

MAY 16, 2023 12:53 PM


Cathelene Robinson, Clerk
Fulton County Superior Court

IN THE SUPERIOR COURT OF
FULTON COUNTY
GEORGIA

DEPARTMENT OF TRANSPORTATION

VS.

DOCKET NO. _____

IN REM _____

0.211 acres of land; and certain easement rights; and
JAYANT CHAUDHARY; BYLINE BANCORP, INC. DBA BYLINE BANK; ST. IVES
COUNTRY CLUB HOMEOWNERS ASSOCIATION, INC.; CITY OF JOHNS CREEK;
HONORABLE KENYA JOHNSON, JUDGE, FULTON COUNTY PROBATE COURT;
AND ARTHUR E. FERDINAND, FULTON COUNTY TAX COMMISSIONER; and any
and all others having or claiming an interest in the herein described lands, individually

TO THE SUPERIOR COURT OF SAID COUNTY:

The petition of the Department of Transportation, acting for and on behalf of the
State of Georgia, shows:

1.

Petitioner brings this action under the Official Code of Georgia Annotated
Sections 32-3-4 through 32-3-19, to acquire by condemnation fee simple title to a right
of way, and certain easement rights, for a certain state aid road laid out by petitioner as
part of the State Highway System of the State of Georgia, known as Project No. P.I.
721000 said highway being located as shown on a map and drawing on file in the office
of the Department of Transportation, 600 West Peachtree Street, Atlanta, Georgia. The
date of the approval of the original location of the highway project is July 3, 2019.

2.

The following paragraph is applicable to this action:

Petitioner also seeks to acquire by condemnation such easements as are necessary for the construction and maintenance of said State-aid road or highway as are fully described in this petition.

3.

The following two paragraphs are not applicable to this action:

Said highway being a limited access highway, as provided for under the Official Code of Georgia Annotated Sections 32-6-110 through 32-6-117, there is no necessity of condemning rights of access to said highway except at such points as where the design of the limited access highway may require the acquisition of access rights to existing parallel or intersecting roads, streets, or highways.

The rights of access, as provided for in said statute, which are condemned in this proceeding, are shown on the plats hereto attached and made a part hereof; and, except as so shown, no rights of access are condemned.

4.

Petitioner stands ready to pay just and adequate compensation for said fee simple title to right of way, and easements, as described in the Declaration of Taking attached hereto as Exhibit "A" and made a part hereof and has deposited in the Court, to the use of the persons entitled thereto, the estimated just compensation ascertained in accordance with the Official Code of Georgia Annotated Sections 32-3-4 through 32-3-19.

5.

Said fee simple title to right of way, and easements, as described in said Declaration of Taking are for State-aid public highway purposes upon, across and over the tract of land in said county, also fully described in Exhibit "A".

6.

Petitioner alleges upon information and belief that the owners of said tract of land are: See pages 2-A.

Said owners are named defendants to this action.

7.

The taxing authorities of this City, County and the State of Georgia may have some claim against said lands on account of unpaid State, County and City taxes.

8.

The said owners generally and alienors and any and all other persons known and unknown claiming any right, title, power, interest, ownership, equity, claim or demand in and to said lands and all occupants, tenants, lessees, licensees and all holders, owners and users of ways and easements in, across and over said land, are made parties defendant to this action to the end that they may come into Court and make claim to such interest or ownership or other rights they may have in the same and to the proceeds thereof.

WHEREFORE, Petitioner prays:

- (a) For an order condemning the property rights and interests described herein and in the Declaration of Taking attached hereto as Exhibit "A" to the use of petitioner, together with the rights described herein and in the Declaration of Taking, while preserving to those persons entitled by law to do so the right to appeal the estimated amount of just compensation, as authorized by the Official Code of Georgia;
- (b) For an order requiring all persons in possession of such property, as well as the named condemnees, to surrender said right-of-way and easements, to petitioner on a day not later than 30 days from the filing of this petition and Declaration of Taking (Exhibit "A"), unless petitioner, in its sole discretion, grants a written extension of time to the persons in possession of the condemned property to extend the date of possession;
- (c) For an order for the service, publication and posting of this petition and the Declaration of Taking (Exhibit "A");
- (d) For an order requiring the Clerk of this Court to hold the funds deposited by petitioner subject to the orders and judgments of the Courts;

(e) For such further orders and judgments as may be necessary in the premises.

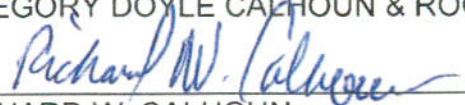
Respectfully submitted,

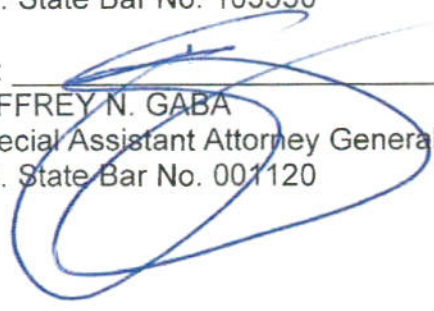
CHRISTOPHER M. CARR
Attorney General
Ga. State Bar No. 112505

LOGAN B. WINKLES
Deputy Attorney General
Ga. State Bar No. 136906

ALKESH PATEL
Senior Assistant Attorney General
Ga. State Bar No. 583627

GREGORY DOYLE CALHOUN & ROGERS, LLC

By: 
RICHARD W. CALHOUN
Special Assistant Attorney General
Ga. State Bar No. 103550

By: 
JEFFREY N. GABA
Special Assistant Attorney General
Ga. State Bar No. 001120

Please Address All
Communications to:
49 Atlanta Street
Marietta, GA 30060
770-422-1776
igaba@gdcrlaw.com
rcalhoun@gdcrlaw.com
Attorneys for Condemnor

IN THE SUPERIOR COURT OF
FULTON COUNTY
GEORGIA

FILED IN OFFICE
CLERK OF SUPERIOR COURT
FULTON COUNTY, GEORGIA
2023CV380374

MAY 16, 2023 12:53 PM


Cathelene Robinson, Clerk
Fulton County Superior Court

DEPARTMENT OF TRANSPORTATION

DOCKET NO. _____

VS.

