

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 PUBLIC ROAD AND/OR OTHER PUBLIC 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. Section 32-3-1, *et seq.* in the acquisition of certain interests in property for county road and/or other public 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. Section 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 **Alexis C. Haynes**; her successors or assigns. It is further resolved that payment of just and adequate compensation in the amount of Two Thousand Nine Hundred dollars (\$2,900.00) 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 a Declaration of Taking and Order of the Board of Commissioners.

ADOPTED by the DeKalb County Board of Commissioners this _____ day of _____, 2017.

DEKALB COUNTY BOARD OF COMMISSIONERS:

KATHIE GANNON
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

{SIGNATURE(S) CONTINUED ON THE FOLLOWING PAGE}

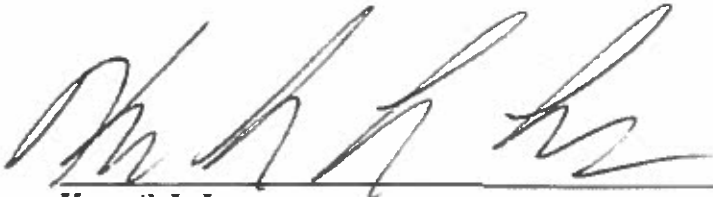
APPROVED by the Chief Executive Officer of DeKalb County this _____ day of _____, 2017.

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:



Kenneth L. Levy
Counsel for DeKalb County
ZACHARY & SEGRAVES, P.A.
1000 Commerce Drive
Decatur, GA 30030
(404) 373-1685 – Office; (404) 373-1938 – Fax
kennethlevy99@gmail.com

Parcel No. 104
Required Fee Simple Right of Way

EXHIBIT "A"

PROJECT NO.: CSSTP-0008-00(268), CSHPP-0007-00(618),
CSHPP-0008-00(831); DeKalb Sidewalk Program, Phase 2C
P. I. NO.: 0008268, 0007618, 0008831
PARCEL NO.: 104
DATE OF R/W PLANS: April 13, 2010
REVISION DATE: April 05, 2016

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All that tract or parcel of land lying and being in Land Lot 117 of the 15th Land District and/or 1349th Georgia Militia District of DeKalb County, Georgia, being more particularly described as follows:

Beginning at a point 18.76 feet left of and opposite Station 41+91.74 on the construction centerline of FLAT SHOALS ROAD on Georgia Highway Project No. CSSTP-0008-00(268), CSHPP-0007-00(618), CSHPP-0008-00(831); running thence S 88°51'01" E a distance of 8.67 feet to a point 27.00 feet left of and opposite Station 41+94.43 on said construction centerline laid out for FLAT SHOALS ROAD; thence S 16°54'25" E a distance of 89.91 feet to a point 27.00 feet left of and opposite Station 42+84.34 on said construction centerline laid out for FLAT SHOALS ROAD; thence southeasterly 18.033 feet along the arc of a curve (said curve having a radius of 1273.009 feet and a chord distance of 18.033 feet on a bearing of S 17°18'45" E) to the point 27.00 feet left of and opposite Station 43+02.75 on said construction centerline laid out for FLAT SHOALS ROAD; thence N 89°28'58" W a distance of 6.51 feet to a point 20.81 feet left of and opposite Station 43+00.68 on said construction centerline laid out for FLAT SHOALS ROAD; thence N 18°02'41" W a distance of 108.70 feet back to the point of beginning.

Containing 0.018 acres, more or less, or 774.20 square feet, more or less.

Parcel No. 104
Temporary Easement

EXHIBIT "A"

PROJECT NO.: CSSTP-0008-00(268), CSHPP-0007-00(618),
CSHPP-0008-00(831); DeKalb Sidewalk Program; Phase 2C
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Beginning at a point 27.00 feet left of and opposite Station 41+94.43 on the construction centerline of FLAT SHOALS ROAD on Georgia Highway Project No. CSSTP-0008-00(268), CSHPP-0007-00(618), CSHPP-0008-00(831); running thence S 88°49'34" E a distance of 8.42 feet to a point 35.00 feet left of and opposite Station 41+97.04 on said construction centerline laid out for FLAT SHOALS ROAD; thence S 20°39'10" E a distance of 110.29 feet to a point 42.00 feet left of and opposite Station 43+07.86 on said construction centerline laid out for FLAT SHOALS ROAD; thence N 89°29'33" W a distance of 15.80 feet to a point 27.00 feet left of and opposite Station 43+02.75 on said construction centerline laid out for FLAT SHOALS ROAD; thence northwesterly 18.033 feet along the arc of a curve (said curve having a radius of 1273.009 feet and a chord distance of 18.033 feet on a bearing of N 17°18'45" W) to the point 27.00 feet left of and opposite Station 42+84.34 on said construction centerline laid out for FLAT SHOALS ROAD; thence N 16°54'25" W a distance of 89.91 feet back to the point of beginning.

