

**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 P8/Sealy 3316 Colonial LLC as well as their successors or assigns. It is further resolved that payment of just and adequate compensation in the amount of Thirty-Nine Hundred dollars (\$3,900) 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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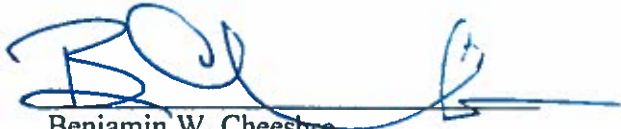
**MICHAEL L. THURMOND**  
Chief Executive Officer  
DeKalb County, Georgia

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:

A handwritten signature in blue ink, appearing to read 'B. Cheesbro', with a horizontal line extending to the right from the end of the signature.

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 06**

**(Tax ID #15-072-01-011)**

**P8 Sealy 3316 Colonial, LLC**

**3324 Colonial Parkway**

**Decatur, GA 30034**

## EXHIBIT "A"

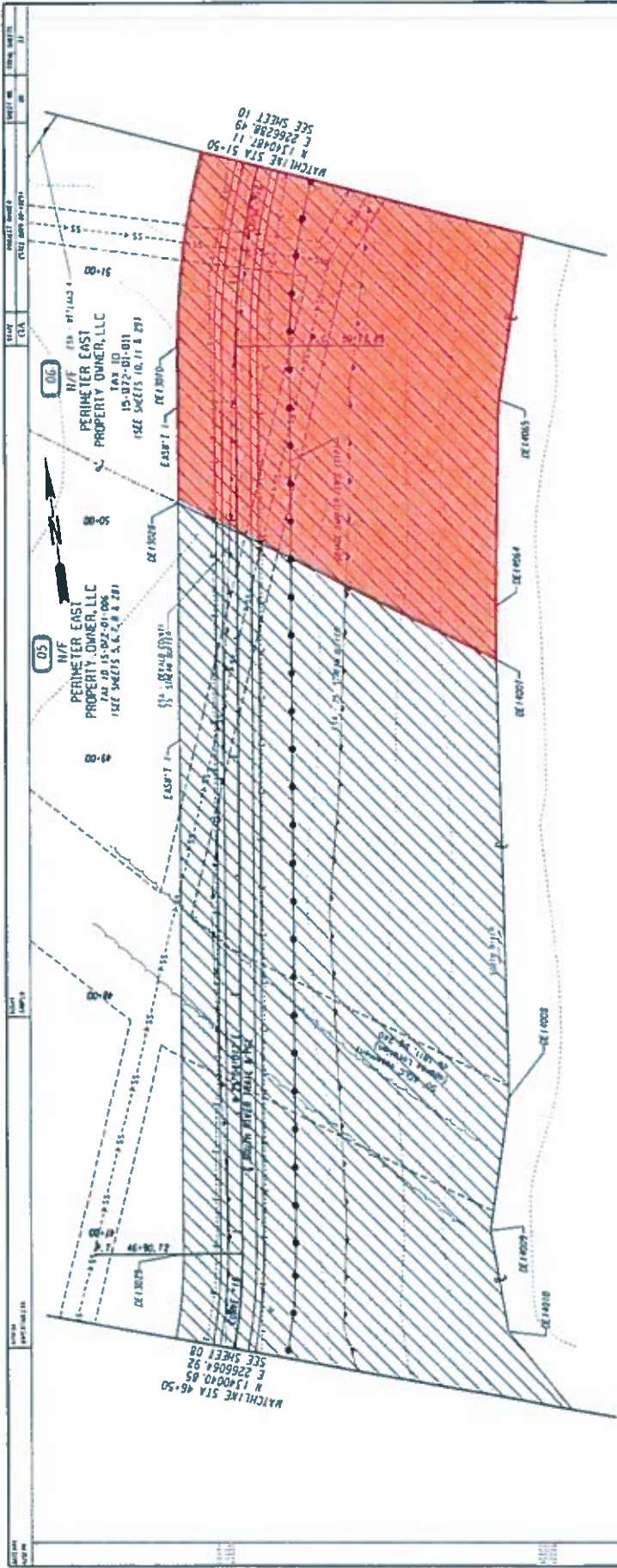
PERMANENT TRAIL EASEMENT  
P8 Sealy 3316 Colonial Parkway, LLC  
Parcel 6  
Tax Parcel Identification Number 15-072-01-011

