

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXERCISE OF THE CITY OF AVONDALE ESTATES' POWER OF EMINENT DOMAIN IN THE ACQUISITION OF CERTAIN INTERESTS IN PROPERTY SITUATED IN DEKALB COUNTY, GEORGIA, FOR CONSTRUCTION OF A CITY STREET AND/OR OTHER PUBLIC TRANSPORTATION PURPOSES.

WHEREAS, pursuant to Article 9, Section 2, Paragraph 5 of the Georgia Constitution, municipalities may acquire property in fee simple or in any lesser interest by eminent domain for public purposes; and

WHEREAS, the governing authority of the City of Avondale Estates, Georgia, a municipal corporation 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 city street and/or other public transportation purposes;

NOW THEREFORE, BE IT AND IT IS HEREBY RESOLVED that the City Attorney, or his 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 the City of Avondale Estates, said property now or formerly vested in Joseph C. Gargiulo, his successors or assigns. It is further resolved that payment of just and adequate compensation in the amount of Forty Thousand Dollars (\$40,000) be made to the person or persons entitled to such payment. The Mayor 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 Mayor and Commissioners.

SO RESOLVED by the Avondale Estates Board of Mayor and Commissioners, this ____ day of _____, 2020.

ATTEST:

**BOARD OF MAYOR AND COMMISSIONERS
CITY OF AVONDALE ESTATES, GEORGIA**

By _____
Gina Hill, City Clerk

Jonathan Elmore, Mayor

Approved as to Form:

Stephen G. Quinn
Stephen G. Quinn,
Assistant City Attorney

EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lot 248 of the 15th District, Dekalb County, Georgia being more particularly described as follows:

Begin at the point of intersection of the easterly line of Maple Street and the southerly right of way line of property now or formerly owned by CSX Transportation, Inc.; thence southwesterly along said southerly right of way line a distance of 544 feet to a point; thence northwesterly a distance of 50 feet to a point; thence northeasterly along a line a distance of 50 feet southerly of and parallel with the center line of the main tract a distance of 1034 feet to a point; thence southeasterly a distance of 50 feet to a point on the southerly right of way line of property now or formerly owned by CSX Transportation, Inc.; thence southwesterly along said right of way a distance of 490 feet to the Point of Beginning.

**ORDER OF THE AVONDALE ESTATES BOARD OF MAYOR AND
COMMISSIONERS TO CONDEMN PROPERTY FOR PURPOSES OF
CONSTRUCTING AND IMPROVING A PUBLIC TRANSPORTATION PROJECT**

WHEREAS, the Avondale Estates Board of Mayor and Commissioners has laid out and determined to construct a city street or other transportation facility for the City at that certain parcel identified for tax purposes as parcel identification number 15-248-21-019 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: 1,775 square feet (0.041 acres) in fee simple

Owner: Joseph C. Gargiulo

Potentially Interested Parties: Person(s) in possession of the property.

NOW THEREFORE, in accordance with O.C.G.A. § 32-3-6(b)(6) and (c), it is hereby found by the Avondale Estates Board of Mayor and Commissioners 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.

IT IS ORDERED that the City of Avondale Estates 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 City Attorney or his 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 Avondale Estates Board of Mayor and Commissioners,

this ____ day of _____, 2020.

[signatures on following page]

ATTEST:

**BOARD OF MAYOR AND COMMISSIONERS
CITY OF AVONDALE ESTATES, GEORGIA**

By _____
Gina Hill, City Clerk

Jonathan Elmore, Mayor

Approved as to Form:

Stephen G. Quinn
Stephen G. Quinn,
Assistant City Attorney

EXHIBIT "A"

DECLARATION OF TAKING

WHEREAS, the City of Avondale Estates, Georgia, has made and passed a Resolution finding that the circumstances in connection with acquiring certain interests in property and for public right-of-way 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 are for public purposes upon, across, and over the tract of land in Avondale Estates, DeKalb County, Georgia, as fully described in the attachment hereto identified as Appendix B to Exhibit "A," and made a part hereof; and

WHEREAS, the City of Avondale Estates, 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 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," the City of Avondale Estates, Georgia estimates Forty Thousand Dollars (\$40,0000) as just and adequate compensation to be paid for said right-of-way, as fully described in Appendix B to Exhibit "A" which is attached hereto and made a part hereof and will deposit said sum in the Court to the use of the persons entitled thereto.