IN REM _____

0.211 acres of land; and certain easement rights; and JAYANT CHAUDHARY; BYLINE BANCORP, INC. DBA BYLINE BANK; ST. IVES COUNTRY CLUB HOMEOWNERS ASSOCIATION, INC.; CITY OF JOHNS CREEK; HONORABLE KENYA JOHNSON, JUDGE, FULTON COUNTY PROBATE COURT; AND ARTHUR E. FERDINAND, FULTON COUNTY TAX COMMISSIONER; and any and all others having or claiming an interest in the herein described lands, individually

DECLARATION OF TAKING

WHEREAS, the Commissioner of the Department of Transportation has made and entered an order finding that the circumstances in connection with acquiring right of way to construct Project No. P.I. 721000 are such that it is necessary to acquire the title, estate or interest in the lands as fully described in said order, a certified copy of which is attached to this Declaration identified as Appendix "A" to Exhibit "A" and made a part hereof, under the Official Code of Georgia Annotated Sections 32-3-4 through 32-3-19; and

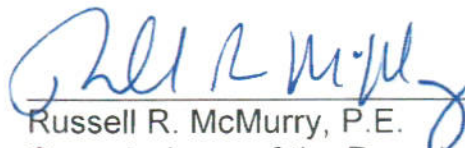
WHEREAS, said fee simple title to right of way, and easements, are for public highway purposes upon, across, and over the tract of land in said county, as fully described in the attachment hereto identified as Appendix "B" to Exhibit "A" and made a part hereof; and

WHEREAS, the Department of Transportation 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 fee simple title to right of way, and easements, above referred to, a copy of the appraiser's sworn statement being attached hereto identified as Appendix "C" to Exhibit "A" and made part hereof; and

WHEREAS, in consequence of the sworn statement, Appendix "C" to Exhibit "A", the Department of Transportation estimates \$88,100.00 as the just and adequate compensation to be paid for said fee simple title to right of way, and easements, as fully described in Appendix "A" to Exhibit "A", attached hereto, and now deposited said sum in the Court, to the use of the persons entitled hereto;

NOW, THEREFORE, the premises considered, the Department of Transportation, under authority of the Official Code of Georgia Annotated Sections 32-3-4 through 32-3-19, hereby declares that the property or interest therein as described in Appendix "A" to Exhibit "A", attached to and a part of this Declaration, is taken for State-aid road purposes.

This the 17 day of April, 2023.



Russell R. McMurry, P.E.
Commissioner of the Department
of Transportation

APPENDIX "A" TO EXHIBIT "A"
ORDER
OF THE
COMMISSIONER OF THE
DEPARTMENT OF TRANSPORTATION

WHEREAS, the Department of Transportation has laid out and determined to construct a certain State-aid road or highway as part of the State Highway System of the State of Georgia, known and designated as Project No. P.I. # 721000 FULTON COUNTY, being a project for SR 120 Widening from SR 141 to Peachtree Industrial Blvd., and being more fully shown on a map and drawing on file in the office of the Department of Transportation, 600 West Peachtree Street, Atlanta, Georgia; and

WHEREAS, in order to maintain the projected schedule of road construction of the Department of Transportation, it is necessary that the fee simple title to right of way, and easements, for the construction of said project be acquired without delay; and

WHEREAS, the parcel of right of way as herein described and as listed below, shown of record as owned by the person named herein, all as described and shown in the annexes to this order hereinafter enumerated, all of said annexes, being by reference made a part of this order, are essential for the construction of said project:

Required R/W: 0.211 acres of land and certain easement rights

Appendix "A" – Annex 1 – Legal Description

Annex 1-A - Plat

Owners:

JAYANT CHAUDHARY; BYLINE BANCORP, INC. DBA BYLINE BANK; ST. IVES COUNTRY CLUB HOMEOWNERS ASSOCIATION, INC.; CITY OF JOHNS CREEK; HONORABLE KENYA JOHNSON, JUDGE, FULTON COUNTY PROBATE COURT; AND ARTHUR E. FERDINAND, FULTON COUNTY TAX COMMISSIONER; and any and all others having or claiming an interest in the herein described lands, individually

Jayant Chaudhary
85 Club Court
Alpharetta, GA 30005

Byline Bancorp, Inc. dba Byline Bank
CT Corporation System, Registered Agent
1201 Peachtree Street, NE
Atlanta, GA 30361

St. Ives Country Club Homeowners Association, Inc.
Sandra Bornhorn, Registered Agent
3000 St Ives Country Club Pkwy
Johns Creek, GA 30097

City of Johns Creek
John Bradberry, Mayor or Ed Densmore, City Manager
11360 Lakefield Drive
Johns Creek, GA 30097