Containing 0.029 acres, more or less, or 1,250.42 square feet, more or less.

Said Easement shall expire upon completion and final acceptance of the Project by the Georgia Department of Transportation.

Parcel No. 106
Required Fee Simple Right of Way

EXHIBIT "A"

PROJECT NO.: CSSTP-0008-00(268), CSHPP-0007-00(618),
CSHPP-0008-00(831); DeKalb Sidewalk Program, Phase 2C
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Containing 0.015 acres, more or less, or 633.26 square feet, more or less.

Parcel No. 106
Temporary Easement

EXHIBIT "A"

PROJECT NO.: CSSTP-0008-00(268), CSHPP-0007-00(618),
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Containing 0.034 acres, more or less, or 1,499.58 square feet, more or less.

Said Easement shall expire upon completion and final acceptance of the Project by the Georgia Department of Transportation.

Parcel No. 108
Temporary Easement

EXHIBIT "A"

PROJECT NO.: CSSTP-0008-00(268), CSHPP-0007-00(618),
CSHPP-0008-00(831); DeKalb Sidewalk Program, Phase 2C
P. I. NO.: 0008268, 0007618, 0008831
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Beginning at a point 30.21 feet left of and opposite Station 44+15.46 on the construction centerline of FLAT SHOALS ROAD on Georgia Highway Project No. CSSTP-0008-00(268), CSHPP-0007-00(618), CSHPP-0008-00(831); running thence N 89°54'35" E a distance of 8.44 feet to a point 38.00 feet left of and opposite Station 44+18.80 on said construction centerline laid out for FLAT SHOALS ROAD; thence S 23°44'46" E a distance of 157.11 feet to a point 38.00 feet left of and opposite Station 45+76.56 on said construction centerline laid out for FLAT SHOALS ROAD; thence S 79°13'32" W a distance of 8.71 feet to a point 29.51 feet left of and opposite Station 45+74.59 on said construction centerline laid out for FLAT SHOALS ROAD; thence N 24°32'31" W a distance of 21.14 feet to a point 29.25 feet left of and opposite station 45+53.45 on said construction centerline laid out for FLAT SHOALS ROAD; thence northwesterly 137.426 feet along the arc of a curve (said curve having a radius of 2269.720 feet and a chord distance of 137.405 feet on a bearing of N 23°18'34" W) back to the point of beginning.

Containing 0.032 acres, more or less, or 1,407.74 square feet, more or less.

Said Easement shall expire upon completion and final acceptance of this Project by the Georgia Department of Transportation.

EXHIBIT "A"

DECLARATION OF TAKING

WHEREAS, DeKalb County, Georgia has made and passed a Resolution finding that the circumstances in connection with acquiring certain interests in property and easements for public (county) road or other public 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, a certified copy/duplicate original of which is attached to this Declaration as Appendix A to Exhibit "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 right-of-way and 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 to Exhibit "A," DeKalb County, Georgia estimates \$2,900.00 as just and adequate compensation to be paid for said right-of-way and 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.* and O.C.G.A. § 22-3-140 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) road or other transportation purposes.

DEKALB COUNTY BOARD OF COMMISSIONERS:

KATHIE GANNON
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

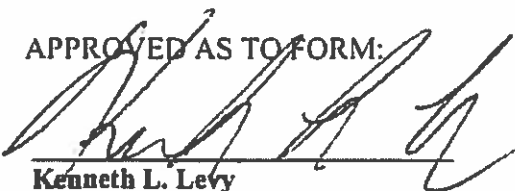
APPROVED by the Chief Executive Officer of DeKalb County this _____ day of _____, 2017.

