

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 **Mr. David E. Ladet**, his successors or assigns. It is further resolved that payment of just and adequate compensation in the amount of **One Million, Seven Hundred and Ninety Thousand, Six Hundred and Forty-Four Dollars (\$1,790,634)** 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 8th day of June, 2022.

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"

LEGAL DESCRIPTION OF REQUIRED RIGHT-OF-WAY, AREAS A and B

AREA-A

Being all that tract or parcel of land in the City of Avondale Estates, and within Land Lot 248, 18th District, DeKalb County, Georgia and being more particularly described as follows:

To find the Point of Beginning, commence at a Mag Nail found at the intersection of the Westerly Right-of-Way Line of Olive Street (an approximate 40 feet wide right of way) and the Northerly Right-of-Way Line of Franklin Street (an approximate 40 feet wide right of way); thence, leaving said point and running with the said line of Olive Street, North 07° 03' 48" West, 166.67 feet; thence, North 06° 53' 48" West, 32.29 feet to the True Point of Beginning of the herein described tract or parcel of land; thence, leaving the said Point of Beginning and said line of Olive Street and running,

1. North 82° 31' 11" West, 111.49 feet; thence,
2. 164.08 feet along the arc of a curve deflecting to the left, having a radius of 394.13 feet and a chord bearing and distance of South 85° 33' 14" West, 162.90 feet; thence, running adjacent to the property now or formerly owned by Joseph C. Gargiulo, as described in a deed recorded among the aforesaid Land Records in Deed Book 20320, Page 326,
3. North 67° 26' 56" East, 126.33 feet to an iron pin found; thence, running adjacent to the property now or formerly owned by the Georgia Railroad,
4. North 68° 32' 06" East, 154.06 feet to an iron pin found on the aforesaid line of Olive Street; thence, running with the said line of Olive Street,
5. South 06° 53' 48" East, 107.49 feet to the Point of Beginning, containing 11,933 square feet or 0.2739 of an acre of land, more or less.

Property is subject to a current survey of the property and all easements and rights of way recorded and unrecorded.

AREA-B

Being all that tract or parcel of land in the City of Avondale Estates, and within Land Lot 248, 18th District, DeKalb County, Georgia and being more particularly described as follows:

To find the Point of Beginning, commence at a Mag Nail found at the intersection of the Westerly Right-of-Way Line of Olive Street (an approximate 40 feet wide right of way) and the Northerly Right-of-Way Line of Franklin Street (an approximate 40 feet wide right of way); thence, leaving said Point of Beginning and running with the said line of Franklin Street, South 70° 33' 07" West, 75.82 feet to a ½ inch pipe found; thence, South 72° 13' 57" West, 103.89 feet to an iron pin found; thence, South 70° 54' 55" West, 42.10 feet to the True Point of Beginning of the herein described tract or parcel of land; thence, leaving the said Point of Beginning and continuing with the said line of Franklin Street,

1. South 70° 54' 55" West, 62.39 feet to a 1 inch rod found; thence, running across Franklin Street as utilized by the public,
2. South 73° 57' 27" West, 23.79 feet to an iron pin found on the West Right of Way Line of said Franklin Street; thence, running with the said line of Franklin Street
3. North 15° 18' 54" West, 124.67 feet to an iron pin found on the North Right of Way Line of said Franklin Street as utilized by the public; thence, running adjacent to the property now or formerly owned by 135 Maple, LLC, as described in a deed recorded among the Land Records of DeKalb County, Georgia in Deed Book 25690, Page 90,
4. North 72° 56' 47" East, 74.94 feet; thence,
5. North 15° 52' 00" West, 160.95 feet; thence, running,
6. 59.65 feet along the arc of a curve deflecting to the right, having a radius of 394.13 feet and a chord bearing and distance of North 77° 57' 49" East, 59.60 feet; thence,
7. South 16° 21' 27" East, 131.06 feet; thence,
8. 74.14 feet along the arc of a curve deflecting to the right, having a radius of 168.77 feet and a chord bearing and distance of South 03° 46' 23" East, 73.54 feet; thence,
9. South 08° 48' 41" West, 84.35 feet to the Point of Beginning, containing 23,539 square feet or 0.5404 of an acre of land, more or less.

Property is subject to a current survey of the property and all easements and rights of way recorded and unrecorded.

**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 city streets or other transportation facilities for the City upon portions of those certain parcels identified for tax purposes as parcel identification numbers 15 248 21 016, 15 248 21 014, and 15 284 21 012 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 tracts 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 0.8143 Acres

Owner: Mr. David E. Ladet

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 8th day of June, 2022.

[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 tracts 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 **One Million, Seven Hundred and Ninety Thousand, Six Hundred and Forty-Four Dollars (\$1,790,634)** 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 8th day of June, 2022.

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

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Jonathan Elmore, Mayor

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APPENDIX "C" TO EXHIBIT "A"

GEORGIA, DEKALB COUNTY

Personally comes, **MATTHEW K. GOTTSCHALK, MAI** and after being duly sworn does state as follows:

1. Affiant was employed by the City of Avondale Estates to appraise portions (totaling 0.8143 acres) of the assembled property known as 154 Olive Street, 2804 and 2816 Franklin Street, Avondale Estates, DeKalb County, Georgia 30002, tax parcel numbers 15 248 21 016, 15 248 21 014, and 15 284 21 012 and to 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 parcels are located. Affiant has personally inspected the property or right condemned and in appraising the relevant portions of said assembled parcels Affiant took into consideration the Fair Market Value of said parcels, as well as any consequential damages to remaining property of the Condemnee by reason of the taking and use of portions of said parcels 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 portions of said parcels, and any consequential damages or benefits considered, is in the amount of One Million, Seven Hundred and Ninety Thousand, Six Hundred and Thirty-Four Dollars (\$1,790,634).

APPRAISER

Sworn to and subscribed before me,
This ____ day of June, 2022.

NOTARY PUBLIC