All that Tract or Parcel of land lying and being in Land Lot 89 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 50+07.17 on the construction centerline of S. River Trail; thence N25°04'01.0"E a distance of 66.08 feet to a point 25.00 feet left of and opposite Station 550+73.25; thence northeasterly along a curve having a radius of 325.00 feet and an arc length 225.43 feet, with a chord bearing of N44°56'15.5"E and a chord length of 220.93 feet to point 25.00 feet left of and opposite Station 52+81.34; thence N64°48'29.9"E a distance of 200.22 feet to a point 25.00 feet left of and opposite Station 54+81.56; thence northeasterly along a curve having a radius of 250.00 feet and an arc length 86.09 feet, with a chord bearing of N74°40'22.6"E and a chord length of 85.66 feet to point 25.00 feet left of and opposite Station 55+59.03; thence N84°32'15.3"E a distance of 66.54 feet to a point 25.00 feet left of and opposite Station 56+25.57; thence northeasterly along a curve having a radius of 175.00 feet and an arc length 15.91 feet, with a chord bearing of N81°55'59.3"E and a chord length of 15.90 feet to point 25.00 feet left of and opposite Station 56+43.75; thence N79°19'43.3"E a distance of 69.75 feet to a point 25.00 feet left of and opposite Station 57+13.51; thence S07°00'59.4"E a distance of 120.27 feet to a point 95.03 feet right of and opposite Station 57+05.84; thence N85°43'22.9"W a distance of 9.44 feet to a point 92.59 feet right of and opposite Station 56+96.72; thence N87°59'49.3"W a distance of 78.77 feet to a point 76.34 feet right of and opposite Station 56+26.45; thence S81°23'03.7"W a distance of 95.68 feet to a point 78.94 feet right of and opposite Station 55+15.97; thence S65°23'41.6"W a distance of 45.43 feet to a point 80.18 feet right of and opposite Station 54+58.38; thence S58°30'18.7"W a distance of 64.28 feet to a point 87.23 feet right of and opposite Station 53+94.49; thence S53°03'36.4"W a distance of 82.85 feet to a point 104.10 feet right of and opposite Station 53+13.37; thence S61°41'57.3"W a distance of 54.57 feet to a point 105.76 feet right of and opposite Station 52+46.59; thence S39°32'45.9"W a distance of 54.57 feet to a point 115.78 feet right of and opposite Station 51+61.23; thence S34°14'38.5"W a distance of 77.52 feet to a point 111.28 feet right of and opposite Station 50+49.98; thence S26°33'54.2"W a distance of 87.18 feet to a point 109.00 feet right of and opposite Station 49+62.83; thence S23°47'19.2"W a distance of 22.28 feet to a point 109.50 feet right of and opposite Station 49+40.56; thence N38°35'16.0"W a distance of 150.09 feet back to the **POINT OF BEGINNING**, containing 84,938.19 square feet (1.950 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", Exhibit "B-2", Exhibit "B-3", and Exhibit "B-4", prepared by Heath & Lineback Engineers Incorporated dated April 15, 2013 and revised June 7, 2017 is made a part hereof by reference.