NOW THEREFORE, the premises considered, the City of Avondale Estates, Georgia, under authority of O.C.G.A. § 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 right-of-way and sidewalk improvements or other transportation purposes.

This ____ day of _____, 2020.

ATTEST:

**BOARD OF MAYOR AND COMMISSIONERS
CITY OF AVONDALE ESTATES, GEORGIA**

By _____
Gina Hill, City Clerk

Jonathan Elmore, Mayor

Approved as to Form:

Stephen G. Quinn
Stephen G. Quinn,
Assistant City Attorney

- GENERAL NOTES:**
1. This Plat has been prepared without the benefit of a current title report. Easements or encumbrances may exist that are not shown on this plat.
 2. This plat is subject to any restrictions, easements, covenants or restrictions that may exist either written or unwritten.
 3. Underground utilities not shown hereon may exist. The Surveyor does not take responsibility for absence or presence of any such utilities.
 4. No Geodetic monuments were found within 500 feet of this site
 5. This Plat has been prepared for the exclusive use of the person(s) or entities named hereon.

This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated hereon.

RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.

REFERENCE: DEED BOOK 20320 PG 379
 FLOOD HAZARD NOTE: THIS PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA AS DENIED BY FIRM MAP OF DEKALB COUNTY, GEORGIA 13089C00693 EFFECTIVE DATE MAY 16, 2013
 SURVEY DATA:

TYPE OF SURVEY: RETRACEMENT
 SOURCE OF TITLE DESCRIPTION FOR SUBJECT PROPERTY: DB 20320 PG 379
 PROPERTY OWNER AT TIME OF SURVEY: JOSEPH C. GARGUILO
 PARCEL NUMBER: 15-248-21-019

