

RESOLUTION

A RESOLUTION AUTHORIZING THE EXERCISE OF THE DEKALB COUNTY POWERS OF EMINENT DOMAIN IN THE ACQUISITION OF CERTAIN INTERESTS IN PROPERTY SITUATED IN DEKALB COUNTY, GEORGIA FOR TRANSPORTATION 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, the governing authority of DeKalb County, Georgia, a political subdivision of the State of Georgia, has determined that the circumstances of this matter are such that there is a necessity for exercising its powers of eminent domain pursuant to O.C.G.A. § 32-3-1 *et seq.* in the acquisition of certain interests in property for county transportation purposes:

NOW THEREFORE, BE IT AND IT IS HEREBY RESOLVED, that the DeKalb County Attorney, or her designee, is ordered and directed to institute proceedings in rem pursuant to O.C.G.A. § 32-3-1 *et seq.* in the DeKalb County Superior Court in order to condemn that certain property and interests therein more particularly described in Exhibit "A" which is attached hereto and made a part hereof by reference as though fully set forth at this point, all to the use of DeKalb County, said property now or formerly vested in Joseph C. Gargiulo, as well as his successors or assigns. It is further resolved that payment of just and adequate compensation in the amount of Twenty Thousand and Ninety Dollars (\$20,090.00) be made to the person or persons entitled to such payment. The Chief Executive Officer or the Presiding Officer may sign any documents and/or pleadings required for proper filing under the aforementioned code sections, including, but not limited to, a Declaration of Taking and Order of the Board of Commissioners.

ADOPTED by the DeKalb County Board of Commissioners this _____ day of

_____, 2020.

DEKALB COUNTY BOARD OF COMMISSIONERS:

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

APPROVED AS TO FORM:



Ashley C. Brown

Ga. Bar No. 287373

CAPLAN COBB LLP

75 Fourteenth Street, NE, Suite 2750

Atlanta, Georgia 30309

Tel: (404) 596-5600

Fax: (404) 596-5604

abrown@caplancobb.com

Counsel for DeKalb County, Georgia

Intersection Improvements – Parcel 83
Project: STP00-0002-00(669)

Parcel 83

(Tax ID #15-248-22-006)

Joseph C. Gargiulo

2774 East College Avenue

Decatur, GA 30030

EXHIBIT A

DECLARATION OF TAKING

WHEREAS, DeKalb County, Georgia has made and passed a Resolution, and entered an Order, finding that the circumstances in connection with acquiring certain interests in property and easements for public (county) transportation purposes are such that it is necessary to acquire title, estate, or interest in the lands fully described in said Order to condemn contained in the Resolution. The Order is attached to this Declaration as Appendix A and made a part hereof, under O.C.G.A. § 32-3-1 *et seq.*; and

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

WHEREAS, DeKalb County, Georgia has caused an investigation and report to be made by a competent 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-referenced 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 to Exhibit A, DeKalb County, Georgia estimates Twenty Thousand and Ninety Dollars (\$20,090.00) as just and adequate compensation to be paid for said easements, as fully described in Appendix B to Exhibit A which is attached hereto and made a part hereof and now deposits said sum in the Court to the use of the persons entitled thereto.

NOW THEREFORE, the premises considered, DeKalb County, Georgia, under authority of O.C.G.A. § 32-3-1 *et seq.*, hereby declares that the property and interests as

Intersection Improvements – Parcel 83
Project: STP00-0002-00(669)

described in Appendix B to Exhibit A, which is attached hereto and made a part hereof of this Declaration, is taken for purposes of locating, constructing, maintaining, repairing, extending, expanding, and/or installing a traffic signal upgrades for public (county) transportation purposes.

