RESOLUTION (Parcel No. 92)

A RESOLUTION TO AUTHORIZE STEWART, MELVIN & FROST, LLP, AS SPECIAL COUNSEL TO HALL COUNTY, TO PROCEED WITH THE ACQUISITION BY DEED OR BY CONDEMNATION OF THAT CERTAIN PROPERTY OWNED BY BOWEN AND BOWEN HOMEBUILDERS, LLC FOR PUBLIC ROAD PURPOSES; TO AUTHORIZE THE CHAIRMAN OF THE BOARD OF COMMISSIONERS TO EXECUTE ANY DOCUMENTS NECESSARY AND PROPER FOR THE ACQUISITION OF SAID PROPERTY, SUBJECT TO THE REVIEW OF THE COUNTY ATTORNEY; AND FOR SUCH OTHER PURPOSES.

- **WHEREAS**, Article IX, Section II, Paragraph V of the Georgia Constitution of 1983 authorizes counties to exercise the right of eminent domain; and
- **WHEREAS**, O.C.G.A. § 32-3-1 *et seq.* provides for acquisition of property for public road purposes; and
- **WHEREAS,** on January 2, 2020, the location and design of the Sardis Road Connector Project (Federal Aid Project STP00-0003-00(626)) were approved by the Georgia Department of Transportation; and
- **WHEREAS,** said Sardis Road Connector Project (the "Project") is located in Land Districts 9 and 10 and G.M.D. 570 of Hall County, Georgia, and consists of the widening, realignment, and reconstruction of existing roadways and the construction of new roadways to provide a connector roadway between Georgia State Route 53 to the South and Georgia State Route 60 to the North; and
- **WHEREAS,** the Project will begin at the Sardis Road and Chestatee Road intersection and will extend northward approximately 3.55 miles to Georgia State Route 60 ending near the intersection of State Route 60 and Mount Vernon Road; and
- **WHEREAS,** the proposed roadway will consist of a four-lane curb and gutter divided roadway, having 2 lanes in each direction that will be separated by a 20-foot wide, 6 inch high curb and gutter median and sidewalks will be provided on both sides of the road having a design speed limit of 45 mph; and
- **WHEREAS,** the Hall County Board of Commissioners (the "Board of Commissioners") has determined that the Project is a public road purpose permitted by law; and
- **WHEREAS,** the Board of Commissioners has further determined that in order to construct the Project it must acquire, by deed or by condemnation proceedings, certain rights of way and easements along certain properties along the proposed Sardis Road Connector; and
- **WHEREAS**, a portion of the property necessary to be acquired is owned by BOWEN AND BOWEN HOMEBUILDERS, LLC (hereinafter referred to as "Owner"); and

WHEREAS, a description of the entirety of the property owned by Owner is attached hereto as **Attachment 1**, and by reference made a part hereof (said property being hereinafter sometimes referred to as "Parcel 92"); and

WHEREAS, the property described on <u>Attachment 1</u> is designated as tax map number 10097 000207 by the taxing authorities of Hall County; and

WHEREAS, the property is located within the municipal limits of the City of Gainesville, Georgia (the "City"), and the Project and acquisition of the property in furtherance of the Project is expected to be authorized by the City at an upcoming City Council meeting; and

WHEREAS, Board of Commissioners has further determined that the portions of Parcel 92 necessary to be acquired in connection with the construction of the Project are as follows:

- (1) A right of way for the purpose of acquiring, constructing, and maintaining a right of way along Ledan Road in connection with the widening of Ledan Road, said right of way consisting of 0.093 acre, more or less. A metes and bounds description of said right of way is attached hereto as **Attachment 2**, and by reference made a part hereof; and
- (2) A temporary construction easement for the purpose of constructing driveways, consisting of 0.055 acre, more or less. A metes and bounds description of said temporary construction easement is attached hereto as **Attachment 3**, and by reference made a part hereof; and
- (3) A permanent easement for the purpose of constructing and maintaining slopes and relocating utilities, consisting of 0.166 acre, more or less. A metes and bounds description of said easement is attached hereto as **Attachment 4**, and by reference made a part hereof; and