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:



Kenneth L. Levy
Counsel for DeKalb County
ZACHARY & SEGRAVES, P.A.
1000 Commerce Drive
Decatur, GA 30030
(404) 373-1685 – Office; (404) 373-1938 – Fax
kennethlevy99@gmail.com

APPENDIX A TO EXHIBIT A
RESOLUTION AND ORDER OF BOARD OF COMMISSIONERS

**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 a public sidewalk or other transportation facility for DeKalb County at that certain parcel identified for tax purposes as parcel identification number 15 117 06 007, 15 117 06 008 and 15 117 06 029 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 (Exhibit "A" to the Petition for Condemnation).

WHEREAS, the tract of property and other rights as herein described and as 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: **1, 407.46 Square Feet of Fee Simple Right of Way
4,157.74 Square Feet of Temporary Easement**

Owner: **Alexis C. Haynes**

Potentially Interested Parties: SDD Development, LLC, Capital One Bank

NOW THEREFORE, in accordance with O.C.G.A. § 32-3-6(b)(6) and (c), 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 be acquired by condemnation under the provisions of O.C.G.A. § 32-3-1 *et seq.* for public road purposes or other transportation purposes.

CSSTP-0008-00(268)
DeKalb County School Sidewalk Project; Tax Parcel ID No. 15 117 06 007 (Parcel 104), 15 117 06 008 (Parcel 106),
15 117 06 029 (Parcel 108)
Parcels 104/106/108

IT IS ORDERED that DeKalb County proceed to acquire the title, estate or interest in the lands hereinafter described in Appendix B of the Declaration of Taking (Exhibit "A" to the Petition for Condemnation) by condemnation under the provisions of said Code, and the County Attorney 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 _____, 2017.

DEKALB COUNTY BOARD OF COMMISSIONERS:

KATHIE GANNON
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County this ____ day of _____, 2017.

MICHAEL L. THURMOND
Chief Executive Officer
Board of Commissioners
DeKalb County, Georgia

Attest:

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

[SIGNATURES CONTINUED ON THE FOLLOWING PAGE]

CSSTP-0008-00(268)
DeKalb County School Sidewalk Project; Tax Parcel ID No. 15 117 06 007 (Parcel 104), 15 117 06 008 (Parcel 106),
15 117 06 029 (Parcel 108)
Parcels 104/106/108

APPROVED AS TO FORM:



Kenneth L. Levy
Counsel for DeKalb County
ZACHARY & SEGRAVES, P.A.
1000 Commerce Drive
Decatur, GA 30030
(404) 373-1685 – Office; (404) 373-1938 – Fax
kennethlevy99@gmail.com

CSSTP-0008-00(268)
DeKalb County School Sidewalk Project: Tax Parcel ID No. 15 117 06 007 (Parcel 104), 15 117 06 008 (Parcel 106),
15 117 06 029 (Parcel 108)
Parcels 104/106/108

APPENDIX B TO EXHIBIT A
LEGAL DESCRIPTION AND PLAT

Parcel No. 104
Required Fee Simple Right of Way

EXHIBIT "A"

PROJECT NO.: CSSTP-0008-00(268), CSHPP-0007-00(618),
CSHPP-0008-00(831); DeKalb Sidewalk Program, Phase 2C
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Containing 0.018 acres, more or less, or 774.20 square feet, more or less.

Parcel No. 104
Temporary Easement

EXHIBIT "A"

PROJECT NO.: CSSTP-0008-00(268), CSHPP-0007-00(618),
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Containing 0.029 acres, more or less, or 1,250.42 square feet, more or less.

Said Easement shall expire upon completion and final acceptance of the Project by the Georgia Department of Transportation.

