

**IN THE SUPERIOR COURT OF COBB COUNTY  
STATE OF GEORGIA**

THE CITY OF SMYRNA

Condemnor,

vs.

The hereinafter described lands  
and rights in lands; MICHAEL FARKAS;  
MICHAEL'S CLOTHING INC.;  
CARLA JACKSON, as Tax Commissioner  
KELLI WOLK, as Probate Judge , and any and  
others having or claiming any interest  
in the described lands,  
Condemnees.

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CIVIL ACTION FILE

NO. \_ \_ \_ \_ \_

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**DECLARATION OF TAKING**

WHEREAS , the City of Smyrna, by and through its Mayor and Council, has made a finding and determination that the circumstances in connection with acquiring property to construct improvements to a public transportation system, are such that it is necessary to acquire the title, estate or interest in the lands as fully described in this Declaration of Taking, by condemnation through the exercise of the power of eminent domain. A copy of the resolution making such finding is attached hereto as Appendix "1" to this Exhibit " A" and made a part hereof; and

**EXHIBIT "A"**

**WHEREAS**, said property is for public transportation purposes upon, across, and over the tract of land in said City, as fully described in the attachment hereto identified as Appendix "2" to this Exhibit "A" and made a part hereof; and

**WHEREAS**, the City of Smyrna 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 property, if any, above referred to, a copy of the appraiser's sworn statement being attached hereto, identified as Appendix "3" to this Exhibit "A" and made a part hereof; and

**WHEREAS**, in consequence of such sworn statement, Appendix "3" to Exhibit "A", the City of Smyrna estimates the sum of \$251,900.00 as just and adequate compensation to be paid for said property, as fully described in Appendix "2" to Exhibit "A", attached hereto, and now deposits said sum in the registry of the Court, to the use of the persons entitled thereto; and

**WHEREAS**, in order to maintain a projected schedule of construction it is necessary that the property for the construction of said project be acquired without delay; and

**WHEREAS**, the parcel of property as herein described and listed in the Petition, attachments, or below, are essential for the construction of said project;

**NOW THEREFORE**, the premises considered, the City of Smyrna, under authority of the laws of Georgia, Official Code of Georgia sections 32-3-1 through 32-3-19, declares that it is necessary that the property as described in annexes hereto, be acquired by condemnation, and that said property or interest therein as described in appendices hereto and in the Petition, is taken for public and governmental purposes, specifically for public transportation purposes, and that the same is necessary for the construction of a transportation project. The City of Smyrna has authorized the acquisition of the title, estate or interest in the lands described by condemnation under the provisions of law, has exercised its power of eminent domain, and has authorized the filing of condemnation

proceedings , 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 law. Let there be attached hereto as Appendix " 1 " to this Exhibit " A" a copy of the Resolution of the City of Smyrna finding that circumstances are such that it is necessary to proceed in the particular case under the provisions of Article 1, Chapter 3, Title 32, Official Code of Georgia Annotated.

This 15<sup>th</sup> day of June 2020

THE CITY OF SMYRNA

CITY SEAL:

By: \_\_\_\_\_  
Derek Norton, Mayor

ATTEST:

\_\_\_\_\_  
Heather K. Peacon – Corn, City Clerk

**APPENDIX "I" TO EXHIBIT A"**  
**RESOLUTION NO. 2020-05**

**A RESOLUTION AND ORDER OF THE CITY COUNCIL OF THE CITY OF SMYRNA, GEORGIA AUTHORIZING CONDEMNATION OF A TRACT OF LAND KNOWN AS A PORTION OF WINDY HILL ROAD, SMYRNA, GEORGIA AND LOCATED IN LAND LOTS 347 OF THE 17TH LAND DISTRICT OF COBB COUNTY, GEORGIA BY DECLARATION OF TAKING METHOD PURSUANT TO THE PROVISIONS OF O.C.G.A. § 32-3-4 *et seq.***

**WHEREAS**, Section 4 of Chapter 3 of Title 32 of the Official Code of Georgia Annotated and following sections authorize the City to file a condemnation proceeding in Cobb County Superior Court under a method known as declaration of taking to acquire private property interests for public road or transportation purposes upon payment of just and adequate compensation therefore to the person or persons entitled to such payment upon the Council' s finding that circumstances are appropriate for the use of said method; and

**WHEREAS**, the City Council of the City of Smyrna, Georgia ("Council") finds and believes that circumstances are appropriate for the use of the declaration of taking method to acquire property for public road or transportation purposes. Said tract is owned by Michael Farkas and is acquired for one or more of the reasons set forth in O.C.G.A. § 32-3-4, including a desire in the interest of justice to have judicial ascertainment of any and all questions connected with the condemnation.

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED**, by the Council that circumstances are such that it is necessary to proceed with condemnation proceedings by Declaration of Taking method on a portion of that tract of land known as 531 Windy Hill Road (Parcel #51) located in land lot No. 347 of the 17<sup>th</sup> District in Cobb County, Georgia in Cobb County, Georgia.

**BE IT FURTHER RESOLVED AND ORDERED**, that legal counsel for the City of Smyrna, Georgia is authorized and directed to file such proceedings and the Mayor is authorized to execute this Resolution and Order on behalf of the full Council, a Declaration of Taking, and any other documents necessary to effectuate same.

**SO RESOLVED** this 15<sup>th</sup> day of June 2020.

THE CITY OF SMYRNA

CITY SEAL:

By: \_\_\_\_\_  
Derek Norton, Mayor

ATTEST:

\_\_\_\_\_  
Heather K. Peacon – Corn, City Clerk