

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 Hogan Estate, LLC, as well as their successors or assigns. It is further resolved that payment of just and adequate compensation for the interests to be obtained in the amount of Sixteen Thousand, Five Hundred dollars (\$16,500) for Parcel 01, Six Hundred Dollars (\$600) for Parcel 03, and One Thousand, Four Hundred dollars (\$1,400) for Parcel 04 be made to the person or persons entitled to such payment. The Chief Executive Officer, Interim Chief Executive Officer, or the Presiding Officer may sign any documents and/or pleadings required for proper filing under the aforementioned code sections including a Declaration of Taking and Order of the Board of Commissioners.

ADOPTED by the DeKalb County Board of Commissioners this _____ day of
_____, 2018.

DEKALB COUNTY BOARD OF COMMISSIONERS:

JEFF RADER
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

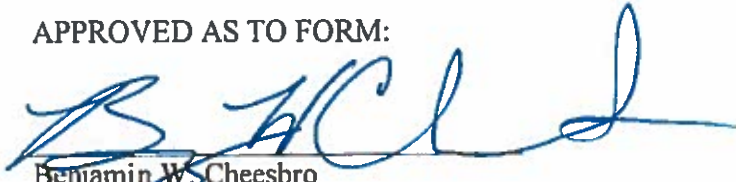
APPROVED by the Chief Executive Officer of DeKalb County this _____ day of
_____, 2018.

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:

A handwritten signature in blue ink, appearing to read 'B. Cheesbro', written over a horizontal line.