WHEREAS, plans for the Project 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)," and have an approval date of January 2, 2020 and a last revised date of May 19, 2022 (the "Project Plans"), which Project Plans are on file in the Board of Commissioner's Office; and

WHEREAS, attached hereto as <u>Attachment 5</u> is a copy of the section of the Project Plans showing the right of way and easements proposed to be acquired by deed or by condemnation proceedings through, over, and across said Parcel 92 (the "Parcel 92 Property Rights"); and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners, in regular session, that authority is hereby delegated to the Chairman of the Board of Commissioners, through his duly constituted nominees, and the law firm of Stewart, Melvin & Frost, LLP, to proceed with the acquisition of the Parcel 92 Property Rights in such manner as in the discretion of said Chairman of the Board may be necessary or proper for the construction of the Project, including by purchase, contract, or condemnation, and said Chairman of the Board is hereby authorized and directed to initiate such proceedings, perform such acts, and execute such papers as they may deem reasonably proper and necessary to carry out the intent of this Resolution.

RESOLVED FURTHER that the Board hereby authorizes and directs that the Owner shall be paid just compensation for the above described acquisition in the amount of \$4,700.00, which amount is the fair market value of the Parcel 92 Property Rights as determined by independent appraisal.

RESOLVED FURTHER that the Board hereby ratifies and approves the acquisition of any interests in property necessary and proper for the construction of the Project which may have been acquired prior to the effective date of this resolution.

RESOLVED FURTHER that if any paragraph, subparagraph, sentence, clause, phrase, or any portion of this Resolution shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this Resolution as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Resolution not so held to be invalid. It is hereby declared to be the intent of the Board of Commissioners to provide for separable and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

[THIS SECTION INTENTIONALLY LEFT BLANK]

This Resolution is adopted in regular session of the Board of Commissioners, this 14th day of July, 2022, to become effective immediately upon its execution, the public health, safety, and general welfare demanding it.

HALL COUNTY BOARD OF

COMMISSIONERS
Richard Higgins, Chairman
Commissioner, District 1 Kathy Cooper
Commissioner, District 2 Billy Powell
Commissioner, District 3 Shelly Echols
Commissioner, District 4 Jeff Stowe

Attachment 1 (Legal Description of the Entirety of Owner's Property)

STATE OF GEORGIA PROJECT #: STP00-0003-00(626)
COUNTY OF HALL P.I. #: 0003626, PARCEL 92

TAX ID #: 10097 000207

OWNER:

BOWEN AND BOWEN 3791 NW LEDAN ROAD

HOMEBUILDERS, LLC

All that tract or parcel of land lying and being in Land Lot 97 of the 10th District, located in the City of Gainesville, Hall County, Georgia, and being shown and designated as Lot 90, Windsor Forest Subdivision, as shown on a plat prepared for Carter & Carter, Inc. by Jordan, Jones and Goulding, GRLS, dated May 25, 2006, recorded in Plat Book 849, pages 240-246, Hall County Records. Said plat being incorporated herein and made a part hereof by reference.

Attachment 2 (Legal Description of Right of Way)

STATE OF GEORGIA PROJECT #: STP00-0003-00(626)
COUNTY OF HALL P.I. #: 0003626, PARCEL 92

TAX ID #: 10097 000207

OWNER:

BOWEN AND BOWEN 3791 NW LEDAN ROAD

HOMEBUILDERS, LLC

GRANTED IS AN ADDITIONAL, REQUIRED RIGHT OF WAY, IN FEE SIMPLE, IN THE PROPERTY DESCRIBED BELOW, based on right of way plans prepared by WSP USA, Inc. for Georgia Department of Transportation, Sardis Road Connector, approved January 2, 2020, and last revised May 19, 2022 (the "Project Plans"). Attachment 5 to the Resolution, to which this Attachment 2 is attached, is a copy of the section of the Project Plans depicting Parcel 92 (Sheet 10 of the Project Plans), and a copy of the call sheet for Parcel 92 (Sheet 39 of the Project Plans). Both Sheet 10 and Sheet 39 are dated October 18, 2019. Sheet 10 was last revised July 2, 2021. None of the July 2, 2021 revisions affected Parcel 92. There have been no revisions to Sheet 39.