DEKALB COUNTY BOARD OF COMMISSIONERS:

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

APPROVED AS TO FORM:



Ashley C. Brown

Ga. Bar No. 287373

CAPLAN COBB LLP

75 Fourteenth Street, NE, Suite 2750

Atlanta, Georgia 30309

Tel: (404) 596-5600

Fax: (404) 596-5604

abrown@caplancobb.com

Counsel for DeKalb County, Georgia

Intersection Improvements – Parcel 83
Project: STP00-0002-00(669)

Exhibit A

Appendix A (Order to Condemn)

**ORDER OF THE DEKALB COUNTY BOARD OF COMMISSIONERS
TO CONDEMN PROPERTY FOR TRANSPORTATION PURPOSES**

WHEREAS, the Board of Commissioners of DeKalb County has laid out and determined to construct a public transportation project for DeKalb County at that certain parcel identified for tax purposes as parcel identification number 15-248-22-006 by the DeKalb County Board of Tax Assessors, the same being more fully described and shown in the description and drawing attached as Appendix B to the Declaration of Taking.

WHEREAS, the tract of property and other rights as herein described and listed below shown of record as owned by the persons named herein, all as described and shown in Appendix B to the Declaration of Taking (Exhibit A to the Petition for Condemnation) incorporated herein by reference and made a part of this Order are essential for the construction of said project:

Property/Rights:	350.99 Square Feet in Fee Simple 190.70 Square Feet of Temporary Construction Easement
------------------	---

Owner:	Joseph C. Gargiulo
--------	--------------------

NOW THEREFORE, in accordance with O.C.G.A. § 32-3-6 *et seq.*, it is hereby found by the Board of Commissioners of DeKalb County that the circumstances are such that it is necessary that the property as described in Appendix B to Exhibit A of the Declaration of Taking (Exhibit A to the Petition for Condemnation) be acquired by condemnation under the provisions of O.C.G.A. § 32-3-1 *et seq.* for public transportation purposes.

IT IS ORDERED, that DeKalb County proceed to acquire the title, estate or interest in the lands hereinafter described as Appendix B of the Declaration of Taking by condemnation under the provisions of said Code, and the County Attorney, or his or her designees, are

Intersection Improvements – Parcel 83
Project: STP00-0002-00(669)

authorized and directed to file condemnation proceedings, including, but not limited to, a Declaration of Taking, to acquire said title, estate or interest in said lands and to deposit in the Court the sum estimated as just compensation all in accordance with the provisions of said law.

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

DEKALB COUNTY BOARD OF COMMISSIONERS:

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

Intersection Improvements – Parcel 83
Project: STP00-0002-00(669)

APPROVED AS TO FORM:



Ashley C. Brown
Ga. Bar No. 287373
CAPLAN COBB LLP
75 Fourteenth Street, NE, Suite 2750
Atlanta, Georgia 30309
Tel: (404) 596-5600
Fax: (404) 596-5604
abrown@caplancobb.com

Counsel for DeKalb County, Georgia

Intersection Improvements – Parcel 83
Project: STP00-0002-00(669)

Exhibit A

Appendix B (Property Description)

EXHIBIT "A"

REQUIRED RIGHT OF WAY

PROJECT NO.: STP00-0002-00(669), DEKALB COUNTY

P. I. NO.: 0002669

JOSEPH C. GARGIULO

PARCEL NO.: 83

TAX PARCEL ID #15-248-22-006

All that tract or parcel of land lying and being in Land Lot 248 of the 15th Land District of DeKalb County, Georgia, being more particularly described as follows:

Beginning at a point 38.22 feet left of and opposite Station 820+73.40 on the centerline of E. College Ave;

Thence proceeding N 85° 00' 14" E for a distance of 40.89 feet to a point 38.01 feet left of and opposite Station 821+14.29 on the centerline of E. College Ave;

Thence proceeding S 13° 48' 19" E for a distance of 8.42 feet to a point 29.68 feet left of and opposite Station 821+15.53 on the centerline of E. College Ave;

Thence proceeding S 84° 38' 27" W for a distance of 42.13 feet to a point 29.63 feet left of and opposite Station 820+73.40 on the centerline of E. College Ave;

Thence proceeding N 5° 18' 32" W for a distance of 8.59 feet to a point 38.22 feet left of and opposite Station 820+73.40 on the centerline of E. College Ave back to the **POINT OF BEGINNING**, containing 350.99 square feet (0.008 acres) more or less.

Said described land being fee simple and shown on the attached Right of Way Maps, prepared by AECOM dated October 5, 2007 and revised September 25, 2014 is made a part hereof and by reference.

