# **RESOLUTION** (Parcel No. 108)

# 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 JUAN CARLOS LOMAS-VITAL 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 JUAN CARLOS LOMAS-VITAL (hereinafter referred to as "Owner"); and

WHEREAS, a description of the entirety of the property owned by Owner is attached hereto as <u>Attachment 1</u>, and by reference made a part hereof (said property being hereinafter sometimes referred to as "Parcel 108"); and

**WHEREAS,** the property described on <u>Attachment 1</u>, and by reference made a part hereof; is designated as tax map number 10098 000113 by the taxing authorities of Hall County; and

**WHEREAS**, Board of Commissioners has further determined that the portions of Parcel 108 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 Southers Road in connection with the widening of Southers Road, said right of way consisting of 0.043 acre, more or less. A metes and bounds description of said right of way is attached hereto as <u>Attachment 2</u>, and by reference made a part hereof; and
- (2) A permanent easement for the purpose of constructing and maintaining slopes and relocating utilities, consisting of 0.216 acre, more or less. A metes and bounds description of said easement is attached hereto as <u>Attachment 3</u>, 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 4</u> and by reference made a part hereof, is a copy of the section of the Project Plans showing the right of way and easement proposed to be acquired by deed or by condemnation proceedings through, over, and across said Parcel 108 (the "Parcel 108 Property Rights").

**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 108 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 \$5,500.00, which amount is the fair market value of the Parcel 108 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 Resolution is adopted in regular session of the Board of Commissioners, this 11th day of August, 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

ATTEST: Jennifer Rivera, County Clerk

(SEAL)

Approved as to form:

County Attorney Van Stephens

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

TATE OF GEORGIA	PROJECT #: STP00-0003-00(626)
OUNTY OF HALL	P.I. #: 0003626, PARCEL 108
	TAX MAP #: 10098 000113
WNER	
JAN CARLOS LOMAS-VITAL	<b>3587 SOUTHERS ROAD</b>

All that tract or parcel of land lying and being in Land Lot 98 of the 10th Land District of Hall County, Georgia, and being Tract 2, containing 2.00 acres, more or less, according to a plat entitled "Survey for James W. Southers," dated August 17, 1995, and prepared by Patton-Patton, Inc., and recorded in Plat Slide 475, Page 81A, records of Hall County, Georgia, which plat is incorporated by reference, and made a part of this description.

## Attachment 2 (Legal Description of Right of Way)

# STATE OF GEORGIA COUNTY OF HALL

# OWNER: JUAN CARLOS LOMAS-VITAL

# PROJECT #: STP00-0003-00(626) P.I. #: 0003626, PARCEL 108 TAX MAP #: 10098 000113

**3587 SOUTHERS ROAD** 

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 4 to the Resolution, to which this Attachment 2 is attached, is a copy of the section of the Project Plans depicting Parcel 108 (Sheet 11 of the Project Plans), and a copy of the call sheet for Parcel 108 (Sheet 46 of the Project Plans). Both Sheet 11 and Sheet 46 are dated October 18, 2019. Sheet 11 was last revised August 4, 2020. Sheet 46 was last revised January 3, 2020.

All that tract or parcel of land lying and being in Land Lot 98 of the 10th District, Hall County, Georgia and being more particularly described as follows:

Beginning at a point on the existing eastern right of way of Southers Road, said right of way being 60 feet in width, said point also lying 53.00 feet right of station 150+20.38 per the Project Plans;

Thence proceeding along said right of way along a curve to the right having a radius of 448.28 feet and an arc length of 123.55 feet being subtended by a chord of North 02 degrees 47 minutes 19 seconds East for a distance of 123.16 feet to a point 29.63 feet right of station 151+41.30;

Thence leaving said right of way and proceeding along the property now or formerly of Janet A. Southers North 82 degrees 16 minutes 34 seconds East a distance of 25.11 feet to a point 53.00 feet right of station 151+50.48;

Thence proceeding thru the property now or formerly of Juan Carlos Lomas-Vital South 13 degrees 43 minutes 34 seconds West a distance of 130.10 feet to the POINT OF BEGINNING.