# EXHIBIT "B-1"

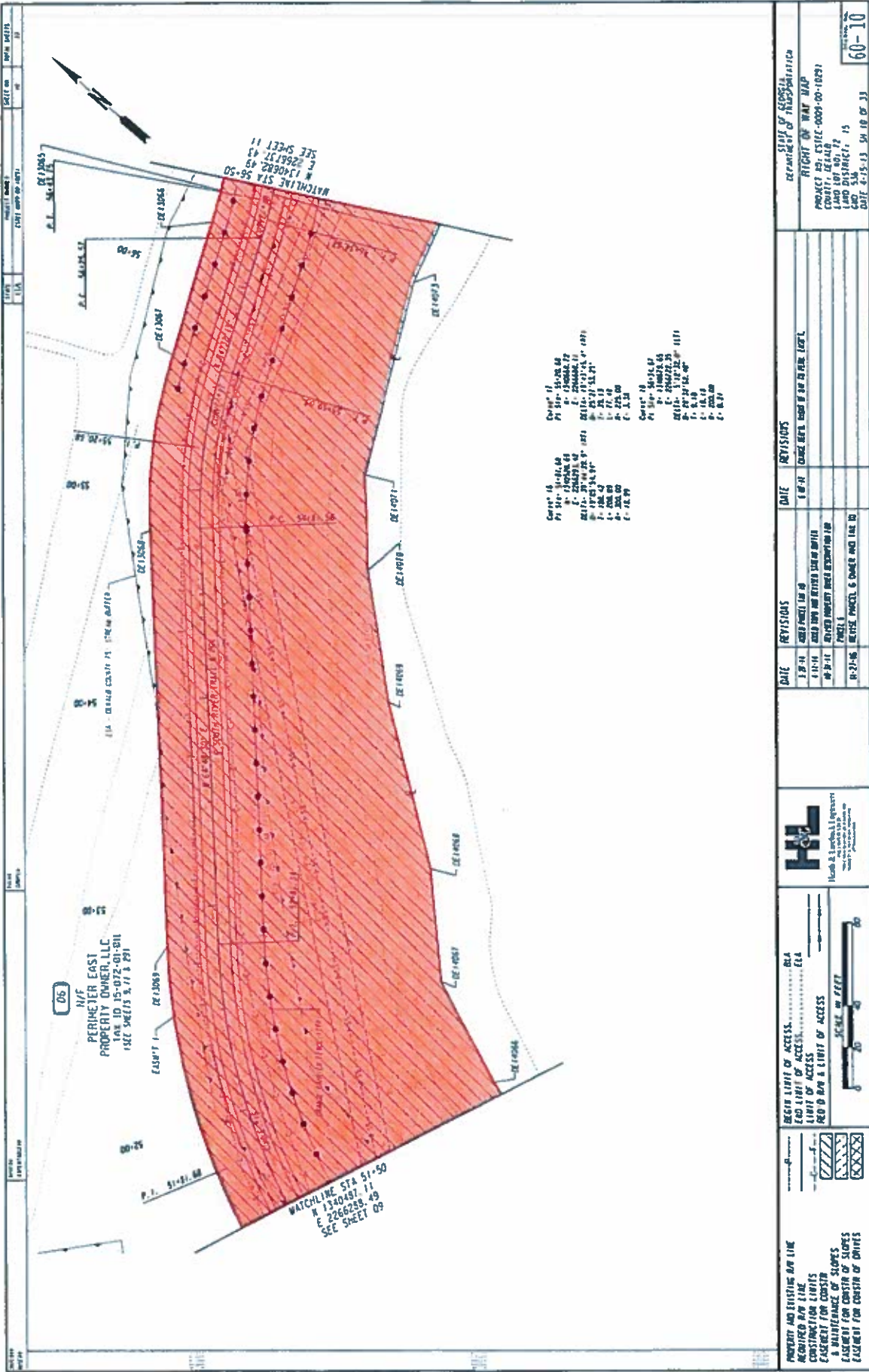


Parcel 5  
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PROPERTY AND EXISTING SURVEY REQUIRED SURVEY CONSTRUCTION LIMITS EASEMENT FOR CONSTRUCTION EASEMENT FOR CONSTRUCTION EASEMENT FOR CONSTRUCTION EASEMENT FOR CONSTRUCTION		BEGIN LIMIT OF ACCESS END LIMIT OF ACCESS LIMIT OF ACCESS END OF LIMIT OF ACCESS		  SCALE OF FEET				 Huck & Associates Surveyors & Engineers 1000 Peachtree Street, N.E. Atlanta, Georgia 30309 Phone: 404.525.1111 Fax: 404.525.1112 Email: info@huckandassociates.com		REVISIONS <table border="1"> <thead> <tr> <th>DATE</th> <th>REVISIONS</th> </tr> </thead> <tbody> <tr> <td>11-27-16</td> <td>SET PROPERTY OWNER FOR PARCELS 5 AND 6</td> </tr> <tr> <td>11-27-16</td> <td>REVISE L&amp;C FOR PARCEL 6</td> </tr> <tr> <td>11-27-16</td> <td>CONTRACT REVIEW AND REVISIONS FOR PARCEL 6</td> </tr> </tbody> </table>		DATE	REVISIONS	11-27-16	SET PROPERTY OWNER FOR PARCELS 5 AND 6	11-27-16	REVISE L&C FOR PARCEL 6	11-27-16	CONTRACT REVIEW AND REVISIONS FOR PARCEL 6	STATE OF GEORGIA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP PROJECT NO. CS12-0009-00-1029 COUNTY, DEKALB ROAD DISTRICT 72 ROAD PROJECT 13 DATE 3-15-13 SW 09 OF 33	
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MATCHLINE STA 46+50 MATCHLINE STA 51+50								60-09													



# EXHIBIT "B-2"



DATE	REVISIONS	DATE	REVISIONS
1-20-11	ISSUED PERMIT FOR 10	6-27-11	CHANGE BEARINGS ON DE IN AREA 1007L
4-18-11	ISSUED DRAIN AND RETENTION DRAINAGE		
4-28-11	ISSUED PROPERTY OWNER DESCRIPTION FOR PERMITS		
8-21-08	ISSUED PERMIT, 6 OWNER AND LINE TO		

