

RESOLUTION NO. _____

RESOLUTION AND ORDER OF THE DEKALB COUNTY BOARD OF COMMISSIONERS AUTHORIZING THE USE OF EMINENT DOMAIN PURSUANT TO O.C.G.A. §§ 22-1-1, ET SEQ. TO ACQUIRE CERTAIN PROPERTY SITUATED IN DEKALB COUNTY, GEORGIA FOR PUBLIC 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, pursuant to Article IX, Section 2, Paragraph 3 of the Georgia Constitution and O.C.G.A. § 36-64-2, counties may acquire lands for parks, playgrounds, recreation centers, and other recreational purposes; and

WHEREAS, DeKalb County, Georgia presently owns, manages, maintains, and operates, as part of its public park system, the public park known as Cedar Park (the “Park”) in Scottdale, Georgia; and

WHEREAS, in June 2020, DeKalb County, Georgia initiated a project to study the Park’s existing conditions and how it may be improved; and

WHEREAS, DeKalb County, Georgia has determined it necessary to construct, expand, and maintain its public park system as part of a project known as Cedar Park Expansion (the “Project”) and being more fully shown in the office of the DeKalb County Recreation, Parks and Cultural Affairs; and

WHEREAS, there is an approximately +/- 0.234acre tract of vacant land located at 304 Creighton Avenue, Scottdale GA (Tax Parcel ID Number 18 010 03 012) (the “Subject Property”) as more particularly shown on the attached Exhibit A and described in the attached Exhibit B, the

same property being adjacent to the current Cedar Park, shown in Exhibit C; and

WHEREAS, to construct the Project, which will provide additional recreational space and connectivity to the Park, DeKalb County, Georgia desires to acquire fee simple title to the Subject Property as part of its Cedar Park Expansion Project (the “Project”); and

WHEREAS, DeKalb County, Georgia engaged an independent and state-certified appraiser to perform a fair market value appraisal of the Subject Property before initiating negotiations with the owner(s); and

WHEREAS, the appraiser hired by DeKalb County, Georgia estimated the fair market value of the Subject Property to be \$112,200.00, which DeKalb County, Georgia established as just compensation for purposes of acquiring the rights necessary for the Project from the Subject Property; and

WHEREAS, DeKalb County, Georgia has made and will continue to make every reasonable effort to acquire the Subject Property expeditiously by negotiation; and

WHEREAS, DeKalb County, Georgia’s attempts to negotiate an acquisition of the Subject Property from the owner(s) was unsuccessful; and

WHEREAS, DeKalb County, Georgia stands ready, and has funds from the FY2024 operating budget, to pay just and adequate compensation as determined by the Court appointed Special Master and the DeKalb County Superior Court, to the owner(s) of the Subject Property; and

WHEREAS, use of the Subject Property for the possession, occupation or use of the land by the general public or by state or local governmental entities constitutes “public use” within the meaning of O.C.G.A. § 22-1-1, et seq.; and

WHEREAS, DeKalb County, Georgia, its CEO and Board of Commissioners, deem it in the public interest to acquire fee simple title to the Subject Property; and

WHEREAS, the CEO and Board of Commissioners of DeKalb County, Georgia find and believe the circumstances are appropriate and necessary to acquire fee simple title to the Subject Property for public recreation purposes through the use of eminent domain through any method allowed by law 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, among other reasons, a desire, in the interests of justice, to have a quick and effective judicial ascertainment and supervision of any and all questions connected with the condemnation and DeKalb County's acquisition of the Subject Property, not only the just and adequate compensation to be paid to the owner(s) but also a judicial ascertainment of what person(s) are entitled to the same, or by reason of the number of parties at interest or the conflicting interests of such parties; and

WHEREAS, to maintain DeKalb County, Georgia's projected schedule of said construction, expansion, maintenance, operation, repair, and replacement of its public park system and the Project, it is necessary that property interests for said project be acquired without delay; and

WHEREAS, the fee simple title and other rights as herein described and as listed below, 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.

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

appropriate and necessary that the fee simple title, as described in the annexes/exhibits to this Resolution and Order be acquired by eminent domain under the provisions of the Official Code of Georgia Annotated Sections 22-1-1 et seq. for public purposes, including recreational purposes; and

IT IS ORDERED that DeKalb County, Georgia and the DeKalb County Attorney, or 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 purposes, and that DeKalb County, Georgia's attorneys, or its assignees, are authorized and directed to file condemnation proceedings to acquire said fee simple title, estate or interest in said lands and to deposit in the Court the estimate of just compensation determined, 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 Petition for Condemnation In Rem and any other documents necessary to effectuate the same.

SO ORDERED by the DeKalb County Board of Commissioners this ____ day of March, 2024.

**DEKALB COUNTY
BOARD OF COMMISSIONERS**

ROBERT PATRICK
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, Georgia this this ____ day
of March, 2024.

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:

Exhibit A

Boundary Map

Exhibit B

Legal Description

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 28th day of March, 2024 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 _____, 2024.

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