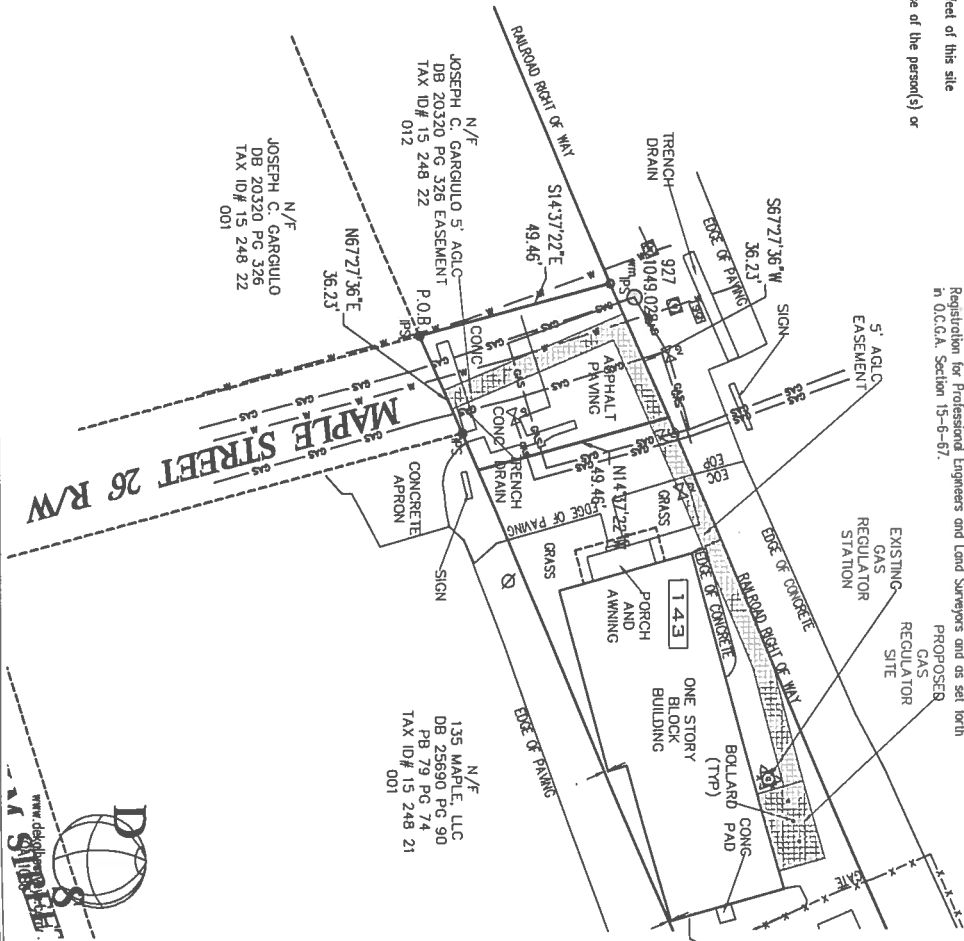
BASES OF BEARINGS IS A SINGLE COMPASS READING & ANGLES TURNED

TOTAL AREA: 1,774.86 SQ FT, 0.041 AC
 CALCULATED PLAT CLOSURE: 1:171,380,000.00

FIELD DATA:
 DATE OF FIELD SURVEY 01-25-2018
 UPDATE 01-10-2020

THE CALCULATED POSITIONAL TOLERANCE BASED ON REDUNDANT LINEAR MEASUREMENTS OF OBSERVED POSITIONS WAS FOUND TO BE 0.015 FEET.
 EQUIPMENT:
 ELECTRONIC TOTAL STATION

BOUNDARY SURVEY FOR
 CITY OF AVONDALE ESTATES
MAPLE STREET
 CITY OF AVONDALE, DEKALB COUNTY, GEORGIA
 LAND LOT 248, DIST 15
 DATE: FEBRUARY 7, 2020

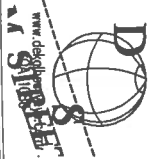


LEGEND

- EQP EDGE OF PAVEMENT (CURB)
- PP POWER POLE
- R/W RIGHT OF WAY
- IPF IRON PIN FOUND
- IPB 1/2" REBAR SET
- SW SIDE WALK
- BO BOLLARD
- ORP OVERHEAD POWER
- FB FIRE HYDRANT
- CB CATCH BASIN
- WH WASHHOLE
- WM WATER METER
- WV WATER VALVE
- GV GAS VALVE
- GM GAS METER
- LP LIGHT POLE
- CP CONCRETE PAD



FOR
 DEKALB SURVEYS, INC.
 407 WEST PONCE DE LEON AVENUE
 SUITE B
 DECATUR, GEORGIA 30030
 404.373.9003



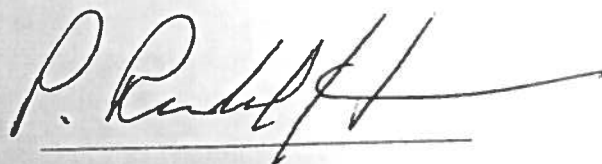
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APPENDIX "C" TO EXHIBIT "A"

GEORGIA, DEKALB COUNTY

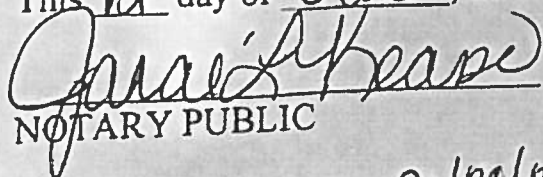
Personally comes, **P. RANDALL HAUMESSER, MAI** and after being duly sworn does state as follows:

1. Affiant was employed by the City of Avondale Estates to appraise a 1,175 square foot portion of Parcel No. 15-248-21-019 in DeKalb County, Georgia 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 property for use as a City street.
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 Condemnee 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 portion of said parcel, and any consequential damages or benefits considered, is in the amount of Forty Thousand Dollars (\$40,000.00).



APPRAISER

Sworn to and subscribed before me,
This 12th day of JUNE, 2020.



NOTARY PUBLIC

My commission expires 01/24/2021

