

**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 Delphine Perry as well as their successors or assigns. It is further resolved that payment of just and adequate compensation in the amount of Two Thousand, Seven Hundred dollars (\$2,700) 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

\_\_\_\_\_, 2018.

**DEKALB COUNTY BOARD OF COMMISSIONERS:**

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**JEFF RADER**  
Presiding Officer  
Board of Commissioners  
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County this \_\_\_\_\_ day of

\_\_\_\_\_, 2018.

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**MICHAEL L. THURMOND**  
Chief Executive Officer  
DeKalb County, Georgia

Attest:

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**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 DeKalb County, Georgia

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**Parcel 14**

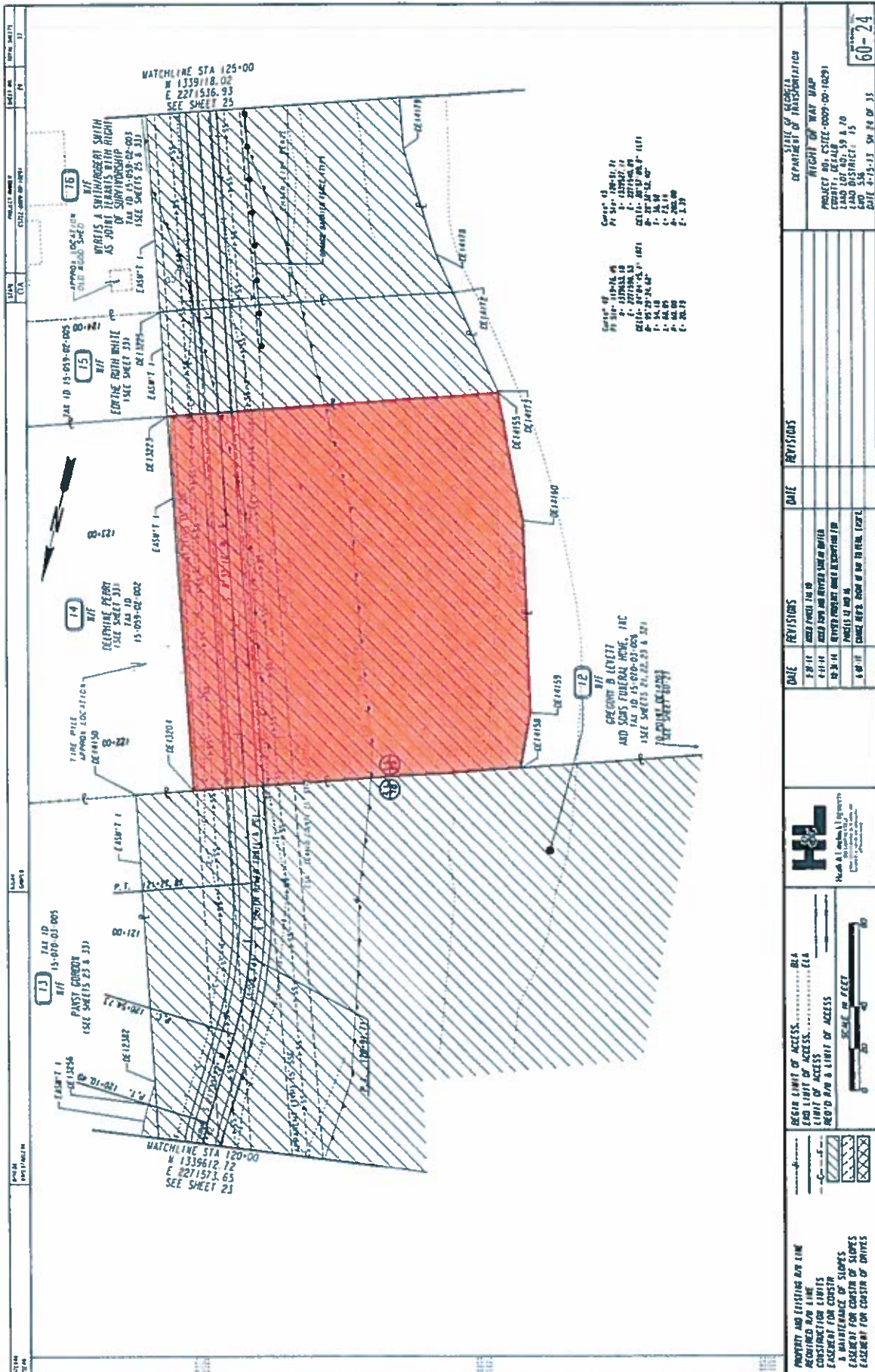
**(Tax ID #15-059-02-002)**

**Delphine Perry**

**3463 Waldrop Road**

**Decatur, GA 30034**

# EXHIBIT "B-1"



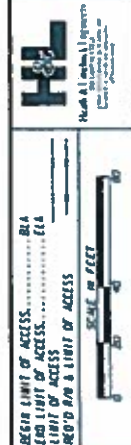
CORNER OF  
 P. 1. 100.00  
 P. 2. 100.00  
 P. 3. 100.00  
 P. 4. 100.00  
 P. 5. 100.00  
 P. 6. 100.00  
 P. 7. 100.00  
 P. 8. 100.00  
 P. 9. 100.00  
 P. 10. 100.00

GREGORY B. GLENN  
 AND SONS FEDERAL HOME, INC  
 TAX ID 15-070-01-005  
 (SEE SHEETS 21, 22, 23 & 24)  
 (SEE SHEET 20)

DATE	REVISIONS	DATE	REVISIONS
12-11-11	ADDED PERMIT TO BE		
01-11-11	ADDED PERMIT AND REVISED SURVEY DATA		
05-24-11	REVISED PROPERTY OWNER DESCRIPTION TO		
06-11-11	PERMITS TO BE		
06-11-11	CHANGED PERM. FROM 10 TO 10 FEET (LOCAL)		