Fulton County Tax Commissioner
c/o Arthur E. Ferdinand, Tax Commissioner
141 Pryor Street, Suite 1085
Atlanta, GA. 30303

Honorable Kenya Johnson
Judge, Fulton County Probate Court
136 Pryor Street, SW, #C230
Atlanta, GA 30303

and

Any and all others having or claiming any interest in the herein described lands where identities and addresses are unknown

NOW, THEREFORE, it is found by the Commissioner of the Department of Transportation that the circumstances are such that it is necessary that the fee simple title to right of way, and easements, as described in annexes to this order be acquired by condemnation under the provisions of the Official Code of Georgia Annotated Sections 32-3-4 through 32-3-19; and

IT IS ORDERED that the Department of Transportation proceed to acquire the title, estate or interest in the lands hereinafter described in annexes to this order by condemnation under the provisions of said Code, and the Attorney General of Georgia as well as his duly authorized Assistant Attorneys General, 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 Code.

Done at the office of the Commissioner in Atlanta, Georgia, this 17 day of April, 2023.

/S/RUSSELL R. MCMURRY, P.E.
Commissioner of the Department
of Transportation

ATTEST:

/S/ ANGELA WHITWORTH
Treasurer
Department of Transportation

PROJECT NAME: SR 120 WIDENING FROM SR 141 TO PEACHTREE
INDUSTRIAL
COUNTY: FULTON COUNTY
P.I. NO.: 721000
PARCEL NO.: 44
REQUIRED R/W: 0.211 acres of land and certain easement rights
DATE OF R/W/ PLANS: 04/03/17
LAST REVISED PLANS: Drawings 60-0030 and 60-0030A last revised on 11/05/21;
Drawing No. 60-0029 last revised on 04/01/22;

PROPERTY OWNERS: JAYANT CHAUDHARY; BYLINE BANCORP, INC. DBA BYLINE BANK; ST. IVES COUNTRY CLUB HOMEOWNERS ASSOCIATION, INC.; CITY OF JOHNS CREEK; HONORABLE KENYA JOHNSON, JUDGE, FULTON COUNTY PROBATE COURT; AND ARTHUR E. FERDINAND, FULTON COUNTY TAX COMMISSIONER; and any and all others having or claiming an interest in the herein described lands, individually

All that tract or parcel of land lying and being in Land Lots 367, 389, 390 of the 1st Land District, 1st Section of Fulton County, Georgia, being shown described within on the attached plats marked Annex 1-A and being more particularly described as follows:

REQUIRED RIGHT OF WAY CONTAINING 9,179.09 SF OR 0.211 ACRES

Beginning at a point 90.08 feet right of and opposite Station 85+97.46 on the construction centerline of SR 120/Abbotts Bridge Road on Georgia Highway Project No. STP00-0189-01(010); running thence N 59°06'33.8" E a distance of 38.31 feet to a point 51.77 feet right of and opposite station 85+97.61 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence southeasterly 103.16 feet along the arc of a curve (said curve having a radius of 584.47 feet and a chord distance of 103.03 feet on a bearing of S 23°08'20.9" E) to the point 61.83 feet right of and opposite station 87+04.87 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence S 17°56'25.1" E a distance of 70.40 feet to a point 70.18 feet right of and opposite station 87+78.52 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence S 67°20'47.5" W a distance of 48.53 feet to a point 118.71 feet right of and opposite station 87+78.08 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence N 13°46'42.3" W a distance of 10.22 feet to a point 117.00 feet right of and opposite station 87+67.00 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence N 28°20'56.1" W a distance of 95.45 feet to a point 121.00 feet right of and opposite station 86+62.00 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence N 2°09'02.7" W a distance of 66.86 feet back to the point of beginning. Containing 0.211 acres more or less.

The title, estate or interest in the above described land, required by condemnor and now taken by condemnor for public use is as follows: Fee simple title to the above described land as described within on the attached plats dated April 3, 2017, last revised: Drawings 60-0030 and 60-0030A last revised on 11/05/21; Drawing No. 60-0029 last revised on 04/01/22; and attached hereto as Annex 1-A.

PERMANENT EASEMENT CONTAINING 3,747.77 SF OR 0.086 ACRES

Beginning at a point 113.00 feet right of and opposite Station 85+97.37 on the construction centerline of SR 120/Abbotts Bridge Road on Georgia Highway Project No. STP00-0189-01(010); running thence N 59°06'33.8" E a distance of 22.92 feet to a point 90.08 feet right of and opposite station 85+97.46 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence S 2°09'02.7" E a distance of 66.86 feet to a point 121.00 feet right of and opposite station 86+62.00 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence S 28°20'56.1" E a distance of 95.45 feet to a point 117.00 feet right of and opposite station 87+67.00 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence S 13°46'42.3" E a distance of 10.22 feet to a point 118.71 feet right of and opposite station 87+78.08 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence S 67°20'47.5" W a distance of 17.29 feet to a point 136.00 feet right of and opposite station 87+77.92 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence N 31°12'24.7" W a distance of 104.68 feet to a point 146.00 feet right of and opposite station 86+61.00 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence N 0°13'38.9" E a distance of 66.11 feet back to the point of beginning. Containing 3747.77 square feet more or less.

