

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXERCISE OF THE CITY OF AVONDALE ESTATES' POWER OF EMINENT DOMAIN TO ACQUIRE 0.23 ACRES OF REAL PROPERTY, 0.009 ACRES OF DRIVEWAY EASEMENT AND 61.78 LINEAL FEET OF LIMITED ACCESS FROM PROPERTY SITUATED IN DEKALB COUNTY, GEORGIA, BEING A PORTION OF THE PARCEL KNOWN AS 38 NORTH AVONDALE ROAD, FOR 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 Ken Levy, Esq., 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 38 Avondale Partners, LLC, its successors or assigns. It is further resolved that payment of just and adequate compensation in the amount of One Hundred and Twenty-Seven Thousand, Four Hundred and Five Dollars (\$127,405.00) 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 _____, 2023.

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, City Attorney

EXHIBIT "A"

P. I. NO.: 0015071
PARCEL NO.: 10
COUNTY: DeKalb
DATE OF R/W PLANS: December 14, 2020
REVISION DATE: Sheets 8 and 13, last revised August 26, 2022

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

Required Right of Way

Beginning at a point 37.32 feet left of and opposite Station 36+98.05 on the construction centerline of SR 10/US 278 on Georgia Highway P.I. No. 0015071; running thence N 6°41'52.1" W a distance of 9.36 feet to a point 46.62 feet left of and opposite station 36+99.16 on said construction centerline laid out for SR 10/US 278 CL; thence N 75°34'26.3" E a distance of 100.21 feet to a point 48.24 feet left of and opposite station 37+99.38 on said construction centerline laid out for SR 10/US 278 CL; thence S 6°41'51.8" E a distance of 5.99 feet to a point 42.30 feet left of and opposite station 37+98.65 on said construction centerline laid out for SR 10/US 278 CL; thence S 6°41'51.8" E a distance of 5.06 feet to a point 37.28 feet left of and opposite station 37+98.05 on said construction centerline laid out for SR 10/US 278 CL; thence S 76°31'38.6" W a distance of 100.00 feet back to the point of beginning.

Containing 0.023 acres more or less.

Driveway Easement

Also, granted is the right to an easement for the construction of a driveway as shown on the attached plat. Said easement expires upon completion and final acceptance of said project by the Department of Transportation.

Beginning at a point 47.62 feet left of and opposite Station 37+60.94 on the construction centerline of SR 10/US 278 on Georgia Highway P.I. No. 0015071; running thence N 13°33'13.7" W a distance of 10.04 feet to a point 57.66 feet left of and opposite station 37+60.93 on said construction centerline laid out for SR 10/US 278 CL; thence N 76°36'41.4" E a distance of 39.55 feet to a point 57.59 feet left of and opposite station 38+00.50 on said construction centerline laid out for SR 10/US 278 CL; thence S 6°41'51.8" E a distance of 9.41 feet to a point 48.24 feet left of and opposite station 37+99.38 on said construction centerline laid out for SR 10/US 278 CL; thence S 75°34'26.3" W a distance of 38.43 feet back to the point of beginning.

Containing 0.009 acres more or less.

Limited Access

Also granted are 61.78 linear feet of limited access rights beginning at a point 46.62 feet left of and opposite Station 36+99.16 on the construction centerline of SR 10/US 278 CL running thence N 75°34'26.3" E a distance of 61.78 feet and ending at a point 47.62 feet left of and opposite Station 37+60.94 on the construction centerline of SR 10/US 278 CL.

Said described access rights being shown on the attached plat.

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 18 002 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 1,013.31 sq/ft
	0.009 acres of driveway easement
	61.78 linear feet of limited access
Owner:	38 Avondale Partners, LLC
Potentially Interested	SouthTrust Bank
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 Ken Levy, Esq., 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 _____, 2023.

[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, 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 One Hundred and Twenty-Seven Thousand, Four Hundred and Five Dollars (\$127,405.00) 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 _____, 2023.

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, City Attorney

EXHIBIT "A"

P. I. NO.: 0015071
PARCEL NO.: 10
COUNTY: DeKalb
DATE OF R/W PLANS: December 14, 2020
REVISION DATE: Sheets 8 and 13, last revised August 26, 2022

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Said described access rights being shown on the attached plat.

APPENDIX "C" TO EXHIBIT "A"

GEORGIA, DEKALB COUNTY

Personally comes, **Cheryl Worthy-Pickett**, residing at 3939 Lavista Road, Suite E, Box 352, Atlanta, GA 30084.

1. Affiant was employed by the City of Avondale Estates to appraise Parcel No. 10 of the right of way and rights required for construction of P.I. No. 0015071 DeKalb County, Georgia for said City 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.

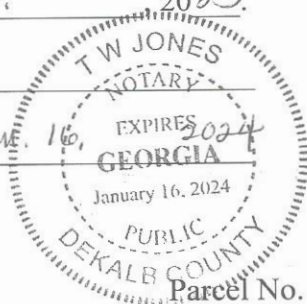
2. Affiant is familiar with real estate values in said county and in the vicinity where said parcel is located. Affiant has personally inspected the property or right condemned and in appraising said parcel affiant took into consideration the Fair market Value of said parcel, as well as any consequential 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 \$127,405.00.

Cheryl Worthy-Pickett
Cheryl Worthy-Pickett

Sworn to and subscribed before me,
This 3rd day of Feb. 2023.

Jones
NOTARY PUBLIC

My commission expires: Jan. 16, 2024



Parcel No. 10