EXHIBIT "A"

TEMPORARY CONSTRUCTION EASEMENT
PROJECT NO.: STP00-0002-00(669), DEKALB COUNTY
P. I. NO.: 0002669
JOSEPH C. GARGIULO
PARCEL NO.: 83
TAX PARCEL ID #15-248-22-006

All that tract or parcel of land lying and being in Land Lot 248 of the 15th Land District of DeKalb County, Georgia, being more particularly described as follows:

BEGINNING at a point 34.00 feet left of and opposite Station 820+30.00 on the centerline of E. College Ave;

Thence proceeding N 84° 42' 42" E for a distance of 43.40 feet to a point 34.00 feet left of and opposite Station 820+73.40 on the centerline of E. College Ave;

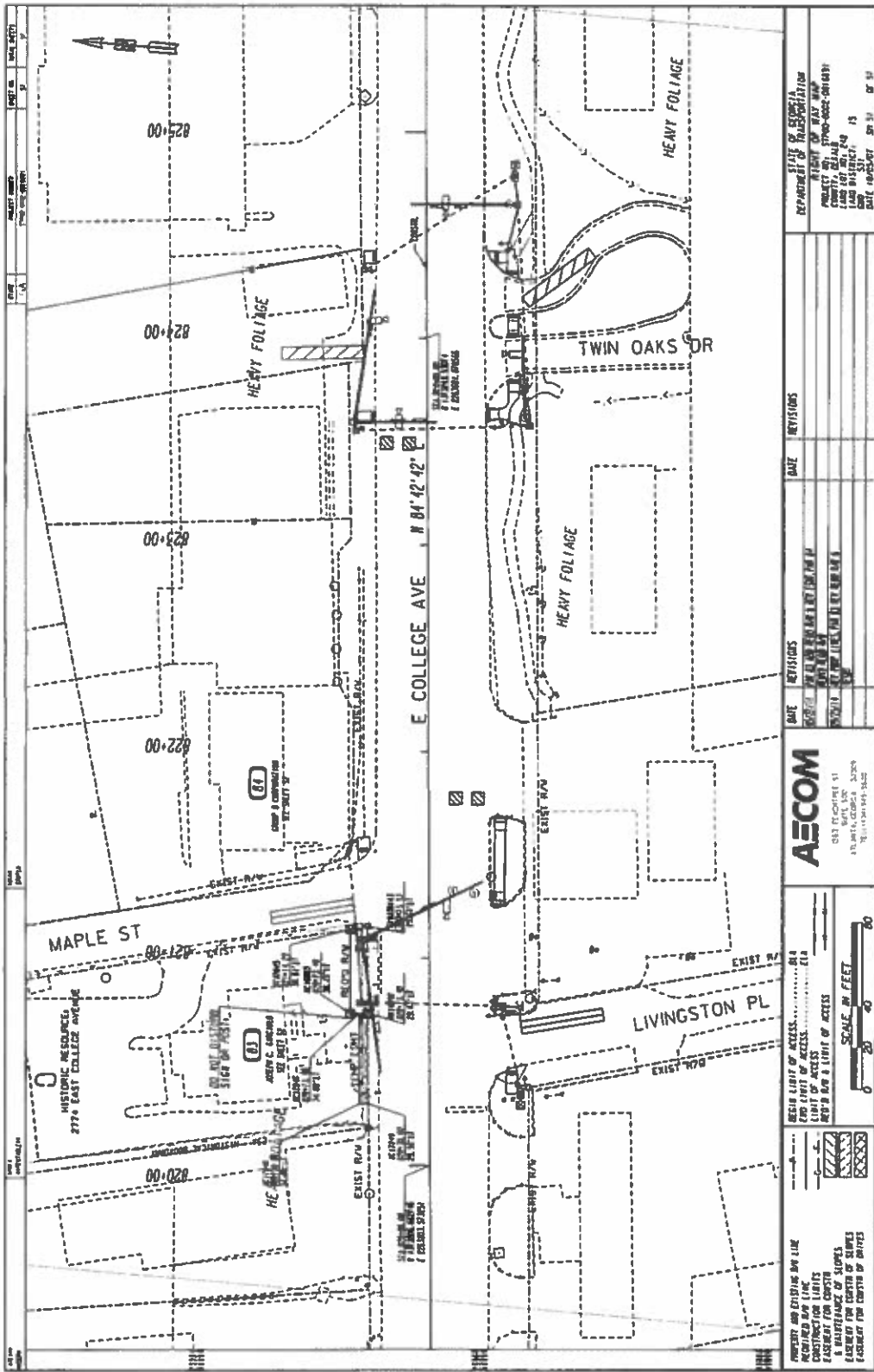
Thence proceeding S 5° 19' 43" E for a distance of 4.37 feet to a point 29.63 feet left of and opposite Station 820+73.40 on the centerline of E. College Ave;