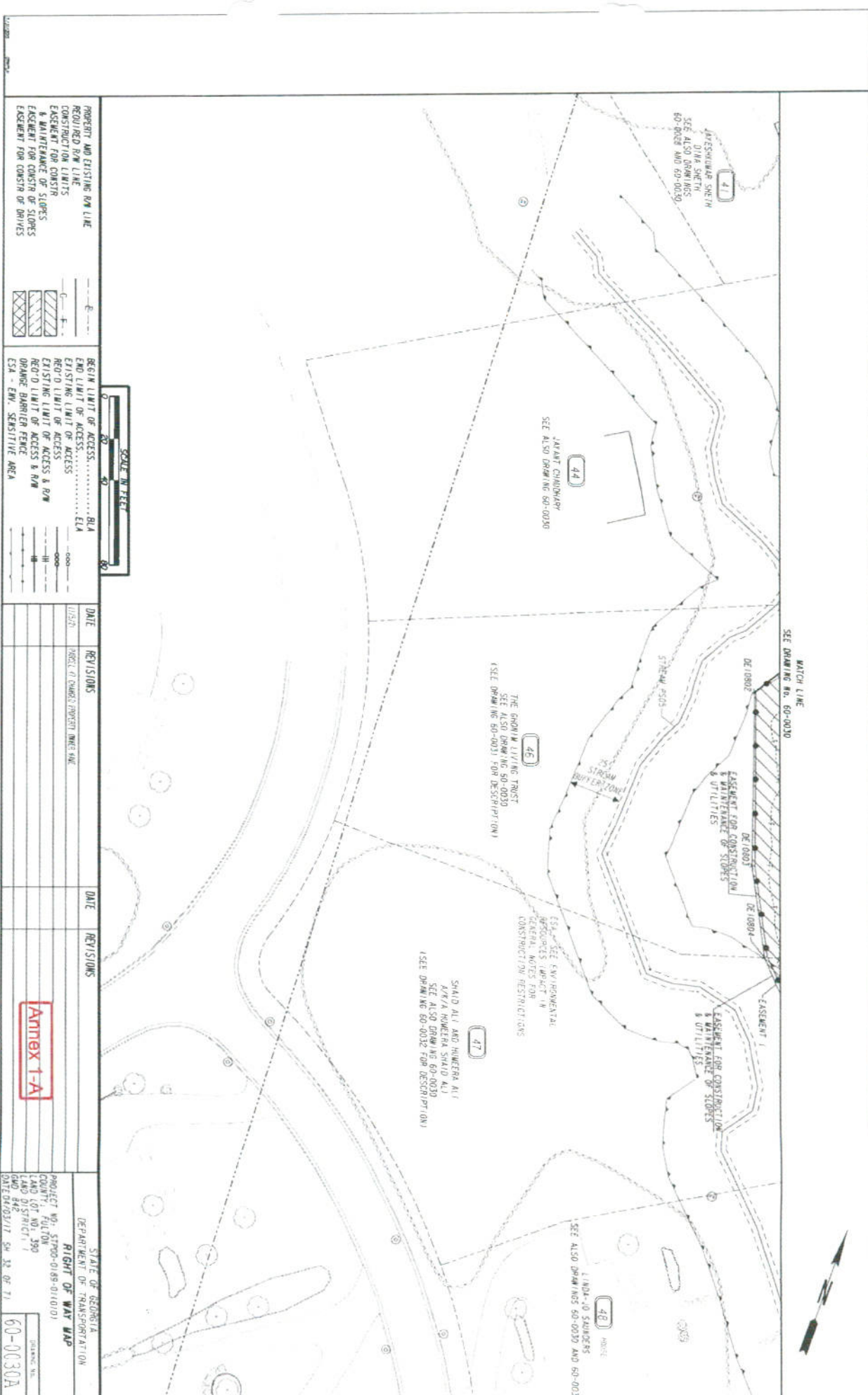
Said permanent easement is condemned for the right to construct and maintain utilities and slopes to connect the newly constructed road and right of way to the condemnees remaining land and is shown described within on the attached plats dated April 3, 2017, last revised: Drawings 60-0030 and 60-0030A last revised on 11/05/21; Drawing No. 60-0029 last revised on 04/01/22; and attached hereto as Annex 1-A.

PLAT

PROJECT NO: P.I. # 721000 FULTON COUNTY

RECORD OWNERS:

JAYANT CHAUDHARY; BYLINE BANCORP, INC. DBA BYLINE BANK; ST. IVES COUNTRY CLUB HOMEOWNERS ASSOCIATION, INC.; CITY OF JOHNS CREEK; HONORABLE KENYA JOHNSON, JUDGE, FULTON COUNTY PROBATE COURT; AND ARTHUR E. FERDINAND, FULTON COUNTY TAX COMMISSIONER; and any and all others having or claiming an interest in the herein described lands, individually



PROPERTY AND EXISTING R/W LINE
 CONSTRUCTED R/W LINE
 EASEMENT FOR CONSTR
 & MAINTENANCE OF SLOPES
 EASEMENT FOR CONSTR OF DRIVES
 EASEMENT FOR CONSTR OF DRIVES

