### TEMPORARY RIGHT OF ACCESS AGREEMENT

### STATE OF GEORGIA

### **COUNTY OF FULTON**

THIS TEMPORARY RIGHT OF ACCESS AGREEMENT, addendums, and Exhibits attached hereto (the "Agreement") is made and entered into this \_\_ day of May, 2023 (the "Effective Date") by and between Fulton County, Georgia, a political subdivision of the State of Georgia ("Grantee"), and Thuy Thu Doan and Joseph Ford Hoke (collectively the "Owner" or "Grantor"), who owns the land and the improvements thereon (together, the "Property") having an address of 2900 West Road, South Fulton, Georgia, bearing Tax ID number 13 0190 LL0236 and being more particularly described in Exhibit A, attached hereto (the "Property");

- 1. Grant. Owner hereby grants to Grantee, and its assigns, nominees, agents, and successors, a non-exclusive license for temporary right of access and entry to the Property for the purpose of observing and measuring (surveying), geotechnical investigations, and wetlands verification for the replacement of the existing wastewater system located along Morning Creek (the "Work"). Owner shall provide Grantee access to the Property at all times, twenty-four (24) hours per day, seven (7) days per week, for one year from the Effective Date for the foregoing purposes (the "Work Period"). The Work Period may be extended by mutual written agreement by the parties. By executing this Agreement, Owner does not convey any property interest and does not intend for this Agreement to be or become an easement. Owner further does not waive any rights to the payment of just and adequate compensation for any and all property taken or damaged by Grantee as a result of any entry upon the Property or execution of this Agreement. By entering the Property, Grantee agrees to restore the impacted area as near as possible to its original condition following the completion of the Work. For the purposes of this document, "original condition" shall mean the condition of the Property and/or surrounding areas immediately prior to the commencement of the Work Period.
- 2. <u>Grantee Obligations.</u> Grantee shall comply with all applicable law and perform the Work at its own cost and expense. Grantee shall keep the Property in its current condition to the extent reasonably possible and keep the Property clean and free of debris and trash during the Work Period. Grantee shall also exercise due care and caution and promptly and diligently repair all damage to the Property caused by Grantee. The Work shall be at the sole risk of Grantee, and Owner shall not be liable for damage thereto or loss thereof, except in the event of Owner's gross negligence or willful misconduct. Nothing herein shall be construed as a waiver of Grantee's or its employee's waiver of available governmental immunities.
- 3. <u>Term.</u> This Agreement shall commence on the date of this Agreement set forth above and end at the expiration of the Work Period but shall end no later than one year from the Effective Date, unless extended by the parties in writing.
- 4. <u>Limitation of Liability.</u> NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY LOST PROFITS, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES.
  - 5. <u>Additional Terms</u>. See Addendum to Temporary Right of Entry attached hereto.

[Continued on Following Page]

MHEREOF, we have set our hand and seal this the 🔟 day of May, 2023. **GRANTORS:** Thuy Thuy Doan, Owner/Grantor Public Joseph Ford Hoke, Owner/Grantor 5.10.27 **GRANTEE:** Fulton County, Georgia Robert L. Pitts, Chairman **Board of Commissioners** ATTEST: Tonya R. Grier, Clerk to the Commission APPROVED AS TO FORM: Y. Soo Jo, County Attorney

### ADDENDUM TO TEMPORARY RIGHT OF ENTRY

Notwithstanding anything to the contrary contained in the Agreement, Grantor and Grantee, in consideration of the covenants stated in the Agreement and this Addendum, further agree as follows:

- 1) <u>Terms Binding on other Parties</u>: Grantee, its agents, assigns, nominees, or any other party than Grantee (included in any reference to Grantee in the Agreement or this Addendum), conducting Work pursuant to the Agreement must abide by the terms contained in the Agreement and this Addendum.
- 2) Scope of Work: The scope of Work outlined in the Agreement rises to the level of a Phase 2 Environmental Site Assessment. Grantee shall not otherwise have the right to conduct any other invasive testing without first obtaining Grantor's written consent, which consent may be withheld in Grantor's sole discretion. The placement of any permanent improvements is not within the scope of this Agreement.
- 3) Areas of Access: The scope of Grantee's access on the Property is limited to the portion of Grantor's property shown as "Area to be Condemned" on that Condemnation Exhibit Prepared for Morning Creek Sanitary Sewer Improvements, dated December 17, 2022, and prepared by Lowe Engineers attached as Exhibit A.
- 4) **Replacement Condition**: Fifteen business days after the expiration of the Work Period, Grantee shall mail notice at the Property address referenced above or personally deliver to Grantor a list of items that were damaged, removed, and replaced on the Property during the Work Period and the location of those items. If any trees are removed during Grantee's entry of the Property, Grantee must replace the removed trees with Chestnut and Water Oak Trees.