All that tract or parcel of land lying and being in Land Lot 97 of the 10th District, City of Gainesville, Hall County, Georgia and being more particularly described as follows:

BEGINNING at a point on the existing South right of way of Ledan Road, said right of way being 60 feet in width, said point also lying 12.92 feet right of station 129+86.35 per the Project Plans;

Thence leaving the existing South right of way of Ledan Road and along the property now or formerly of Glen Waldrip North 89°41'02" East, 4.76 feet to a point lying 53.00 feet right of station 131+47.74;

Thence proceeding thru the property now or formerly of Bowen & Bowen Homebuilders LLC 173.70 feet along a curve to the right, said curve having a chord of South 51°56'38" West 173.65 feet and a radius of 2053.00 feet to a point lying 53.00 feet right of station 129+78.52;

Thence along other property of Bowen & Bowen Homebuilders LLC North 24°30'34" West, 40.86 feet to the POINT OF BEGINNING.

Said tract contains 4,039.04 square feet or 0.093 acre per the aforementioned Project Plans.

The above described land being an additional permanent right of way easement for the purpose of widening Ledan Road. Said easement is necessary for the acquisition, construction, and maintenance of the Sardis Road Connector Project, as described in the above-referenced Project Plans.

Attachment 3 (Legal Description of Temporary Easement for the Construction of Driveways)

STATE OF GEORGIA PROJECT #: STP00-0003-00(626)
COUNTY OF HALL P.I. #: 0003626, PARCEL 92

TAX ID #: 10097 000207

OWNER:

BOWEN AND BOWEN 3791 NW LEDAN ROAD

HOMEBUILDERS, LLC

GRANTED IS A TEMPORARY CONSTRUCTION EASEMENT IN THE PROPERTY DESCRIBED BELOW FOR THE CONSTRUCTION OF A DRIVEWAY based on right of way plans prepared by WSP USA, Inc. for Georgia Department of Transportation, Sardis Road Connector, approved January 2, 2020, and last revised May 19, 2022 (the "Project Plans"). Attachment 5 to the Resolution, to which this Attachment 3 is attached, is a copy of the section of the Project Plans depicting Parcel 92 (Sheet 10 of the Project Plans), and a copy of the call sheet for Parcel 92 (Sheet 39 of the Project Plans). Both Sheet 10 and Sheet 39 are dated October 18, 2019. Sheet 10 was last revised July 2, 2021. None of the July 2, 2021 revisions affected Parcel 92. There have been no revisions to Sheet 39.

All that tract or parcel of land lying and being in Land Lot 97 of the 10th District, City of Gainesville, Hall County, Georgia and being more particularly described as follows:

BEGINNING at a point lying 112.17 feet right of station 129+67.03 per the Project Plans;

Thence proceeding thru the property now or formerly of Bowen & Bowen Homebuilders LLC the following courses and distances North 52°03'31" East, 21.95 feet to a point lying 111.27 feet right of station 129+87.80;

Thence South 35°06'20" East, 81.74 feet to a point lying 193.00 feet right of station 129+86.77;

Thence South 54°37'14" West, 37.46 feet to a point lying 193.00 feet right of station 129+52.61;

Thence North 24°13'41" West, 82.31 feet to the POINT OF BEGINNING.

Said tract contains 2,408.43 square feet or 0.055 acre per the aforementioned Project Plans.

Said described land being a temporary easement for the right to construct a driveway to connect the newly constructed road and right of way to the property owner's remaining lands for driveway purposes. Said temporary easement is depicted in the Project Plans referenced above. Said temporary easement shall be for a duration beginning on the date construction of the Project begins and shall terminate on the date which is five (5) years after the date on which construction of the Project began.