Parcel No. 106
Required Fee Simple Right of Way

EXHIBIT "A"

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Parcel No. 108
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EXHIBIT "A"

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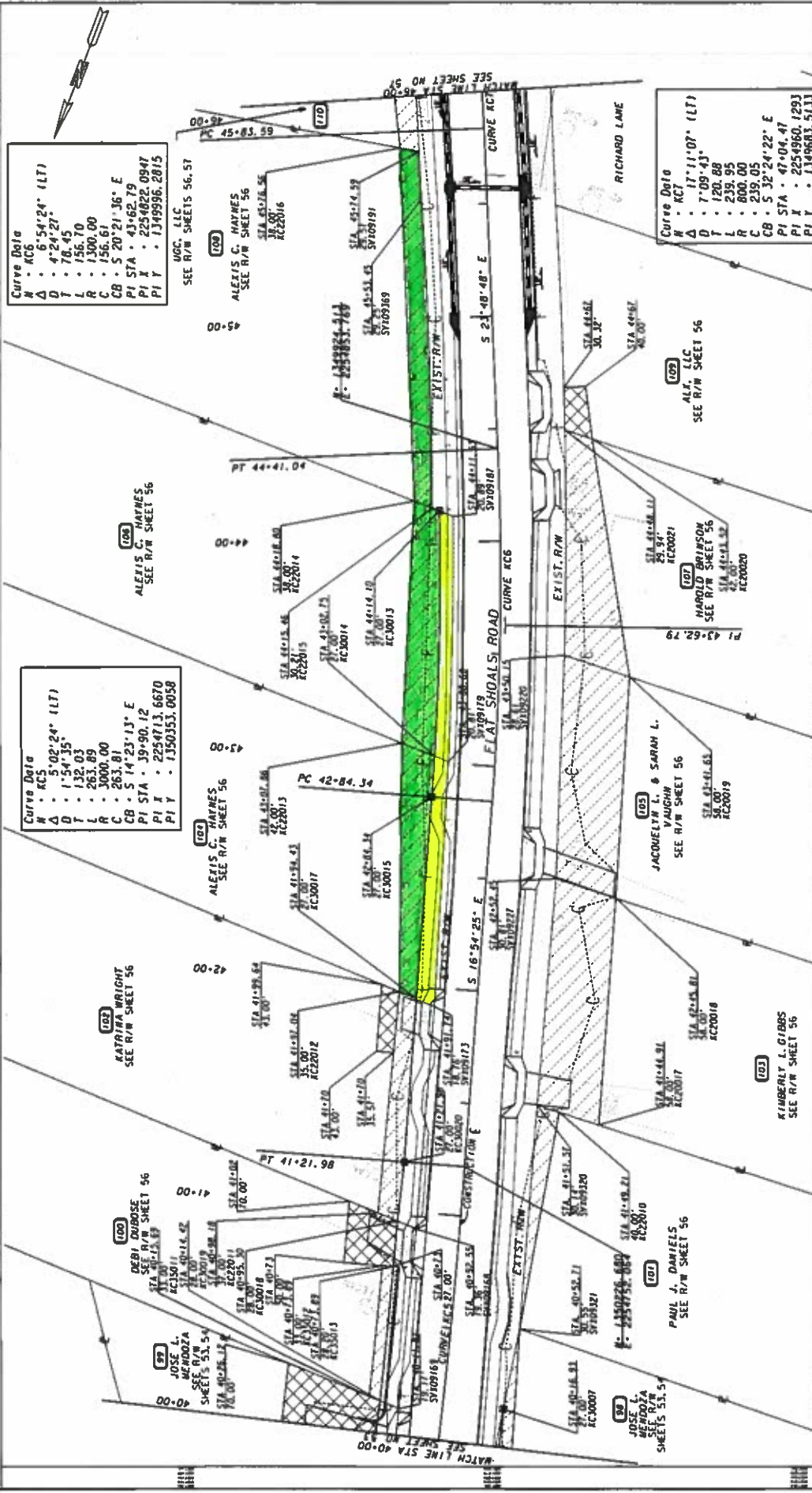
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Beginning at a point 30.21 feet left of and opposite Station 44+15.46 on the construction centerline of FLAT SHOALS ROAD on Georgia Highway Project No. CSSTP-0008-00(268), CSHPP-0007-00(618), CSHPP-0008-00(831); running thence N 89°54'35" E a distance of 8.44 feet to a point 38.00 feet left of and opposite Station 44+18.80 on said construction centerline laid out for FLAT SHOALS ROAD; thence S 23°44'46" E a distance of 157.11 feet to a point 38.00 feet left of and opposite Station 45+76.56 on said construction centerline laid out for FLAT SHOALS ROAD; thence S 79°13'32" W a distance of 8.71 feet to a point 29.51 feet left of and opposite Station 45+74.59 on said construction centerline laid out for FLAT SHOALS ROAD; thence N 24°32'31" W a distance of 21.14 feet to a point 29.25 feet left of and opposite station 45+53.45 on said construction centerline laid out for FLAT SHOALS ROAD; thence northwesterly 137.426 feet along the arc of a curve (said curve having a radius of 2269.720 feet and a chord distance of 137.405 feet on a bearing of N 23°18'34" W) back to the point of beginning.

