

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 Cole FD Portfolio V, LLC, as well as their successors or assigns. It is further resolved that payment of just and adequate compensation in the amount of Four Thousand, One Hundred dollars (\$4,100) 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:

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 DeKalb County, Georgia

**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 transportation project for DeKalb County at that certain parcel identified for tax purposes as parcel identification number 18-015-01-017 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:	2087.60 Square Feet of Temporary Easement Driveway Easements
Owner:	Cole FD Portfolio V, LLC
Potentially Interested Parties:	Georgia Power Company

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:

JEFF RADER
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

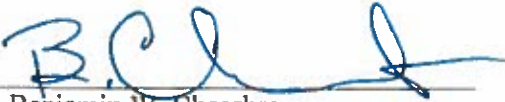
APPROVED by the Chief Executive Officer of DeKalb County this _____ day of _____, 2018.

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

Attest:

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

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Counsel for Condemnor

Exhibit A

Appendix A (Order to Condemn)

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 Four Thousand, One Hundred dollars (\$4,100) 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) road or other public 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

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Counsel for Condemnor

Exhibit A

Appendix B (Property Description)

Exhibit A

Appendix C (Appraiser Affidavit)

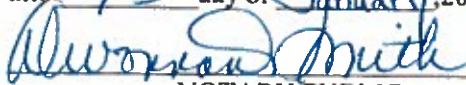
APPENDIX "C" TO EXHIBIT "A"

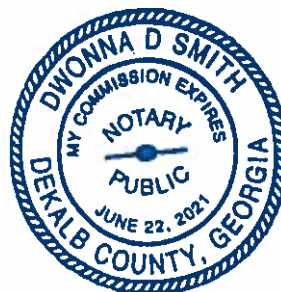
GEORGIA, DEKALB COUNTY

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. 7 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 \$ 4,100.00.


APPRAISER

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

NOTARY PUBLIC
My commission expires June 22, 2021



Parcel No. 7



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

February 1, 2018

Certified Mail Receipt:
7004 1160 0006 7107 9124

Cole FD Portfolio V, LLC
PO Box 1017
Charlotte, NC 28201

Re: Intent to Condemn—DeKalb County, Georgia
Rockbridge Road Improvements – Allgood Road to Rowland Road
PI # 0008121 and #0012789
Project Parcel #07; Property Parcel Tax ID #18-015-01-017; 4605 Rockbridge Road,
Stone Mountain, GA 30083

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 \$4,100.00. 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, February 27, 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,

A handwritten signature in black ink that reads "David Pelton". The signature is written in a cursive, slightly slanted style.

David Pelton, PE
Interim Associate Director
Transportation Division

DWP/hkw

CC: Georgia Power Company

Enclosure