STATE OF GEORGIA  
 DEPARTMENT OF TRANSPORTATION  
 HIGHWAY 401 WYOMING  
 PROJECT NO. G57EE-0007-10-10291  
 COUNTY: DEKALB  
 ROAD LOT 401.50 A.70  
 ROAD DISTRICT: 15  
 DATE: 4-15-11 5M 10 OF 31

PROPERTY AND EGRESS AND LINE  
 ACQUIRED AND LINE  
 CONSTRUCTION LIMITS  
 EASEMENT FOR CONSTRUCTION  
 & MAINTENANCE OF SLOPES  
 EASEMENT FOR CONSTRUCTION OF DRAINAGE  
 EASEMENT FOR CONSTRUCTION OF DRAINAGE



BEGIN LIMIT OF ACCESS  
 END LIMIT OF ACCESS  
 LIMIT OF ACCESS  
 RED'D ROW & LIMIT OF ACCESS  
 SCALE: 1" = 40' FEET

60-24



**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 Two Thousand, Seven Hundred dollars (\$2,700) 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, extending, expanding, and/or installing a non-motorized vehicle multi-purpose trail for public (county) transportation purposes.

**DEKALB COUNTY BOARD OF COMMISSIONERS:**

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**JEFF RADER**  
Presiding Officer  
Board of Commissioners  
DeKalb County, Georgia

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

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**MICHAEL L. THURMOND**  
Chief Executive Officer  
DeKalb County, Georgia

Attest:

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**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

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**Exhibit A**

**Appendix A**  
**(Order to Condemn)**

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

**WHEREAS**, the Board of Commissioners of DeKalb County has laid out and determined to construct a public multi-use trail project for DeKalb County at that certain parcel identified for tax purposes as parcel identification number 15-059-02-002 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:	29,723.76 Square Feet of Permanent Easement
Owner:	Delphine Perry
Potentially Interested Parties:	Chase Manhattan Mortgage Corporation

**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. § 32-3-1, *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 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:**

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**JEFF RADER**  
Presiding Officer  
Board of Commissioners  
DeKalb County, Georgia

**APPROVED** by the Chief Executive Officer of DeKalb County this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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**MICHAEL L. THURMOND**  
Chief Executive Officer  
DeKalb County, Georgia

Attest:

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**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', is 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 Condemnor

# **Exhibit A**

## **Appendix B (Property Description)**

## EXHIBIT "A"

### PERMANENT TRAIL EASEMENT

Delphine Perry

Parcel 14

Tax Parcel Identification Number 15-059-02-002

All that Tract or Parcel of land lying and being in Land Lot 59 of the 15<sup>th</sup> District, DeKalb County, Georgia, and being more particularly described as follows:

**BEGINNING** at a point 25.00 feet left of and opposite Station 121+74.07 on the construction centerline of S. River Trail; thence S00°33'11.8"W a distance of 180.00 feet to a point 25.00 feet left of and opposite Station 123+54.07; thence N89°38'02.4"W a distance of 160.02 feet to a point 135.02 feet right of and opposite Station 123+54.59; thence N06°57'53.3"W a distance of 62.31 feet to a point 143.17 feet right of and opposite Station 122+92.82; thence N02°23'50.0"E a distance of 92.17 feet to a point 140.21 feet right of and opposite Station 122+00.70; thence N14°00'05.7"E a distance of 26.85 feet to a point 133.96 feet right of and opposite Station 121+74.59; thence S89°38'02.4"E a distance of 158.96 feet back to the **POINT OF BEGINNING**, containing 29,723.76 square feet (0.682 acres) more or less.

Said described land being a permanent easement for the construction and maintenance of slopes and shown in orange on the attached Right of Way Maps, marked Exhibit "B-1" and Exhibit "B-2", prepared by Heath & Lineback Engineers Incorporated dated April 15, 2013 and revised June 7, 2017 is made a part hereof by reference.







# **Exhibit A**

## **Appendix C (Appraiser Affidavit)**

APPENDIX "C" TO EXHIBIT "A"

GEORGIA, DEKALB COUNTY

Personally comes, John D. Crawford, residing at 570 Mountainbrooke Circle, Stone Mountain, GA 30087

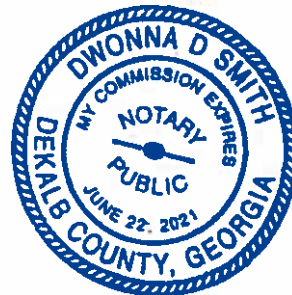
1. Affiant was employed by the Department of Transportation to appraise Parcel No. 14 of the right of way and rights required for construction of Project No. South River Trail, Phase 5, P.I. No. 0009029 in DeKalb County, Georgia for said Department and makes this sworn statement to be used in connection 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 \$ 2,700.00.

John D Crawford  
APPRAISER

Sworn to and subscribed before me,  
this 6th day of April, 2018.

Dwonna D Smith  
NOTARY PUBLIC

My commission expires 6/22/21



Parcel No. 14



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

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May 30, 2018

Certified Mail Receipt:  
7004 1160 0006 7107 9186

Delphine Perry  
5183 Tara Creek Drive  
Ellenwood, GA 30294-2006

Re: Intent to Condemn—DeKalb County, Georgia  
South River Trail, Phase 5  
Project No. CSTE-0009-00-(029) P.I. #0009029  
Project Parcel #14; Property Parcel Tax ID #15-059-02-002; 3463 Waldrop Road,  
Decatur, GA 30034

Dear Property Owners:

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 **\$2,700.00**. 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, June 26, 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 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/hkw  
Enclosure