Benjamin W. Cheesbro

Ga. Bar No. 648368

CAPLAN COBB LLP

75 Fourteenth Street, NE, Suite 2750

Atlanta, Georgia 30309

Tel: (404) 596-5600

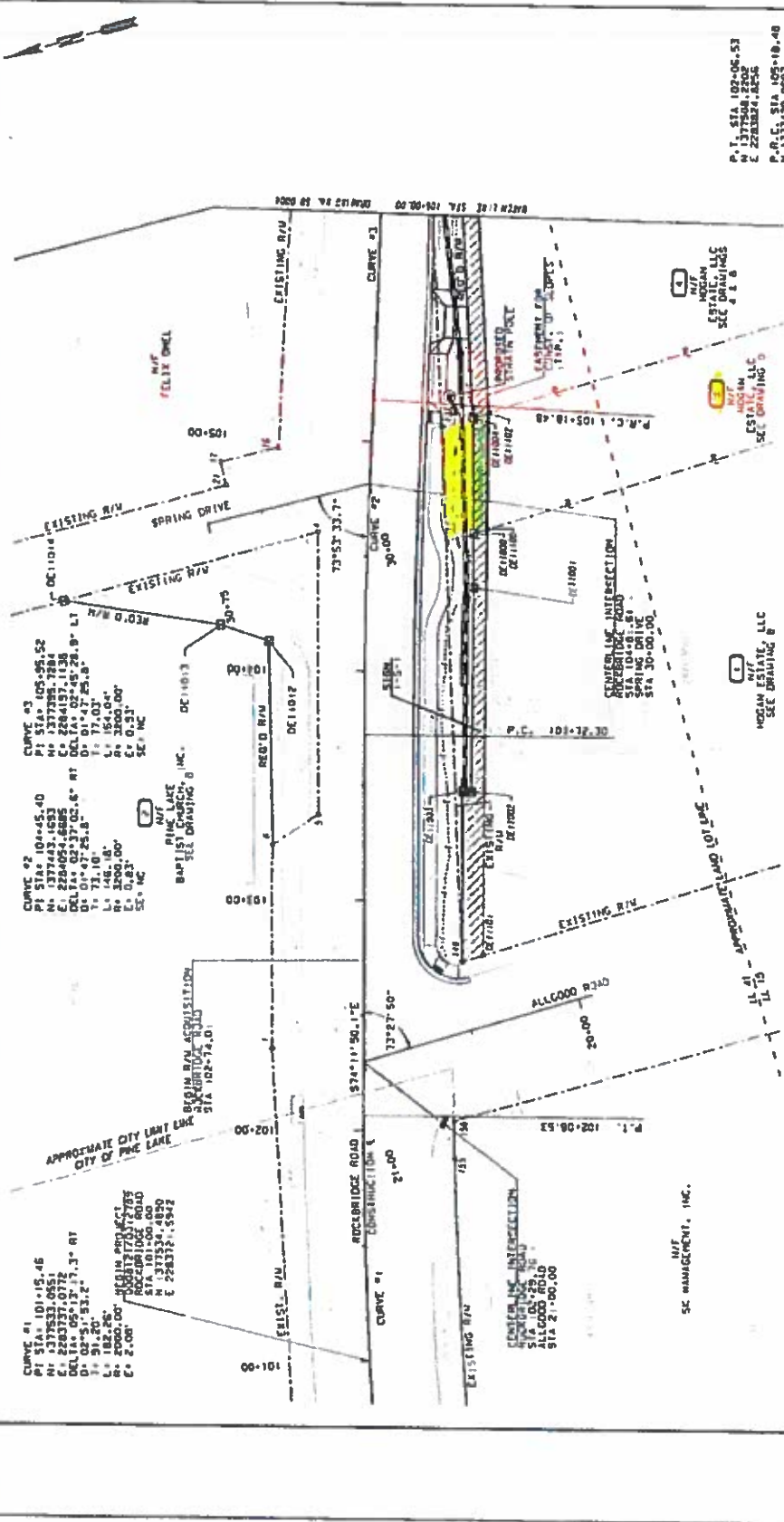
Fax: (404) 596-5604

bcheesbro@caplancobb.com

Counsel for DeKalb County, Georgia

Parcel 01
(Tax ID 18-015-01-010)

Parcel 03
(Tax ID 18-015-01-028)



P.T. STA. 102+00.00
 N 1377504.2205
 E 2283377.0732

P.R.C. STA. 105+10.48
 N 1377504.2205
 E 2283377.0732

APPROXIMATE CITY LIMIT LINE CITY OF PINE LAKE

ACRESBRIDGE ROAD

SPRING DRIVE

ALLGOOD ROAD

EXISTING R/W

PROPERTY AND EXISTING OR LINE

RECORDED MAP LINE

CONSTRUCTION LIMITS

1/4" MILLIMETER OF SLOPE

STATE OF MISSISSIPPI
 DEPARTMENT OF TRANSPORTATION
 RIGHT OF WAY MAP
 COUNTY OF HARRIS
 SECTION 15 S 41
 PLAT NO. 60-0003