Containing 0.032 acres, more or less, or 1,407.74 square feet, more or less.

Said Easement shall expire upon completion and final acceptance of this Project by the Georgia Department of Transportation.



| DATE | REVISIONS | DATE | REVISIONS |
|----------|------------------|----------|------------------|
| 01/14/15 | ISSUE FOR PERMIT | 01/14/15 | ISSUE FOR PERMIT |
| 02/11/15 | ISSUE FOR PERMIT | 02/11/15 | ISSUE FOR PERMIT |
| 03/11/15 | ISSUE FOR PERMIT | 03/11/15 | ISSUE FOR PERMIT |
| 04/08/15 | ISSUE FOR PERMIT | 04/08/15 | ISSUE FOR PERMIT |
| 04/08/15 | ISSUE FOR PERMIT | 04/08/15 | ISSUE FOR PERMIT |

| | |
|--------------------------------|---|
| PROPERTY AND EXISTING ROW LINE | — |
| REQUIRED ROW LINE | — |
| CONSTRUCTION LIMITS | ▨ |
| EASEMENT FOR CONSTR | ▩ |
| EASEMENT FOR CONSR OF SLOPES | ▧ |
| EASEMENT FOR CONSTR OF SLOPES | ▦ |
| EASEMENT FOR CONSTR OF DRIVES | ▤ |

SCALE IN FEET: 0 20 40 80

STATE OF GEORGIA
DEPARTMENT OF TRANSPORTATION
FLIGHT OF WAY MAP
PROJECT NO. CS&P-0001-0018101
CONTRACT NO. CS&P-0000-0018101
LAND LOT NO. 117
CADD DATE 04/13/15
DATE APRIL 13, 2015 SW 55 OF 87

APPENDIX C TO EXHIBIT A
APPRAISER'S AFFIDAVIT

APPENDIX "C" TO EXHIBIT "A"

GEORGIA, GWINNETT COUNTY

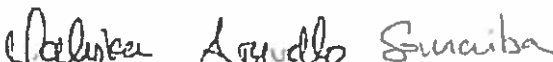
Personally comes, Mr. Gregory N. Malcolm, residing at 1243 Kylemore Lane, Snellville, Georgia 30078

1. Affiant was employed by the Department of Transportation to appraise Parcel No. 104/106/108 of the right of way and rights required for construction of Project No. CSSTP-0008-00(268) 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 \$ 2,900.00.



APPRAISER

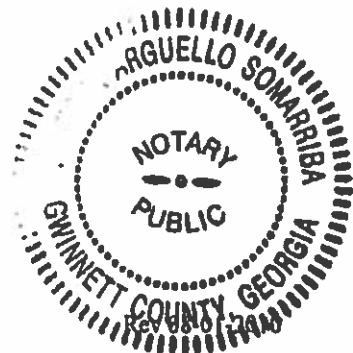
Sworn to and subscribed before me,
this 27th day of June, 2017.



NOTARY PUBLIC

My commission expires 12/09/19

Parcel No. 104/106/108





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

June 28, 2017

Alexis C. Haynes
3420 Finesse Drive
Decatur, Ga. 30032

Certified Mail Receipt:

Re: Intent to Condemn—DeKalb County, Georgia
DeKalb Sidewalk Program: Phase 2 C Flat Shoals Rd., Salem Rd., & Henderson Rd.
PI # 0008268, 0007618, & 0008831
Parcel # 104/106/106 Map Reference # 15-117-06-030, 15-117-06-007, 15-117-06-008

Dear Mr. Haynes:

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 \$2,900.00. 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 **July 27, 2017 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 Cheryl Brewer at 706-832-1412

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

Sincerely,

A handwritten signature in black ink that reads "David Pelton". The signature is written in a cursive style with a large, prominent "D" and "P".

David Pelton, PE
Interim Associate Director
Transportation Division

DWP

Enclosure