RESERVED FOR PLAT FILING

FULTON COUNTY
FAVETTE COUNTY
LAKE
FAVETTE COUNTY
LAKE 0 VICINITY MAP OLD JONESBORO CONNELL RD 1 TAHOE SITE COSSI POSSI LOCATION (N.T.S.) MORNING BETHSAIDA RD 0 WEST RD

Thuy Thu Doan and Joseph Ford Hoke Area to be Condemned – Legal Description (Parcel ID: 13 0190 LL0236)

All that tract or parcel of land lying and being in Land Lot 190 of the 13th District of Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin found (1/2" reban) located at the intersection of the land Lot Line common to Land. Lots, 130 and 131 a with the northesterin right-of-way line of Lonesbox lonad/SR 118 (having a soriable width right-of-way), thereo: leave said intersection and run southesterip along and northesterin right-of-way line S8473/3/SE a distance of 244,89 feet to a paint, said point being the TNUE POINT OF SEGNINING.

PROM THE TRUE POINT OF BEGINNING 55 THAUSTED, thence leave said norther series of the point of the SEA feet or a solid norther series of SEA feet or a solid there are of SEA feet or a solid norther series of SEA feet or a solid series of SEA feet to a point; thence run NOS 750°C feet to a solid series of SEA feet to a point; thence run NOS 750°C feet to a solid series of SEA feet to a point; thence run NOS 750°C feet to a solid series of SEA feet to a point; thence run NOS 750°C feet to a point; thence run NOS 750°C feet to a point; thence run NOS 750°C feet or a point; thence run NOS 750°C feet or a point; thence run SEA feet or a point; thenc

Together with and subject to all legal easements and rights of way both public and private, said tract or parcel of land containing 2.376 acres, more or less (103,492 square feet, more or less).

THE DATA SHOWN ON THIS PLAT HAS A CLOSURE PRECISION OF ONE FOOT IN 186,670 FEET.

### GENERAL NOTES

THE LINEAR AND ANDILLAR MEASUREMENTS SHOWN ON THIS MAP OR PLAT WERE ORTANED BY LISENS IN THE RELD SURVEY. A LEICA TOSE ROBOTIC TOTAL STATION, LEICA CS20 FIELD CONTROLLER AND LEICA GS18 GNS RTIK ROVER.

THE DATAM FOR THIS SITE WAS ESTABLISHED THILZING GLOBAL POSITIONING SYSTEMS AND BASEDO MONORMONE VALUES FOR THE WITHOUT RETERENCE TRAVELS SYSTOM WITHOUT CONTROL OF SYSTEM OF USED A MARTNET. THE HORIZONTAL RETERENCE FRAME IS MARTH AMERICAN DATUM OF 1983 (MACK), SYSTEM DAVE COORDINATE SYSTEM OF GEORGIA, WEST COME, US SUPPLY FOOT: THE VERTICAL REFERENCE FRAME IS MORTH AMERICAN VERTICAL DATUM OF 1989 (MAVIDES).

## FIELD WORK COMPLETED ON 16 DECEMBER 2022.

BY GRAPHIC PLOTTING ONLY, THIS SITE IS LOCATED WITHIN SPECIAL FLOOD HAZARD AREA "AE", AS PER THE FLOOD INSLINANCE BATE MAP (FLAMA), FLUTON COUNTY UNINCONPONATED AIREAS, GEORGIA, MAP NUMBER 1312100490F, WITH AN EFFECTIVE DATE OF 9/18/2013.

# ZONE AE: WITH BFE (BASE FLOOD ELEVATION) OR DEPTH

A BOUNDARY SURVEY WAS NOT PERFORMED FOR THIS EXHIBIT. PROPERTY LINES SHOWN ARE PER EVIDENCE FOUND AND THE RECORD DESCRIPTION.