Said tract contains 1,869.31 square feet or 0.043 acre per the aforementioned Project Plans.

The above described land being a permanent right of way easement which 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 Permanent Slopes/Utility Relocation Easement)

# STATE OF GEORGIA COUNTY OF HALL

OWNER: JUAN CARLOS LOMAS-VITAL

## PROJECT #: STP00-0003-00(626) P.I. #: 0003626, PARCEL 108 TAX MAP #: 10098 000113

**3587 SOUTHERS ROAD** 

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 4 to the Resolution, to which this Attachment 3 is attached, is a copy of the section of the Project Plans depicting Parcel 108 (Sheet 46 of the Project Plans). Both Sheet 11 and Sheet 46 are dated October 18, 2019. Sheet 11 was last revised August 4, 2020. Sheet 46 was last revised January 3, 2020.

All that tract or parcel of land lying and being in Land Lot 98 of the 10th District, Hall County, Georgia and being more particularly described as follows:

Beginning at a point on the existing eastern right of way of Southers Road, said right of way being 60 feet in width, said point also lying 53.00 feet right of station 150+20.38 per the Project Plans;

Thence leaving said right of way and proceeding thru the property now or formerly of Juan Carlos Lomas-Vital North 13 degrees 43 minutes 34 seconds East a distance of 130.10 feet to a point 53.00 feet right of station 151+50.48;

Thence proceeding along the property now or formerly of Janet A. Souther North 82 degrees 16 minutes 20 seconds East a distance of 43.47 feet to a point 93.46 feet right of station 151+50.48;

Thence proceeding thru the property now or formerly of Juan Carlos Lomas-Vital South 23 degrees 04 minutes 35 seconds West a distance of 9.23 feet to a point to a point 91.96 feet right of station 151+57.27;

Thence South 06 degrees 02 minutes 22 seconds West a distance of 60.86 feet to a point 100.10 right of station 150+96.96;

Thence South 15 degrees 08 minutes 20 seconds West a distance of 47.86 feet to a point 98.92 feet right of station 150+49.11;

(Attachment 3 continued on next page)

Thence South 03 degrees 08 minutes 40 seconds West a distance of 52.77 feet to a point 108.61 feet right of station 149+97.24;

Thence South 14 degrees 28 minutes 55 seconds West a distance of 46.24 feet to a point 108.00 feet right of station 149+51.00;

Thence South 30 degrees 20 minutes 54 seconds East a distance of 8.76 feet to a point 114.09 feet right of station 149+44.71;