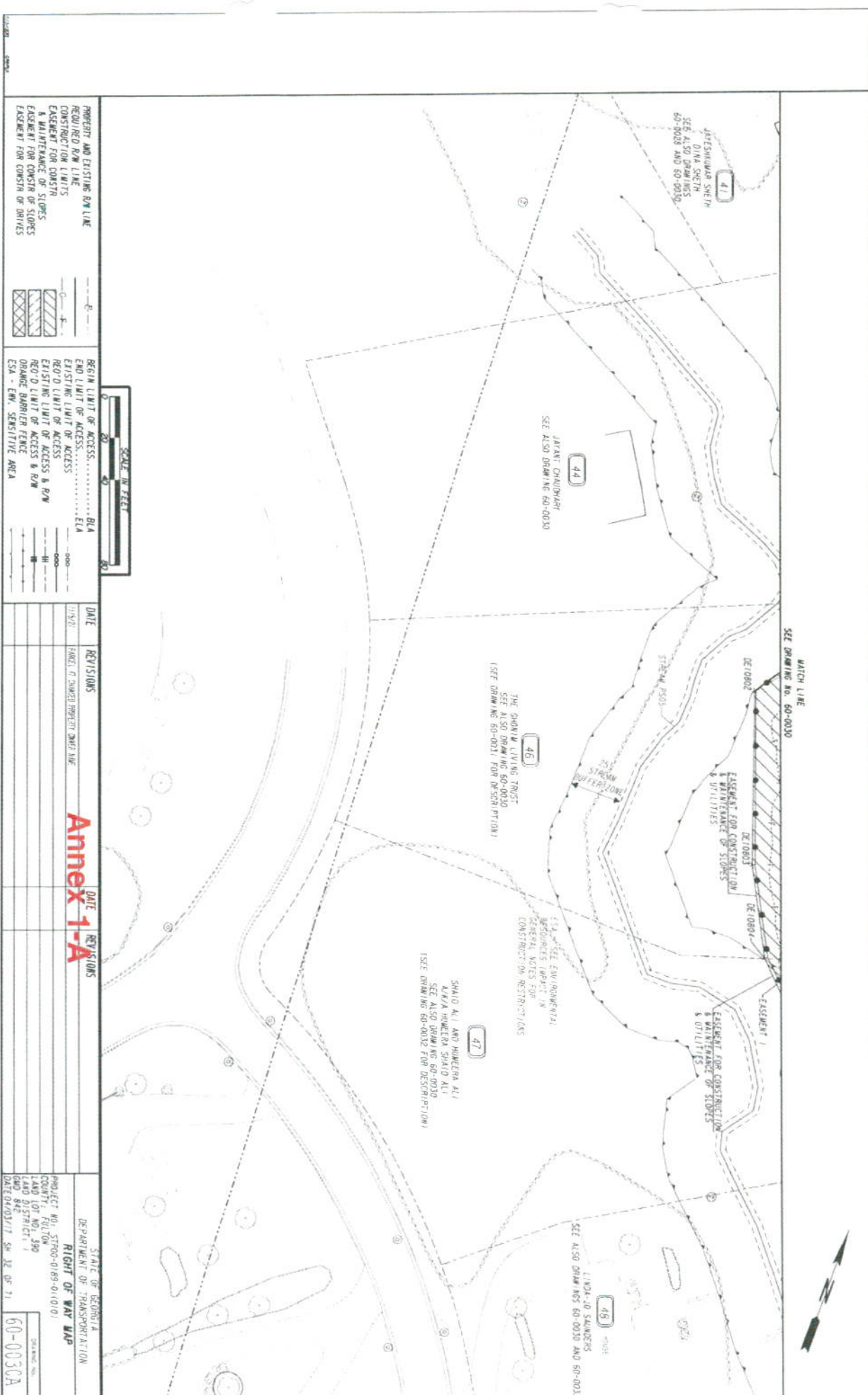
BEGIN LIMIT OF ACCESS.....RLA
 END LIMIT OF ACCESS.....ELA
 EXISTING LIMIT OF ACCESS & R/W
 ROAD - LIMIT OF ACCESS & R/W
 DRAINAGE BUFFER FENCE
 CSA - ENV. SENSITIVE AREA

SCALE IN FEET
 0 20 40 60

DATE	REVISIONS	DATE	REVISIONS
11/2/20	PROJECT OF CHANGI AIRPORT (RINE) AVE		

STATE OF GEORGIA
 DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY MAP
 PROJECT NO. STD00-0-89-0110101
 COUNTY OF FULTON
 LAND ACQUISITION
 1 AND 60' STRIP (1)
 GMD 846
 DATE 04/03/17 SW 32 OF T1
 DRAWING NO. **60-0030A**





PROJECT AND EXISTING R/W LINE

ACQUIRED R/W LINE
 CONSTRUCTION LIMITS
 EASEMENT FOR CONSTR
 & MAINTENANCE OF SLOPES
 EASEMENT FOR CONSTR OF DRIVES

BEGIN LIMIT OF ACCESS.....ELA
END LIMIT OF ACCESS.....ELA
EXISTING LIMIT OF ACCESS
EXISTING LIMIT OF ACCESS & R/W
ON-ROAD BUFFER ZONE
 CSA - ENV. SENSITIVE AREA

SCALE IN FEET
 0 20 40 60

DATE	REVISIONS	DATE	REVISIONS
11/20/12	ISSUED FOR PERMITS		

STATE OF GEORGIA
 DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY MAP

PROJECT NO: 60-0030A
 COUNTY: FULTON
 LAND DISTRICT: 290
 GMD 842
 DATE: 04/03/17 5M 3E 0F 71
 SHEET NO: 60-0030A

GEORGIA, FULTON COUNTY

I, Angela Whitworth, do hereby certify that I am Treasurer of the Department of Transportation.

I further certify that the foregoing 10 pages constitute a true and correct exact copy of an Order of the Commissioner of the Department of Transportation, entered on the 17 day of April, 2023 as same applies to the tract or parcel of land described in said 10 pages; and the original of said Order is on file at my office at 600 West Peachtree Street, Atlanta, Georgia.