Thence proceeding S 84° 38' 27" W for a distance of 43.40 feet to a point 29.58 feet left of and opposite Station 820+30.00 on the centerline of E. College Ave;

Thence proceeding N 5° 19' 49" W for a distance of 4.42 feet to a point 34.00 feet left of and opposite Station 820+30.00 on the centerline of E. College Ave and back to the **POINT OF BEGINNING**, containing 190.70 square feet (0.004 acres) more or less.

Said described land being a temporary construction easement and shown on the attached Right of Way Maps prepared by AECOM dated October 5, 2007 and revised September 25, 2014 is made a part hereof by reference.

02/02/14/fe
 CHH



<p>PROPERTY AND EXISTING R/W LINE UNIMPROVED LOT LINES EXISTING LOT LINES EASEMENT FOR CONDUIT EASEMENT FOR CONDUIT OF SLOPES EASEMENT FOR CONDUIT OF SLOPES EASEMENT FOR CONDUIT OF SLOPES</p>		<p>SCALE IN FEET </p>	
<p>BEGIN LIGHT OF ACCESS 014 END OF LIGHT OF ACCESS 014 LIMIT OF ACCESS 014 BEGIN R/W & LIGHT OF ACCESS</p>		<p>AECOM CITY ENGINEER ST 10 WEST 10TH ST, SUITE 200 DENVER, CO 80202-3128 TEL: 303.733.5444 FAX: 303.733.5445</p>	
DATE	REVISIONS	DATE	REVISIONS
<p>DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS PROJECT NO. 17700-0000-001(001) COUNTY DISTRICT ROAD LEAD DISTRICT 15 DATE 10/25/07 09:53 OF 53</p>			

Handwritten notes: 2/4/18, H/C

NO.	DATE	DESCRIPTION	DATE	REVISIONS	DATE	REVISIONS	DATE	REVISIONS	STATE OF GEORGIA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP PROJECT NO. 2010 (see notes) CONTRACT NO. 2010 (see notes) LAND ACQUISITION DATE ACQUIRED 04/11/15
70		MARIA SEE SHEET 47							
71		DELAND COUNTY SEE SHEET 50							
72		JOSEPH C. GARGIULO SEE SHEET 50							
73		JOSEPH C. GARGIULO SEE SHEET 35							
<p>PROPERTY AND EXISTING AND PROPOSED CONSTRUCTION LIMITS EASEMENT FOR CONSTRUCTION OF STORMS EASEMENT FOR CONSTRUCTION OF STORMS</p> <p>AREA LIMITS OF ACCESS LIMITS OF ACCESS AREA OF ROW & LIMITS OF ACCESS</p> <p>AECOM 7500 BUCKLE UP BLVD SUITE 200 ATLANTA, GEORGIA 30341 TEL: 404.521.1000</p>									

Exhibit A

Appendix C (Appraiser Certification)

CERTIFICATION OF APPRAISER

STATE OF GEORGIA
COUNTY OF DEKALBPROJECT NO – STP00-0002-00(669)
PARCEL NUMBER – 83

I Hereby Certify:

That I have personally inspected the property herein appraised and that I have also made a personal field inspection of the comparable sales relied upon in making said appraisal. The subject and the comparable sales relied upon in making said appraisal were as represented in said appraisal or in the data book or report which supplements said appraisal. No one provided significant professional assistance to the appraiser in completion of this report.

