

IN THE SUPERIOR COURT FOR THE COUNTY OF HALL
STATE OF GEORGIA

HALL COUNTY, GEORGIA,)
)
Petitioner-Condempnor,)

VS.)

CIVIL ACTION
FILE NO. _____

Those certain easements over, across, and)
through certain property owned by M & R)
INCOME PROPERTIES, LLC (the)
“Property”), said Property being located in)
Land Lot 72 of the 10th Land District, Hall)
County, Georgia, being designated as tax map)
number 10072 003084 by the taxing)
authorities of Hall County, said Property)
being known as 2745 Fran Mar Drive, and)
being the property shown as PARCEL 22 on)
plans prepared by WSP USA, Inc. for the)
Georgia Department of Transportation,)
entitled “Right of Way of Proposed Sardis)
Road Connector from East of Chestatee Road)
to West of S.R. 60 along S.R. 283, STP00-0003-)
00(626),” said plans having an approval date)
of January 2, 2020, and a last revised date of)
May 19, 2022 (the “Project Plans”); said)
easements consist of the following:)

(PARCEL NO. 22)

That certain Permanent Easement for)
Construction and Maintenance of Slopes and)
Utility Relocation, consisting of 0.007 acre,)
more or less, as shown on the Project Plans;)

DECLARATION OF TAKING

That certain Temporary Construction)
Easement for the purpose of constructing a)
driveway, consisting of 0.014 acre, more or)
less, as shown on the Project Plans;)

M & R INCOME PROPERTIES, LLC;)

Ameris Bank, f/k/a Hamilton State Bank;)

Brandy Herman;)
))
Paul Herman;)
))
Honorable Patty Walters Laine, Judge of the)
Probate Court of Hall County;)
))
Honorable Darla Eden, Tax Commissioner of)
Hall County, Georgia; and)
))
To any and all persons having or claiming any)
right or interest in and to said Property,)
))
Respondents-Condemnees.)

DECLARATION OF TAKING

WHEREAS, the Board of Commissioners of Hall County, Georgia (the “Board of Commissioners”), adopted a Resolution on July 14, 2022 (the “Authorizing Resolution”), authorizing and directing the Chairman of the Board of Commissioners and the law firm of Stewart, Melvin & Frost, LLP to proceed with the condemnation of a portion of certain property located in Hall County, Georgia, for the purpose of acquiring, for public road purposes, (i) a permanent easement for the purpose of constructing and maintaining slopes and relocating utilities and (ii) a temporary easement for the purpose of constructing a driveway, both in connection with the construction of a connecting road to be known as the Sardis Connector from East of Chestatee Road to West of S.R. 60 along S.R. 283 in Hall County, Georgia (the “Project”); and

WHEREAS, the original location of the Project was approved by the Georgia Department of Transportation on January 2, 2020; and

WHEREAS, the plans for the Project (the “Project Plans”) were prepared by WSP USA, Inc. for the Georgia Department of Transportation, are entitled “Right of Way of Proposed Sardis Road Connector from East of Chestatee Road to West of S.R. 60 along S.R. 283, STP00-0003-00(626),” have a completion date of October 18, 2019, and were last revised on May 19, 2022; and

WHEREAS, a certified copy of said Authorizing Resolution of the Board of Commissioners and its incorporated attachments is attached hereto as **Schedule 1**, and by reference made a part hereof; and

WHEREAS, said easements are being acquired for public road purposes upon, across, and over property owned by M & R INCOME PROPERTIES, LLC, which property is described on **Schedule 1: Resolution, Attachment 1**, attached hereto and by reference made a part hereof (the “Property”), which Property is located at 2745 Fran Mar Drive, Gainesville, Hall County, Georgia, said **Attachment 1** being a description of the entirety of the Property owned by said Condemnee; and

WHEREAS, the Board of Commissioners has found that it is necessary to acquire the title, estates, or interests in said property as provided in the Authorizing Resolution and that said taking is authorized by the provisions of the Official Code of Georgia Annotated Sections 32-3-4 through 32-3-19; and

WHEREAS, the property or interests necessary to be acquired by condemnation in connection with the construction of the Project (the “Acquired Interests”), are owned by M & R INCOME PROPERTIES, LLC, whose registered office is located at 757 Beverly Drive, Gainesville, Hall County, Georgia 30501, and whose registered agent for service, RICHARD L. WALTERS, may be served at said address; and

WHEREAS, the Acquired Interests are described as follows:

- (A) A permanent easement for the purpose of constructing and maintaining slopes and relocating utilities, consisting of 0.007 acre, more or less (see **Schedule 1: Resolution, Attachment 2: Legal Description of Permanent Slopes/Utility Relocation Easement**, attached hereto and by reference made a part hereof, for a metes and bounds description of said permanent easement); and
- (B) A temporary construction easement for the purpose of constructing a driveway, consisting of 0.014 acre, more or less (see **Schedule 1: Resolution, Attachment 3: Legal Description of Temporary Easement for Construction of a Driveway**, attached hereto and by reference made a part hereof, for a metes and bounds description of said temporary construction easement); and

WHEREAS, in order to estimate the sum of money to be deposited with the Court as just and adequate compensation for the Acquired Interests proposed to be condemned, Hall County has caused an investigation and report to be made by a competent land appraiser, a copy of the sworn statement of said appraiser being attached hereto as **Schedule 2: Appraiser’s Statement** and by reference made a part hereof; and

WHEREAS, in reliance upon said Appraiser’s Statement, Petitioner estimates that the just compensation to be paid for the Acquired Interests (as described in **Schedule 1: Resolution, Attachments 2 and 3**, attached hereto) is **\$2,600.00**, and contemporaneously with the filing of this Declaration of Taking, Petitioner deposits said sum in the Court for the use of the persons entitled hereto;

NOW, THEREFORE, the premises considered, Hall County, Georgia, under authority of the Official Code of Georgia Annotated Sections 32-3-4 through 32-3-19, hereby declares that the Acquired Interests (as described in **Schedule 1: Resolution, Attachments 2 and 3**, attached hereto and made a part of this Declaration), are being taken for county road purposes.

This _____ day of _____, 2022.

**BOARD OF COMMISSIONERS OF
HALL COUNTY, GEORGIA**

By: _____
Chairman

ATTEST:
Jennifer Rivera, County Clerk

(SEAL)

***Schedule 1 to Declaration of Taking
(Certified copy of Authoring Resolution adopted by the County)***

**SCHEDULE 2: DECLARATION OF TAKING
(Parcel No. 22)**

GEORGIA, HALL COUNTY

Personally comes, Greg Malcolm, residing at 1243 Kylemore Lane, Snellville, GA. 30078 who, after being duly sworn, states:

1. Affiant was employed by the Hall County, Georgia to appraise the property owned by M & R INCOME PROPERTIES, LLC, located at 2745 Fran Mar Dr., Gainesville, Georgia 30506 (Parcel No. 22), consisting of 0.007 acre of permanent easement for the construction and maintenance of slopes and utilities and 0.014 acre of temporary driveway easement, all required for the construction of the Sardis Road Connector Project (Federal Aid Project STP00-0003-00(626)), 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 country and in the vicinity where said parcel is located. Affiant has personally inspected the property or right(s) 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(s) 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 estimated that the just and adequate compensation for said parcel and any consequential damages or benefits considered, the amount of **\$2,600.00**.



Greg Malcolm

GA CERT. R.E. Appraiser No. 857

Sworn to and subscribed before me,
this 28th day of JUNE, 2022.



NOTARY PUBLIC

(NOTARY SEAL)

My commission expires _____