Given under my hand and the Seal of the Department of Transportation, this 17 day of April, 2023.



Angela Whitworth
Treasurer
Department of Transportation



APPENDIX "B"

TO

EXHIBIT "A"

DESCRIPTION OF PROPERTY FROM WHICH RIGHT OF WAY IS TAKEN

PROJECT NO. P.I. # 721000 FULTON COUNTY

Record Owners:

JAYANT CHAUDHARY; BYLINE BANCORP, INC. DBA BYLINE BANK; ST. IVES COUNTRY CLUB HOMEOWNERS ASSOCIATION, INC.; CITY OF JOHNS CREEK; HONORABLE KENYA JOHNSON, JUDGE, FULTON COUNTY PROBATE COURT; AND ARTHUR E. FERDINAND, FULTON COUNTY TAX COMMISSIONER; and any and all others having or claiming an interest in the herein described lands, individually

Said fee simple title to right of way, and easements, as described in Appendix "A" are for a State-aid road, as defined by law across and over certain tracts of land located in Land Lot 367, 389, 390, of the 1st Land District, of Fulton County, Georgia. Said tract of land consisting of approximately 0.521 ± acres.

APPENDIX "C" TO EXHIBIT "A"

GEORGIA, COBB COUNTY

Personally comes, Jeff O'Dell residing at 1074 Princeton Walker NE, Marietta, GA 30068

1. Affiant was employed by the Department of Transportation to appraise Parcel No. 44 of the right of way and rights required for construction of Project No. STP00-0189-01(010) in Fulton County, Georgia for said Department 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 \$88,100.

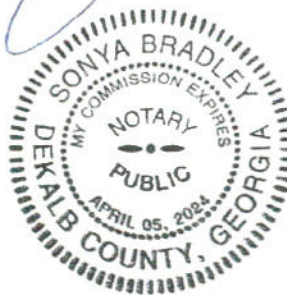


APPRAISER

Sworn to and subscribed before me,
this 30th day of March, 2023.



NOTARY PUBLIC
My commission expires 4/5/24



Parcel No. 44

CERTIFICATE OF THE CLERK

I, Rose Lynn Ware, Clerk of the Superior Court of FULTON COUNTY, Georgia, do hereby certify that the within and attached petition for condemnation by the Department of Transportation and against 0.211 acres of land; and certain easement rights; and JAYANT CHAUDHARY; BYLINE BANCORP, INC. DBA BYLINE BANK; ST. IVES COUNTRY CLUB HOMEOWNERS ASSOCIATION, INC.; CITY OF JOHNS CREEK; HONORABLE KENYA JOHNSON, JUDGE, FULTON COUNTY PROBATE COURT; AND ARTHUR E. FERDINAND, FULTON COUNTY TAX COMMISSIONER; and any and all others having or claiming an interest in the herein described lands, individually, has been filed in said office.

I do further certify that the said Department of Transportation has filed with said petition for condemnation a Declaration of Taking; and has deposited with me, as such Clerk, the sum of \$88,100.00 as estimated just compensation for the property described and taken.

Given under my hand and the seal of said Court this the 25 day of May, 2023.

Rose Lynn Ware
CLERK OF SUPERIOR COURT
FULTON COUNTY, GEORGIA

IN THE SUPERIOR COURT OF
FULTON COUNTY
GEORGIA

DEPARTMENT OF TRANSPORTATION
VS.

DOCKET NO. 2023CV380374
IN REM _____

0.211 acres of land; and certain easement rights; and
JAYANT CHAUDHARY; BYLINE BANCORP, INC. DBA BYLINE BANK; ST. IVES
COUNTRY CLUB HOMEOWNERS ASSOCIATION, INC.; CITY OF JOHNS CREEK;
HONORABLE KENYA JOHNSON, JUDGE, FULTON COUNTY PROBATE COURT;
AND ARTHUR E. FERDINAND, FULTON COUNTY TAX COMMISSIONER; and any
and all others having or claiming an interest in the herein described lands, individually

ORDER AND JUDGMENT

The petition in the above stated case with Declaration of Taking attached, and the certificate of the Clerk showing the filing of such petition and Declaration and deposit into Court of the sum of money estimated as just compensation for the property taken, as authorized by the Official Code of Georgia Annotated Sections 32-3-4 through 32-3-19, it is Considered, Ordered, and Adjudged:

- 1) That the property described in the petition of the Department of Transportation and in the Declaration of Taking filed currently therewith being shown to be within the bounds of the required right of way of Georgia Highway Project P.I. # 721000 is hereby condemned in fee simple to the use of the Department of Transportation, together with such rights as described in such petition and such Declaration, under authority of the Official Code of Georgia Annotated, and the Department of Transportation and its successors are hereby vested with full,

complete, and unencumbered title to such property, if any, for the purposes described in said petition and Declaration; but nothing herein contained is to be construed as depriving the named defendant, or any person having an interest in, title to, or claim against said property of the right to appeal the estimated amount of just compensation to a jury in this Court, or of the right to petition the Court for an interlocutory hearing and the appointment of assessors to review and determine the correctness of the amount of estimated compensation, as so deposited, or of the right to petition the Court to vacate and set aside said Declaration and this Judgment; but this Judgment shall be construed only as vested title and the right of possession in the Plaintiff-Condemnor, as contemplated by the Official Code of Georgia Annotated;