DATE

REVISIONS

DATE

REVISIONS

DATE

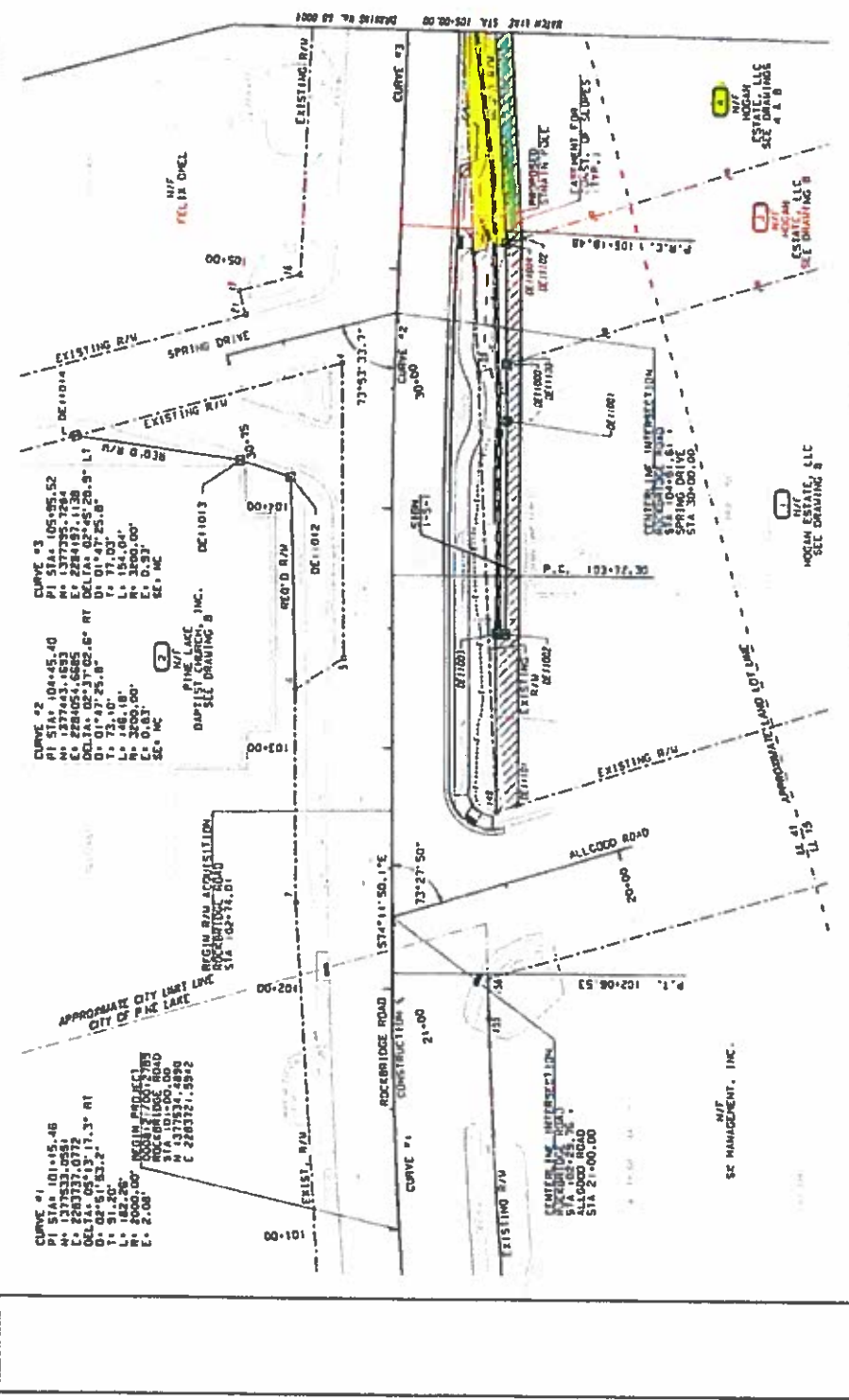
REVISIONS

DATE

REVISIONS

DATE

Parcel 04
(Tax ID 18-015-01-012)



DATE	REVISIONS
12/15/18	NIP MANAGEMENT, INC. SEE DRAWING B, L 1

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 tracts 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 appraisers' sworn statements 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 Sixteen Thousand, Five Hundred dollars (\$16,500) for Parcel 01, Six Hundred Dollars (\$600) for Parcel 03, and One Thousand, Four Hundred dollars (\$1,400) for Parcel 04 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 the Official Code of Georgia Annotated § 32-3-1, *et seq.*, hereby declares that the property and interests as 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, replacing, extending, expanding, and/or installing infrastructure for a public (county) transportation purposes.

DEKALB COUNTY BOARD OF COMMISSIONERS:

JEFF RADER
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

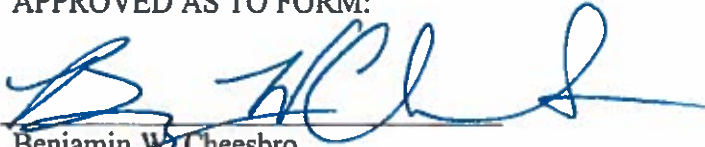
APPROVED by the Chief Executive Officer of DeKalb County this _____ day of _____, 2018.

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:



Benjamin W. Cheesbro

Ga. Bar No. 648368

CAPLAN COBB LLP

75 Fourteenth Street, NE, Suite 2750

Atlanta, Georgia 30309

Tel: (404) 596-5600

Fax: (404) 596-5604

bcheesbro@caplancobb.com

Counsel for Condemnor

Exhibit A

Appendix A (Order to Condemn)

**ORDER OF THE DEKALB COUNTY BOARD OF COMMISSIONERS
TO CONDEMN PROPERTY FOR PURPOSES OF CONSTRUCTING AND
IMPROVING A PUBLIC TRANSPORTATION PROJECT**

WHEREAS, the Board of Commissioners of DeKalb County has laid out and determined to construct and improve a public streetscape project for DeKalb County at that certain parcels identified for tax purposes as parcel identification numbers 18-015-01-010, 18-015-01-028, and 18-015-01-012 by the DeKalb County Board of Tax Assessors, the same being more fully described and shown in the descriptions and drawings attached as Appendix B to the Declaration of Taking.