DATE	REVISIONS	DATE	REVISIONS
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8-21-08	ISSUED PERMIT, 6 OWNER AND LINE TO		



BEGIN LIMIT OF ACCESS  
 END LIMIT OF ACCESS  
 LIMIT OF ACCESS  
 RED'D BAY & LIMIT OF ACCESS

SCALE: 1" = 40'







**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 Thirty-Nine Hundred dollars (\$3,900) 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:

---

**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 15-072-01-011 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:	84,938.19 Square Feet of Permanent Easement
Owner:	P8/Sealy 3316 Colonial LLC

**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.

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

Attest:

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**BARBARA H. SANDERS-NORWOOD, CCC**  
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Benjamin W. Cheesbro

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bcheesbro@caplancobb.com

Counsel for Condemnor

---

# **Exhibit A**

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

## EXHIBIT "A"

PERMANENT TRAIL EASEMENT  
P8 Sealy 3316 Colonial Parkway, LLC  
Parcel 6  
Tax Parcel Identification Number 15-072-01-011

All that Tract or Parcel of land lying and being in Land Lot 89 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 50+07.17 on the construction centerline of S. River Trail; thence N25°04'01.0"E a distance of 66.08 feet to a point 25.00 feet left of and opposite Station 550+73.25; thence northeasterly along a curve having a radius of 325.00 feet and an arc length 225.43 feet, with a chord bearing of N44°56'15.5"E and a chord length of 220.93 feet to point 25.00 feet left of and opposite Station 52+81.34; thence N64°48'29.9"E a distance of 200.22 feet to a point 25.00 feet left of and opposite Station 54+81.56; thence northeasterly along a curve having a radius of 250.00 feet and an arc length 86.09 feet, with a chord bearing of N74°40'22.6"E and a chord length of 85.66 feet to point 25.00 feet left of and opposite Station 55+59.03; thence N84°32'15.3"E a distance of 66.54 feet to a point 25.00 feet left of and opposite Station 56+25.57; thence northeasterly along a curve having a radius of 175.00 feet and an arc length 15.91 feet, with a chord bearing of N81°55'59.3"E and a chord length of 15.90 feet to point 25.00 feet left of and opposite Station 56+43.75; thence N79°19'43.3"E a distance of 69.75 feet to a point 25.00 feet left of and opposite Station 57+13.51; thence S07°00'59.4"E a distance of 120.27 feet to a point 95.03 feet right of and opposite Station 57+05.84; thence N85°43'22.9"W a distance of 9.44 feet to a point 92.59 feet right of and opposite Station 56+96.72; thence N87°59'49.3"W a distance of 78.77 feet to a point 76.34 feet right of and opposite Station 56+26.45; thence S81°23'03.7"W a distance of 95.68 feet to a point 78.94 feet right of and opposite Station 55+15.97; thence S65°23'41.6"W a distance of 45.43 feet to a point 80.18 feet right of and opposite Station 54+58.38; thence S58°30'18.7"W a distance of 64.28 feet to a point 87.23 feet right of and opposite Station 53+94.49; thence S53°03'36.4"W a distance of 82.85 feet to a point 104.10 feet right of and opposite Station 53+13.37; thence S61°41'57.3"W a distance of 54.57 feet to a point 105.76 feet right of and opposite Station 52+46.59; thence S39°32'45.9"W a distance of 54.57 feet to a point 115.78 feet right of and opposite Station 51+61.23; thence S34°14'38.5"W a distance of 77.52 feet to a point 111.28 feet right of and opposite Station 50+49.98; thence S26°33'54.2"W a distance of 87.18 feet to a point 109.00 feet right of and opposite Station 49+62.83; thence S23°47'19.2"W a distance of 22.28 feet to a point 109.50 feet right of and opposite Station 49+40.56; thence N38°35'16.0"W a distance of 150.09 feet back to the **POINT OF BEGINNING**, containing 84,938.19 square feet (1.950 acres) more or less.