- 2) Department of Transportation having applied to me for possession, not later than 30 days from the date of filing of the Declaration of Taking, of said property, and it being provided in the Official Code of Georgia Annotated, that "... the court shall have power to fix the time, the same to be not later than 60 days from the date of filing of the declaration of taking, as provided in Code Section 32-3-6, within which and the terms upon which the parties in possession shall be required to surrender possession to the petitioner", let all persons in possession of such property, as well as named condemnees, be served with a copy of said petition and Declaration of Taking, and this Order, and they are hereby directed to surrender possession of the property to the Department of Transportation not later than 30 days from the date of filing of the Declaration of Taking;
- 3) It be further ordered that the Department of Transportation is authorized to grant a written extension of time to the persons in possession of the condemned property to extend the date of possession, and this decision

shall be in sole discretion of the Department and shall be effective upon terms and conditions prescribed by the Department;

- 4) It is further ordered and directed that the petition, together with said Declaration of Taking, be served in accordance with the provisions of the aforesaid Official Code of Georgia Annotated; that, where shown by the petition, there are nonresidents of the State of Georgia, who have title to, Claims against, or any interest in said property, whose names and addresses are known, the Clerk provide for the service of such parties by United States Registered mail, with return card requested, as provided for in said Official Code, and certify such service to the Court, as part of the record in the case;
- 5) That second originals of this petition, including all orders and proceedings in connection therewith, as well as the Declaration of Taking, be issued by the Clerk for service upon the following named non-residents of this County: N/A;
- 6) It is further ordered that a copy of this petition and of said Declaration be served upon the tax collecting authorities of said City and County;
- 7) It being the purpose of this Order, to make certain, so far as is possible that all persons having title to, or interest in, or claims against the described property be given notice of the pendency of this proceeding; it is further ordered that such additional service be made as may be called for by the allegations of the petition, together with the provisions of the Official Code of Georgia Annotated for such service; and, further that the Clerk of the

Superior Court shall cause a citation to be issued and published in the official newspaper of said County, entitled in this cause, describing the property condemned in this proceeding, reciting also the filing of the Declaration of Taking by condemnor, setting forth the names of the persons known or believed to be owners, or having an interest in, or claims against said property and citing such persons, as well as all others claiming any title to or interest in said property, or in said fund on deposit with the Clerk which amount shall be set out in such citation, to appear in this Court and make known their claims; and let such citation be published in such newspaper for two (2) consecutive weeks.

Let this Order be filed as part of the record in this case.

This 23rd day of May, 2023.



HONORABLE URAL GLANVILLE
CHIEF JUDGE
FULTON COUNTY SUPERIOR COURT
ATLANTA JUDICIAL CIRCUIT

Presented by:

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By: /s/ Richard W. Calhoun
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IN THE SUPERIOR COURT OF
FULTON COUNTY
GEORGIA

DEPARTMENT OF TRANSPORTATION
VS.

DOCKET NO. 2023CV380374
IN REM _____

0.211 acres of land; and certain easement rights; and
JAYANT CHAUDHARY; BYLINE BANCORP, INC. DBA BYLINE BANK; ST. IVES
COUNTRY CLUB HOMEOWNERS ASSOCIATION, INC.; CITY OF JOHNS CREEK;
HONORABLE KENYA JOHNSON, JUDGE, FULTON COUNTY PROBATE COURT;
AND ARTHUR E. FERDINAND, FULTON COUNTY TAX COMMISSIONER; and any
and all others having or claiming an interest in the herein described lands, individually

CERTIFICATE OF POSTING OF CONDEMNATION PROCEEDING

AT THE COURTHOUSE

This is to certify that the undersigned Counsel of Record for the Department of Transportation, Plaintiff-Condemnor in the above-captioned case, has this day caused to be posted a copy of the proceedings in the condemnation in the above captioned case on the bulletin board at the Courthouse for the Superior Court of Fulton County, in accordance with the Official Code of Georgia Annotated Section 32-3-8(f), including a copy of the Petition, the Declaration of Taking, with annexes and appendixes, and a copy of the Order of the Court thereon.

This 6 day of June, 2023.



COUNSEL FOR DEPARTMENT OF TRANSPORTATION
Plaintiff-Condemnor

CITATION

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FULTON COUNTY
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The said named persons and any and all other persons known and unknown claiming any right, title, power, interest, ownership, equity, claim or demand in and to the lands hereinafter described, and all occupants, tenants, lessees, licensees and all holders, owners and users of ways and easements in, across, over and under said land are hereby notified, under the provisions of the Official Code of Georgia Annotated Sections 32-3-4 through 32-3-19, providing for the exercise of the power of eminent domain by the State of Georgia, or any of its subdivisions, or by any county of such State, as follows:

That the above stated case, being a condemnation in rem against the property hereinafter described, was filed in said Court on the 16 day of May, 2023; That, in accordance with provisions of the aforesaid Official Code, a Declaration of Taking, duly authorized and properly executed as provided by the Official Code, has been made and filed in said case, declaring the necessity for and exercising the power of taking the said described lands for State-aid public road purposes, thereby vesting the title to same in the Department of Transportation; and, in pursuance of

such authority, the Department of Transportation has deposited with the Clerk of the Superior Court of said County \$88,100.00 as the just compensation for the said lands described; and all persons claiming such fund or any interest therein, are hereby required to make known their claims to the Court;

In accordance with the provisions of the Official Code of Georgia Annotated, the Plaintiff-Condemnor has prayed the Court for Immediate possession of said property, and all persons having any interest in or claim against such property, as above set forth, are required by the Order of the Judge of said Court to surrender possession of the property to the Department of Transportation no later than 30 days from filing of the Declaration of Taking.