WHEREAS, the tracts 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:

Parcel 18-0150-01-010

Property/Rights:	1216.21 Square Feet of Right of Way 1299.78 Square Feet of Temporary Easement
Owner:	Hogan Estate, LLC
Potentially Interested Parties:	N/A

Parcel 18-015-01-028

Property/Rights: 4538.53 Square Feet of Right of Way
662.60 Square Feet of Temporary Easement

Owner: Hogan Estate, LLC

Potentially Interested Parties: N/A

Parcel 18-015-01-012

Property/Rights: 1480.38 Square Feet of Right of Way
743.81 Square Feet of Temporary Easement

Owner: Hogan Estate, LLC

Potentially Interested Parties: N/A

NOW THEREFORE, in accordance with O.C.G.A. § 32-3-6, 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. § 32-3-6, *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 authorized and directed to file condemnation proceedings, including 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

_____, 2018.

DEKALB COUNTY BOARD OF COMMISSIONERS:

JEFF RADER
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

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

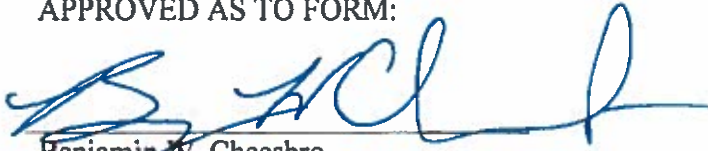
_____, 2018.

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:



Benjamin W. Cheesbro

Ga. Bar No. 648368

CAPLAN COBB LLP

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Atlanta, Georgia 30309

Tel: (404) 596-5600

Fax: (404) 596-5604

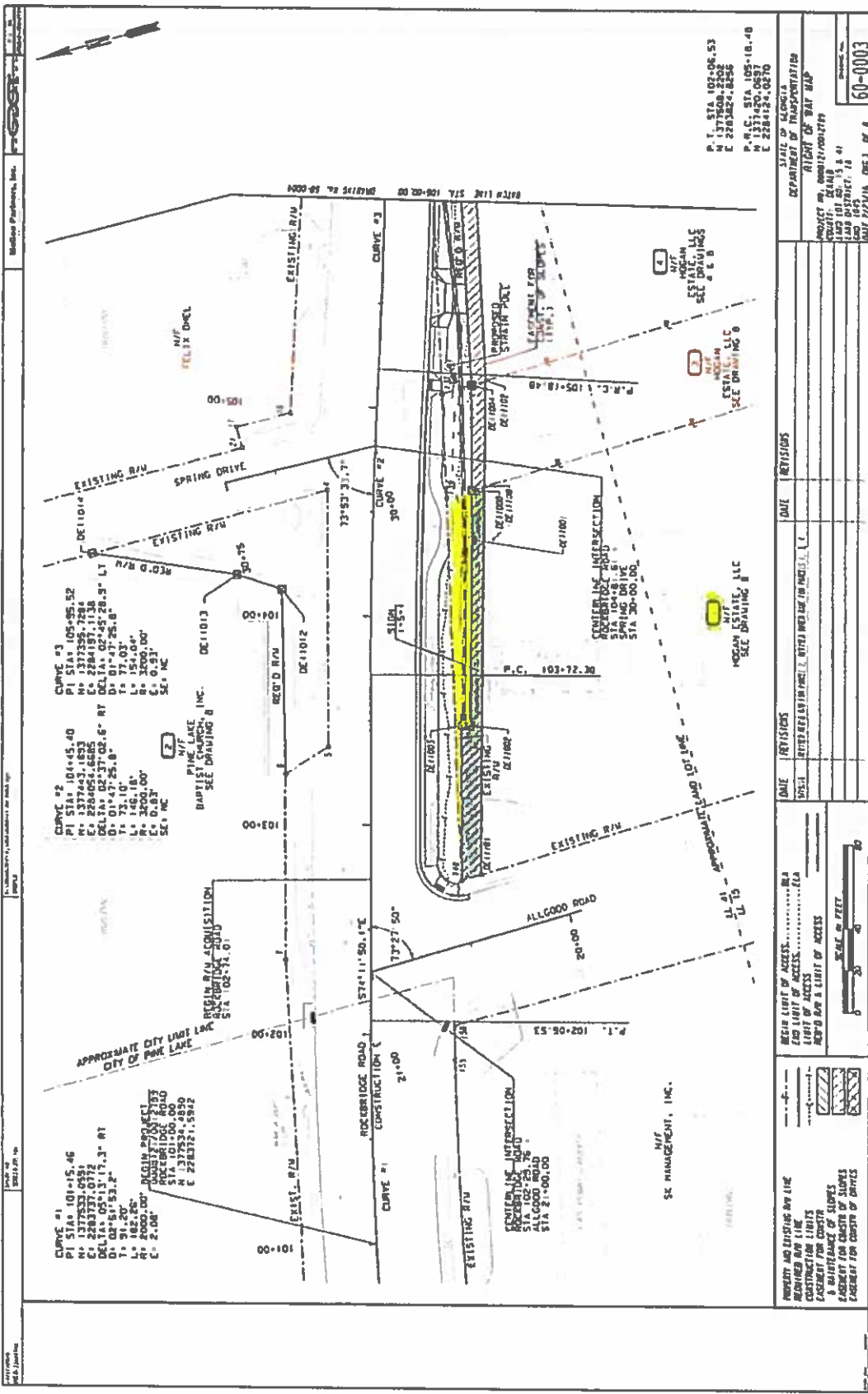
bcheesbro@caplancobb.com

Counsel for Condemnor

Exhibit A

Appendix B (Property Descriptions)

Parcel 01
(Tax ID 18-015-01-010)



STATE OF GEORGIA
 DEPARTMENT OF TRANSPORTATION
 RIGHT OF WAY MAP

PROJECT NO. 60-0003
 DRAWING NO. 60-0003-01
 SHEET NO. 1 OF 4

DATE: 10/15/08
 SCALE: AS SHOWN

NO.	DATE	REVISIONS

NEAR LIMIT OF ACCESS
 END LIMIT OF ACCESS
 LIGHT OF ACCESS
 REVD R/W & LIMIT OF ACCESS



PROPERTY AND EXISTING R/W LINE
 PROPOSED R/W LINE
 CONSTRUCTION LIMITS
 EASEMENT FOR CONSTR
 & MAINTENANCE OF SLOPES
 FACILITY FOR COSTS OF SLOPES
 FACILITY FOR COSTS OF DITCHES

SCALE OF FEET

DATE: 10/15/08
 SCALE: AS SHOWN

DATE: 10/15/08
 SCALE: AS SHOWN

DATE: 10/15/08
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 SCALE: AS SHOWN

DATE: 10/15/08
 SCALE: AS SHOWN

P.L. STA. 105+06.53
 M. STA. 105+06.53
 E. STA. 105+06.53

P.M.C. STA. 105+18.48
 M. STA. 105+18.48
 E. STA. 105+18.48

P.L. STA. 105+06.53
 M. STA. 105+06.53
 E. STA. 105+06.53

P.M.C. STA. 105+18.48
 M. STA. 105+18.48
 E. STA. 105+18.48

P.L. STA. 105+06.53
 M. STA. 105+06.53
 E. STA. 105+06.53

P.M.C. STA. 105+18.48
 M. STA. 105+18.48
 E. STA. 105+18.48

Parcel 03
(Tax ID 18-015-01-028)

Parcel 04
(Tax ID 18-015-01-012)

Exhibit A

Appendix C (Appraiser Affidavits)

Parcel 01
(Tax ID 18-015-01-010)

APPENDIX "C" TO EXHIBIT "A"

GEORGIA, DEKALB COUNTY

Personally comes, Gregory N. Malcolm, MAI, residing at 1243 Kylemore Lane, Snellville, GA 30078

1. Affiant was employed by the Department of Transportation to appraise Parcel No. 1 of the right of way and rights required for construction of Project No. Rockbridge Road/Pine Lake, P.I. No. 0008121/0012789 in DeKalb County, Georgia for said Department and makes this sworn statement to be used in connection with condemnation proceedings under the Official Code of Georgia Annotated Sections 32-3-4 through 32-3-19, 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 \$ 16,500.00.


APPRAISER

Sworn to and subscribed before me,
this 9th day of January, 2018.