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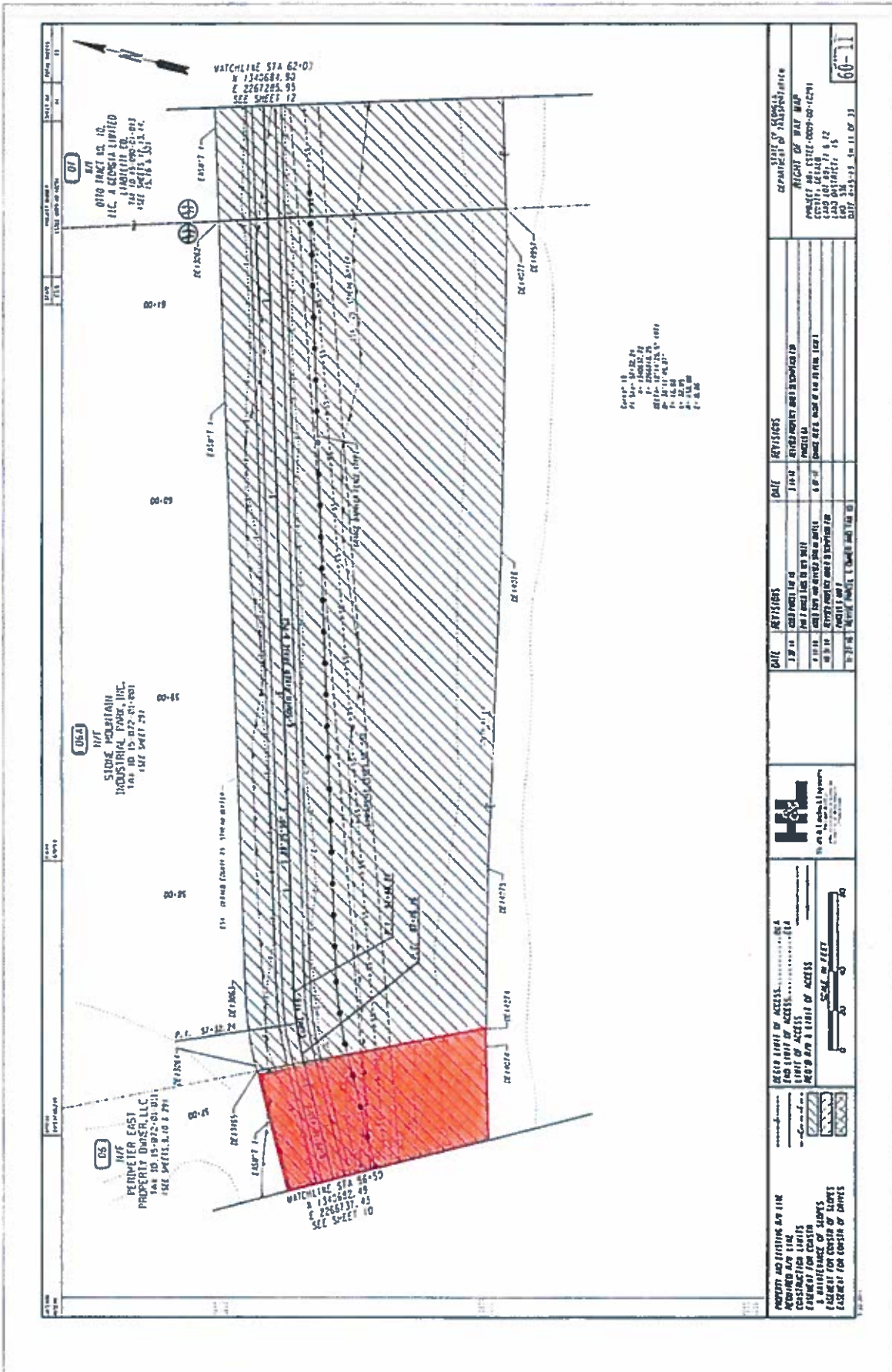








# EXHIBIT "B-3"





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**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. 6 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 \$ 3,900.00.

John D Crawford  
APPRAISER

Sworn to and subscribed before me  
this 6<sup>th</sup> day of April, 2018  
Deonna D Smith  
NOTARY PUBLIC  
My commission expires 6/22/21



Parcel No. 6



# 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

June 15, 2018

Certified Mail Receipt:  
7004 1160 0006 7107 9216

P8/Sealy 3316 Colonial, LLC  
Attn: Ryan McCaffrey  
3445 Peachtree Road, Suite 425  
Atlanta, GA 30326

Re: Intent to Condemn—DeKalb County, Georgia  
South River Trail, Phase 5  
Project No. CSTE-0009-00-(029) P.I. #0009029  
Project Parcel #06; Property Parcel Tax ID #15-072-01-011; 3324 Colonial Parkway,  
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 **\$3,900.00**. 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, July 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 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