That in accordance with the Official Code of Georgia Annotated Section 32-3-13 through 32-3-19, if the owner, or any of the owners, or any person having a claim against or interest in said property, shall be dissatisfied with the compensation, as estimated in the Declaration of Taking and deposited in Court, such person or persons, or any of them, shall have the right, at any time subsequent to the filing of the Declaration and the deposit of the fund into Court but not later than 30 days following the date of service as provided for in the Official Code of Georgia Annotated Sections 32-3-8 through 32-3-10 to file with the Court a notice of appeal, the same to be in writing and made a part of the record in the proceedings.

The said property, as thus affected, is described as follows:

SEE PAGES 20-A and 20-B FOR DESCRIPTION

This ____ day of _____, 20____.

Candace Robinson

Clerk Superior Court
FULTON COUNTY

PROJECT NAME: SR 120 WIDENING FROM SR 141 TO PEACHTREE
INDUSTRIAL
COUNTY: FULTON COUNTY
P.I. NO.: 721000
PARCEL NO.: 44
REQUIRED R/W: 0.211 acres of land and certain easement rights
DATE OF R/W/ PLANS: 04/03/17
LAST REVISED PLANS: Drawings 60-0030 and 60-0030A last revised on 11/05/21;
Drawing No. 60-0029 last revised on 04/01/22;

PROPERTY OWNERS: JAYANT CHAUDHARY; BYLINE BANCORP, INC. DBA BYLINE BANK; ST. IVES COUNTRY CLUB HOMEOWNERS ASSOCIATION, INC.; CITY OF JOHNS CREEK; HONORABLE KENYA JOHNSON, JUDGE, FULTON COUNTY PROBATE COURT; AND ARTHUR E. FERDINAND, FULTON COUNTY TAX COMMISSIONER; and any and all others having or claiming an interest in the herein described lands, individually

All that tract or parcel of land lying and being in Land Lots 367, 389, 390 of the 1st Land District, 1st Section of Fulton County, Georgia, being shown described within on the attached plats marked Annex 1-A and being more particularly described as follows:

REQUIRED RIGHT OF WAY CONTAINING 9,179.09 SF OR 0.211 ACRES

Beginning at a point 90.08 feet right of and opposite Station 85+97.46 on the construction centerline of SR 120/Abbotts Bridge Road on Georgia Highway Project No. STP00-0189-01(010); running thence N 59°06'33.8" E a distance of 38.31 feet to a point 51.77 feet right of and opposite station 85+97.61 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence southeasterly 103.16 feet along the arc of a curve (said curve having a radius of 584.47 feet and a chord distance of 103.03 feet on a bearing of S 23°08'20.9" E) to the point 61.83 feet right of and opposite station 87+04.87 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence S 17°56'25.1" E a distance of 70.40 feet to a point 70.18 feet right of and opposite station 87+78.52 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence S 67°20'47.5" W a distance of 48.53 feet to a point 118.71 feet right of and opposite station 87+78.08 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence N 13°46'42.3" W a distance of 10.22 feet to a point 117.00 feet right of and opposite station 87+67.00 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence N 28°20'56.1" W a distance of 95.45 feet to a point 121.00 feet right of and opposite station 86+62.00 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence N 2°09'02.7" W a distance of 66.86 feet back to the point of beginning. Containing 0.211 acres more or less.

The title, estate or interest in the above described land, required by condemnor and now taken by condemnor for public use is as follows: Fee simple title to the above described land as described within on the attached plats dated April 3, 2017, last revised: Drawings 60-0030 and 60-0030A last revised on 11/05/21; Drawing No. 60-0029 last revised on 04/01/22; and attached hereto as Annex 1-A.

PERMANENT EASEMENT CONTAINING 3,747.77 SF OR 0.086 ACRES

Beginning at a point 113.00 feet right of and opposite Station 85+97.37 on the construction centerline of SR 120/Abbotts Bridge Road on Georgia Highway Project No. STP00-0189-01(010); running thence N 59°06'33.8" E a distance of 22.92 feet to a point 90.08 feet right of and opposite station 85+97.46 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence S 2°09'02.7" E a distance of 66.86 feet to a point 121.00 feet right of and opposite station 86+62.00 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence S 28°20'56.1" E a distance of 95.45 feet to a point 117.00 feet right of and opposite station 87+67.00 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence S 13°46'42.3" E a distance of 10.22 feet to a point 118.71 feet right of and opposite station 87+78.08 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence S 67°20'47.5" W a distance of 17.29 feet to a point 136.00 feet right of and opposite station 87+77.92 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence N 31°12'24.7" W a distance of 104.68 feet to a point 146.00 feet right of and opposite station 86+61.00 on said construction centerline laid out for SR 120/ABBOTTS BRIDGE RD; thence N 0°13'38.9" E a distance of 66.11 feet back to the point of beginning. Containing 3747.77 square feet more or less.

Said permanent easement is condemned for the right to construct and maintain utilities and slopes to connect the newly constructed road and right of way to the condemnees remaining land and is shown described within on the attached plats dated April 3, 2017, last revised: Drawings 60-0030 and 60-0030A last revised on 11/05/21; Drawing No. 60-0029 last revised on 04/01/22; and attached hereto as Annex 1-A.