That to the best of my knowledge and belief, the statements contained in the appraisal herein set forth are true and correct, the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting condition, and are my personal, unbiased professional analyses, opinions, and conclusions. That my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice. The appraiser is currently certified under the continuing education program of the State of Georgia through the date January 31, 2020. The appraiser is also currently certified under the voluntary continuing education program of The Appraisal Institute.

That I understand that such appraisal may be used in connection with the acquisition of right-of-way for a project to be constructed by the State of Georgia with the assistance of Federal-Aid highway funds and other Federal funds.

That such appraisal has been made in conformity with the appropriate State laws, regulations, and policies and procedures applicable to appraisal of right-of-way for such purposes; and that to the best of my knowledge, no portion of the value assigned to such property consists of items which are non-compensable under the established law of said State.

That my compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event. That I have no personal interest in or bias with respect to the parties involved and that I have no present or prospective interest in the property that is the subject of this report.

That I have not revealed the findings and results of such appraisal to anyone other than the property officials of the acquiring agency of said State or officials of the Federal Highway Administration and I will not do so until so authorized by said officials, or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified as to such findings.

That my opinion of market value of the subject property as of the effective date 15th day of November 2019 is \$20,090 (rounded) based upon my independent appraisal and the exercise of my professional judgment.

Name Cheryl Worthy-Pickett

Date: 12/3/2019

Telephone Number: (404) 376-4718

E-mail: cwpickett@bellsouth.netAppraiser's Signature Cheryl Worthy PickettAddress: 3939 Lavista Road, Suite E Box 352 Atlanta, GA 30084

Public Works Department
Transportation Division



1950 West Exchange Place, 4th Floor, Tucker, Georgia 30084

June 01, 2020

USPS CERTIFIED MAIL# 7003 3110 0004 0073 7882

Joseph C. Gargiulo
PO Box 33623
Decatur GA 30033

RE: PROJECT: STP00-0002-00(669)
P.I. NUMBER: 0002669

COUNTY: DEKALB
PROJECT PARCEL: 83

DEKALB COUNTY PROPERTY TAX ID # 15-248-22-006
PROPERTY ADDRESS: 2774 E College Ave. Avondale Estate GA 30030

Dear: Property Owner

As you know, the State of Georgia acting through the Department of Transportation must acquire a portion of your property in conjunction with the construction of the above numbered project.

The property rights have been explained by our Land Acquisition Specialist and are shown in the plat attached to the option previously furnished to you. Through a process of thorough review of expert appraisals, we believe that the Fair Market Value for your property is \$ 20,090.00.

We prefer to and do purchase most of the property needed for right of way; however, since negotiations have failed, we are authorized by law to acquire property by condemnation. As litigation is costly to both the State and Landowner, it is our sincere desire that upon reconsideration of our offer, a settlement agreement can be reached, hopefully avoiding litigation. Since negotiations for the required property rights have concluded, the Department provides an administrative appeal process as a final opportunity toward reaching an amicable settlement. Should you elect to submit an appeal, your request must be made directly to DeKalb County within ten (10) days of this letter, or by 06/15/2020. This appeal should be requested by mail using the attached form. It must include the lowest monetary amount acceptable to you with any supporting documentation.

TA

Cc: File

LG Rev 08-01-2010

Page 2

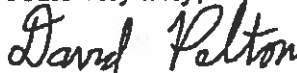
RE: PROJECT: STP00-0002-00(669)
P.I. NUMBER: 0002669

COUNTY: DEKALB
PROJECT PARCEL: 83

Upon receipt of your appeal, an authorized representative of the Department will contact you to arrange a meeting for a discussion of your views and supporting documentation of the value of your property. With this being the final effort for settlement, please be prepared to furnish any supporting documentation. You are not required to be represented by an attorney; however, anyone you deem necessary may accompany you. Should this final review fail to produce an agreement, condemnation action will be initiated.

Legal proceedings will be instituted after 06/15/2020, if we have not received an executed option, a request for an appeal, or some other form of satisfactory reply. We regret that such action may become necessary, but we must proceed with acquisition in order to meet the scheduled construction dates.

Yours very truly,



David W. Pelton, Deputy Public Works Director
Transportation Division

TA
Cc: File

LG Rev 08-01-2010