NOTARY PUBLIC

My commission expires June 23, 2021



Parcel No. 1

Parcel 03
(Tax ID 18-015-01-028)

APPENDIX "C" TO EXHIBIT "A"

GEORGIA, DEKALB COUNTY

Personally comes, Gregory N. Malcolm, MAI, residing at 1243 Kylemore Lane, Snellville, GA 30078

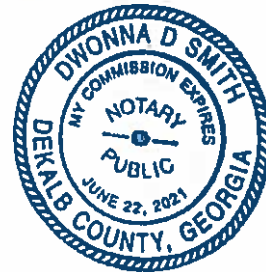
1. Affiant was employed by the Department of Transportation to appraise Parcel No. 3 of the right of way and rights required for construction of Project No. Rockbridge Road/Pine Lake, P.I. No. 0008121/0012789 in DeKalb County, Georgia for said Department and makes this sworn statement to be used in connection with condemnation proceedings under the Official Code of Georgia Annotated Sections 32-3-4 through 32-3-19, 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 \$ 600.00.


APPRAISER

Sworn to and subscribed before me,
this 9th day of January, 2018.


NOTARY PUBLIC

My commission expires June 22, 2021



Parcel No. 3

Parcel 04
(Tax ID 18-015-01-012)


APPENDIX "C" TO EXHIBIT "A"

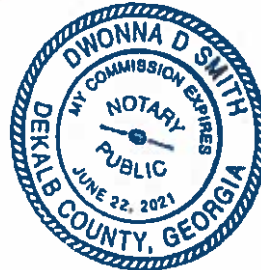
GEORGIA, DEKALB COUNTY

Personally comes, Gregory N. Malcolm, MAI, residing at 1243 Kylemore Lane, Snellville, GA 30078

1. Affiant was employed by the Department of Transportation to appraise Parcel No. 4 of the right of way and rights required for construction of Project No. Rockbridge Road/Pine Lake, P.I. No. 0008121/0012789 in DeKalb County, Georgia for said Department and makes this sworn statement to be used in connection with condemnation proceedings under the Official Code of Georgia Annotated Sections 32-3-4 through 32-3-19, for the acquisition of said parcel.
2. A ffiant 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 \$ 1,400.00.


APPRAISER

Sworn to and subscribed before me,
this 9th day of January, 2018.

NOTARY PUBLIC
My commission expires June 22, 2021



Parcel No. 4



DeKalb County
Public Works
Transportation Division
1950 West Exchange Place, 4th Floor
Tucker, Georgia 30084
Phone: 770-492-5200 - Fax: 770-492-5201

March 15, 2018

Certified Mail Receipt:
7004 1160 0006 7107 9155

Hogan Estate, LLC
C/O Elizabeth R. Story
Pursley/Friese/Torgrimson
Promenade, Suite 1200
1230 Peachtree Street, NE
Atlanta, GA 30309

Re: Intent to Condemn—DeKalb County, Georgia
Rockbridge Road Improvements – Allgood Road to Rowland Road
PI # 0008121 and #0012789
Project Parcel #01; Property Parcel Tax ID #18-015-01-010; 4533 Rockbridge Road
Project Parcel #03; Property Parcel Tax ID #18-015-01-028; 4537 Rockbridge Road
Project Parcel #04; Property Parcel Tax ID #18-015-01-012; 4551 Rockbridge Road

Dear Property Owner:

Under Georgia State Laws, a County is empowered to acquire private property for public use by payment of just and adequate compensation for that property. Based on our appraisal of your property, DeKalb County is offering payment to you in the amount of \$23,900.00. Since negotiations have failed, it is being recommended that your property be acquired through condemnation action, which will assure you of having opportunity to present evidence of value in a condemnation proceeding and the right of appeal for a jury trial.

The DeKalb County Board of Commissioners will consider a resolution to condemn your property at its regularly scheduled meeting held on **Tuesday, April 10, 2018 at 10:00 a.m.** at the Manuel J. Maloof Auditorium, 1300 Commerce Drive, Decatur, Georgia 30030. While your presence at this meeting is not required, you may attend if you so desire. Should the Board vote to condemn your property, you will be notified.

If you receive a carbon copy of this letter, we may not be condemning your ownership interest in this property; however, we are giving all parties who have any ownership interest in this property notice of this intent to condemn. For your review, we have attached a plat and legal description showing the actual of the actual boundaries of the property being considered for condemnation so that you can determine if your ownership interest is affected.

I would like to point out that even after the initiation of condemnation proceedings, the County will work with you in an attempt to reach a mutual agreement. In the meantime, should you decide to reconsider the County's offer or if you have any questions, please call Holly Wetzel at 770-492-5270.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions regarding this correspondence.

Sincerely,



David Pelton, PE
Interim Associate Director
Transportation Division

DWP

Enclosure