Upon completion of the Project, the driveway will remain in place for use by the property owner.

Attachment 4 (Legal Description of Permanent Slopes/Utility Relocation Easement)

STATE OF GEORGIA PROJECT # STP00-0003-00(626)
COUNTY OF HALL P.I. #: 0003626, PARCEL 92

TAX ID #: 10097 000207

OWNER:

BOWEN AND BOWEN 3791 NW LEDAN ROAD

HOMEBUILDERS, LLC

GRANTED IS A PERMANENT EASEMENT IN THE PROPERTY DESCRIBED BELOW FOR THE CONSTRUCTION AND MAINTENANCE OF SLOPES AND UTILITY RELOCATION, based on right of way plans prepared by WSP USA, Inc. for Georgia Department of Transportation, Sardis Road Connector, approved January 2, 2020, and last revised May 19, 2022 (the "Project Plans"). Attachment 5 to the Resolution, to which this Attachment 4 is attached, is a copy of the section of the Project Plans depicting Parcel 92 (Sheet 10 of the Project Plans), and a copy of the call sheet for Parcel 92 (Sheet 39 of the Project Plans). Both Sheet 10 and Sheet 39 are dated October 18, 2019. Sheet 10 was last revised July 2, 2021. None of the July 2, 2021 revisions affected Parcel 92. There have been no revisions to Sheet 39.

All that tract or parcel of land lying and being in Land Lot 97 of the 10th District, City of Gainesville, Hall County, Georgia and being more particularly described as follows:

BEGINNING at a point lying 53.00 feet right of station 129+78.52 per the Project Plans;

Thence proceeding thru the property now or formerly of Bowen & Bowen Homebuilders LLC 173.70 feet along a curve to the left, said curve having a chord of North 51°56'38" East 173.65 feet and a radius of 2053.00 feet to a point lying 53.00 feet right of station 131+47.74;

Thence along the property now or formerly of Glenn Waldrip North 89°43'35" East, 38.95 feet to a point lying 78.36 feet right of station 131+76.37;

Thence proceeding thru the property now or formerly of Bowen & Bowen Homebuilders LLC the following courses and distances South 59°12'07" West, 50.06 feet to a point lying 69.82 feet right of station 131+28.80;

Thence South 34°40'31" West, 138.44 feet to a point lying 110.78 feet right of station 130+02.24;

Thence South 52°03'04" West, 37.20 feet to a point lying 112.17 feet right of station 129+67.03;

Thence along other property of now or formerly of Bowen & Bowen Homebuilders LLC North 24°02'11" West, 60.37 feet to the POINT OF BEGINNING.

Said tract contains 7,235.44 square feet or 0.166 acre per the aforementioned Project Plans.

(Attachment 4 continued on next page)

Said described land being a permanent easement for the construction and maintenance of slopes and utility relocation as laid out in the Project Plans referenced above.

The property owner may place various items at its discretion (e.g., fences, signs, and landscaping, etc.) on the permanent easement so long as the functionality of the easement and/or utility is not compromised and such items are not in violation of federal or state laws, or county or city ordinances. In the event any improvement blocks required accessibility within the permanent easement, the same may be removed without any compensation to the property owner.

Attachment 5 (Section of Project Plans Depicting Parcel 92 and Call Sheet for Parcel 92)

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DATE DEVICEOUS

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GEORGIA, HALL COUNTY.

of Hal	I, JENNIFER RIVERA, do hereby certify that I am the Clerk of the Board of Commissioners all County, Georgia.		
I further certify that the foregoing pages constitute a true, correct, and exact copy of a Resolution passed by the Board of Commissioners on			
2022.	Given under my hand and seal of Hall County	y, Georgia this day of,	
		JENNIFER RIVERA Clerk of the Board of Commissioners of Hall County, Georgia.	
		(SEAL OF HALL COUNTY)	