

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 David Harrell, his successors or assigns. It is further resolved that payment of just and adequate compensation in the amount of Eight Hundred and Fifty Thousand Dollars (\$850,000) 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 10th day of February, 2021.

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 249 OF THE 15TH DISTRICT OF DEKALB COUNTY, GEORGIA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF FRANKLIN STREET, AND LAKE STREET; AND RUNNING EAST ALONG THE NORTH SIDE OF FRANKLIN STREET 50 FEET; THENCE NORTH 174 FEET; THENCE WEST 50 FEET TO THE EAST SIDE OF LAKE STREET; THENCE SOUTH ALONG THE EAST SIDE OF LAKE STREET 174 FEET TO THE POINT OF BEGINNING, BEING IMPROVED PROPERTY KNOWN AS NO. 129-133 CLAUDE STREET, ACCORDING TO THE PRESENT SYSTEM OF NUMBERING HOUSES ON SAID STREET.

(THIS PROPERTY BEING LOCATED ON THE CORNER OF FRANKLIN STREET AND LAKE STREET IS ALSO KNOWN AS 129 LAKE STREET).

Map Parcel No. 15 249 14 005

**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 15-249-14-005 by the DeKalb County Board of Tax Assessors; the same being more fully described and shown in the description and 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: fee simple ownership of entire parcel

Owner: David Harrell

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 10th day of February, 2021.

[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 Eight Hundred and Fifty Thousand Dollars (\$850,000) 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 10th day of February, 2021.

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
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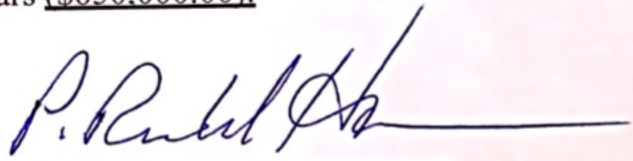
APPENDIX "C" TO EXHIBIT "A"

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 the property known as 2950 Franklin Street, Avondale Estates, DeKalb County, Georgia 30002, tax parcel 15-249-14-005, 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 parcel, and any consequential damages or benefits considered, is in the amount of Eight Hundred and Fifty Thousand Dollars (\$850,000.00).



APPRAISER

Sworn to and subscribed before me,
This 3 day of February, 2021.


NOTARY PUBLIC

My commission expires 5/7/23