THIS SURVEY WAS PREPARED MITHOUT THE BENEFIT OF A TITLE SEARCH. EASEMENTS OR ENCUMBRANCES NOT SHOWN. THERE MAY BE

ABOVE GENUND UTILITY LOCATIONS, AS SHOWN HEREON WERE GETAINED FROM PELL OBSERVANTONS, MUDERSCROUND UTILITIES WERE NOT LOCATED AS A PAIT OF THIS LIBRUITY THE INFORMATION SHOWN ON THIS DRIVING CONCERNING UTILITIES IS NOT GUI-ANNTEED TO THE RECORD OF THE ALL INCLUSIVE THE OWNER, ARCHITECT, COMPINCTON, AND THER AGENTS ARE RESPONSIBLE FOR MANING THEIR WIND ETERMINOUS AS TO THE ACTUAL SEE, ACT

THE SERREY AND PLAT SHOWN HEREON IS NOT INTEREDE FOR USE OF RELIANCE BY A PARTIES OR BRITTLES FOR SECRETARY LIKE TO INTEREST. INJUSTICATED THEN PART SHALL INJUSTICATED AND COME EXCITERED, LIC. HAWLESS AGAINST MY AND SHALL INJUSTICATED TO REJUSTICATE AND AND LONG MERING DO FOR SHAPES. HAVE THEN PARTY LIMBILLY FOR MY LOSS ARBING OUT OF, OR RELATED TO REJUSTICATE MY THIRD PARTY MY WORK PERCONIALD THE REJUSTICATE OF THE CANCERN SOFT THE SHAPES.

LEGEND - ABBREVIATIONS

POC POPOC PROVIDE POC PROVIDE IFON IN SET IFON WHAT MOUNDER!

A RIGHT OF WAY MOUNDER!

C POINT OF COMMERCEMENT

FOR THE BOOKPAGE

FOR THE TO LIKE

THE STATE OF MER THE JULE

DUCTILE IRON PIPE

INVEST.

WE LEELYNTON

FOOMER FOLE

WE FOR THE BOOKPAGE

FOR THE BOOKPAGE

DUCTILE IRON PIPE

INVEST.

WE LEELYNTON

FOOMER FOLE

WE CONSTRUCT OF THE MAP

FOOMER THE LIKE

FOR THE STATE MAP

FOOD INSURANCE FATE MAP

LEGEND - LINE TYPE — PROPERTY LINE

— RIGHT OF WAY LINE

— METAL FENCE

— GUARDPAIL

— OVERHEAD ELECTRIC LINE

— UNDERGROUND SANITARY SI

— BASE FLOOD ELEVATION

LEGEND - SYMBOLS
O IRON PIN FOUNDSET
ORIGHT-OF-WAY MONUMENT
SANITARY SEWER MANHOLE (EXISTING)
OF POWER POLE SEWER LINE





DATE 08.23.2022 12.17.2022

PER CLIENT COMMENTS
CONDEMNATION AREA REVISED

SHEET 유

N

CONDEMNATION EXHIBIT



990 HAMMOND DRIVE, SUITE 900 ATLANTA, GEORGIA 3032B TEL: 770-857-8400 FAX: 770-857-8401 www.loweengineers.com Lond Surveyor Firm License No. LSF000656

PROJECT NO.: 22-100030 (20-0200) DRAWN BY: CAM CHECKED BY: CGL COPYRIGHT® 2022 BY LOWE ENGINEERS, LLC. ALL RIGHTS RESERVED. THIS DOCUMENT IS THE PROPERTY OF LOWE ENGINEERS, LLC AND IS TO BE USED ONLY FOR THE PROPERTY OF LOWE ENGINEERS, LLC AND LOWER ENGINEERS, LLC AND LOWER ENGINEERS OF THE PROPERTY OF THE PROPERTY

CONDEUNATION EXHIBIT PREPARED FOR:
MORNING CREEK SANTEARY SEWER
DAPROVEMENTS
PARCEL ID: 13 0190 LL0230
THUY TRU DANA # JOSEPH FORD HOKE
LOCATED IN LAND LOT 190, 13th DISTRICT
FULTON COUNTY, GEORGIA

