSTANCE:



STACY GREAR

Director

Geographical Information System Department

DeKalb County, Georgia

APPROVED AS TO FORM:

VIVIANE H. ERNSTES

County Attorney

Law Department

DeKalb County, Georgia