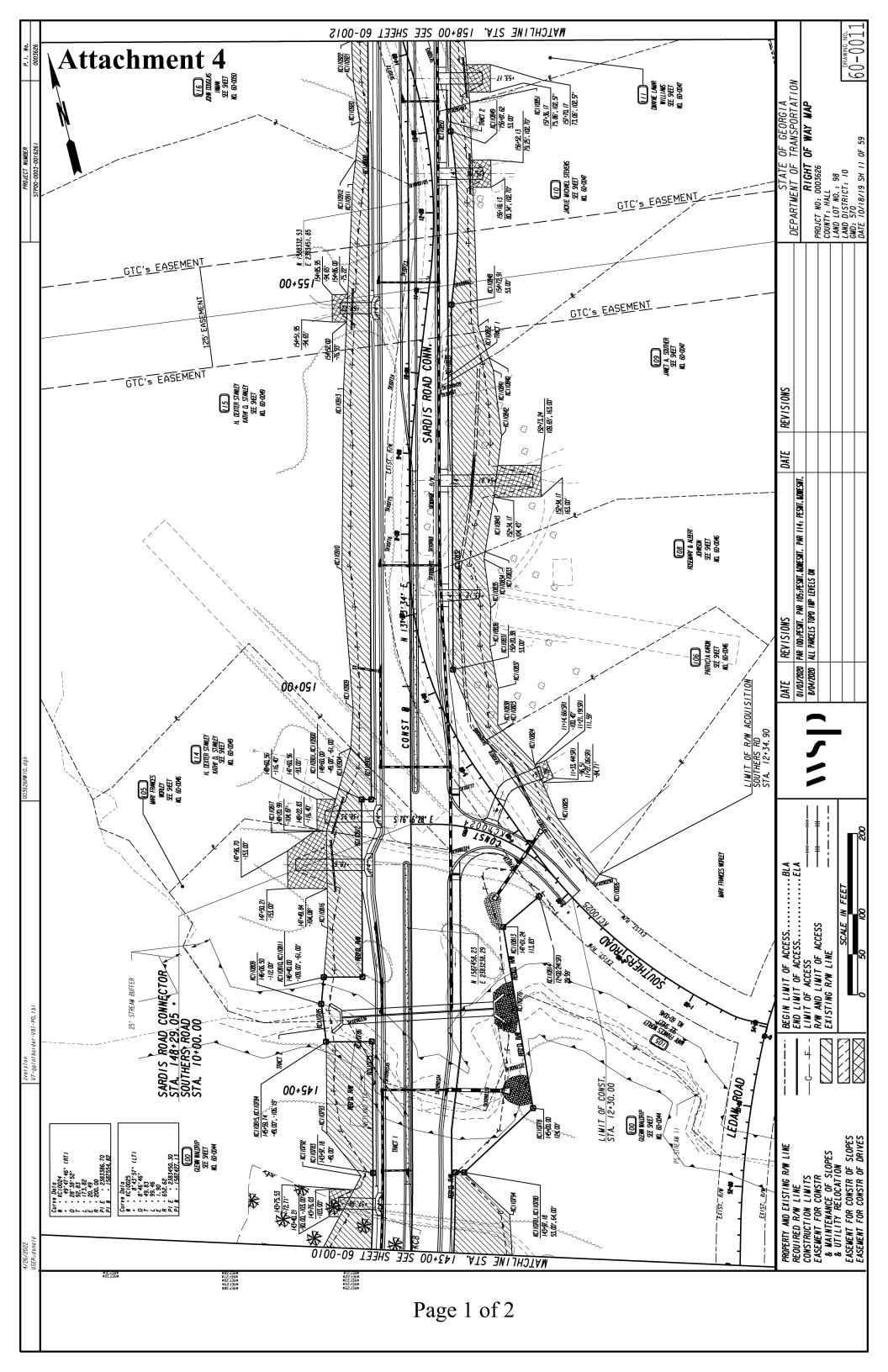
Thence proceeding along the property now or formerly of Patricia K. Adams South 73 degrees 51 minutes 21 seconds West a distance of 23.46 feet to a point on the aforementioned right of way of Southers Road, said point also lying 93.74 feet right of station 149+33.02;

Thence proceeding along said right of way along a curve to the right having a radius of 448.28 feet and an arc length of 96.58 feet being subtended by a chord of North 11 degrees 16 minutes 45 seconds West for a distance of 96.39 feet to the POINT OF BEGINNING.

Said tract contains 9,398.76 square feet or 0.216 acre per the aforementioned Project Plans.

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

The property owner may place various items at his 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.



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#### GEORGIA, HALL COUNTY.

I, JENNIFER RIVERA, do hereby certify that I am the Clerk of the Board of Commissioners of Hall 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 August 11, 2022, and that the original of said Resolution is on file in the Hall County Commission Office, Hall County Government Center, 2875 Browns Bridge Road, Gainesville, Georgia 30504.

Given under my hand and seal of Hall County, Georgia this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

JENNIFER RIVERA Clerk of the Board of Commissioners of Hall County, Georgia.

(SEAL OF HALL COUNTY)

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