

ORDINANCE NO. 2016 - \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF DENTON DETERMINING THE PUBLIC USE, NEED, AND NECESSITY FOR THE ACQUISITION OF VARIOUS PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS GENERALLY LOCATED ALONG U.S. HIGHWAY 377 (FORT WORTH DRIVE) THE LIMITS OF WHICH BEING BOUNDED TO THE NORTH BY INTERSTATE HIGHWAY 35 EAST AND TO THE SOUTH BY FM 1830 (COUNTRY CLUB ROAD) AND BEING SITUATED IN THE A. HILL SURVEY, ABSTRACT NO. 623, THE S. HIRAM SURVEY, ABSTRACT 616, THE W. DANIEL SURVEY, ABSTRACT 378, THE A. HICKMAN SURVEY, ABSTRACT 521 AND THE B.B.B & C.R.R. SURVEY, ABSTRACT 196, CITY AND COUNTY OF DENTON, TEXAS, AND WITH THE USE, PURPOSE AND LEGAL DESCRIPTIONS OF EACH EASEMENT BEING MORE PARTICULARLY DESCRIBED IN THE ATTACHED EXHIBIT "A" (THE "PROPERTY INTERESTS"); AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY, OR THEIR RESPECTIVE DESIGNEES, TO ACQUIRE THE PROPERTY INTERESTS BY AGREEMENT INCLUDING MAKING ALL OFFERS REQUIRED BY LAW; AUTHORIZING THE USE OF THE POWER OF EMINENT DOMAIN TO CONDEMN THE PROPERTY INTERESTS IF AN AGREEMENT CANNOT BE REACHED; AND AUTHORIZING THE CITY ATTORNEY, OR HER DESIGNEE, TO FILE EMINENT DOMAIN PROCEEDINGS IF NECESSARY; AUTHORIZING THE EXPENDITURE OF FUNDING; MAKINGS FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE. (Fort Worth Drive Utility Relocations project)**

**WHEREAS**, the City Council of the City of Denton ("City Council") after consideration of this matter, has determined that a public use and necessity exists for, and that the public welfare and convenience requires, the acquisition of the Property Interests by the City of Denton, Texas ("City"). The City Council finds that the acquisition of the Property Interests is a valid public use necessary to provide the installation and relocation of municipal utilities relating to the Fort Worth Drive Utility Relocations project to serve the public and citizens of the City.

**WHEREAS**, the City is required to make an initial offer as defined by, and in compliance with, Texas Property Code §21.0111 ("Initial Offer"), and a bona fide offer, as defined by, and in compliance with, Texas Property Code §21.0113 ("Final Offer") to acquire the Property Interests for public use, voluntarily, from the subject landowner(s) before beginning the acquisition of the Property Interests by eminent domain; and

**WHEREAS**, the City Council deems it necessary to authorize the City Attorney to initiate condemnation proceedings in order to acquire the Property Interests if an agreement cannot be reached with the subject landowner(s) for the purchase of the Property Interests; **NOW, THEREFORE**,

**THE COUNCIL OF THE CITY OF DENTON ORDAINS:**

**Section I.** The City Council finds that the recitals made in the preamble of this Ordinance are true and correct, and incorporates such recitals into the body of this ordinance as if copied in their entirety.

**Section II.** The City Council authorizes acquisition of the Property Interests, as more particularly described in the attached Exhibit "A", for the reasons and purposes set forth above together with all necessary appurtenances, additions and improvements on, over, under, and through the Property Interests.

**Section III.** The City Council authorizes the City Attorney, or her designee, to negotiate for and to acquire the required property rights in the Property Interests for the City, and to acquire these rights in compliance with State and any other applicable law. The City Attorney, or designee, is specifically authorized and directed to do each and every act necessary to acquire the needed property rights in the Property Interests including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts, to retain and designate a qualified appraiser of the Property Interests to be acquired and any other experts or consultants that she deems necessary for the acquisition process, to retain qualified outside litigation counsel as needed, and, if necessary, to institute proceedings in eminent domain.

**Section IV.** The City Manager, or his designee, is appointed as negotiator for the acquisition of the needed Property Interests and, as such, the City Manager, or designee, is authorized and directed to do each and every act and deed specified or authorized by this Ordinance, subject to the availability of funds appropriated by the City Council for such purpose. The City Manager, or designee, is specifically authorized to establish and make offer(s) of just compensation for the acquisition of the Property Interests. If an agreement as to damages or compensation cannot be reached then the City Attorney, or designee, is authorized and directed to file or cause to be filed, against the subject landowner(s) and interested parties of the Property Interests, proceedings in eminent domain to acquire the Property Interests.

**Section V.** The City Manager, or his designee, is authorized and directed to make offers to the landowner(s) of the Property Interests in accordance with State and any other applicable law.

**Section VI.** If any section, article, paragraph, sentence, phrase, clause or word in this ordinance, or application thereof to any persons or circumstances, is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; the City Council declares that it would have ordained such remaining portion despite such invalidity, and such remaining portion shall remain in full force and effect.

**Section VII.** This Ordinance shall become effective immediately upon its passage.

PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
CHRIS WATTS, MAYOR

ATTEST:  
JENNIFER WALTERS, CITY SECRETARY

BY: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:  
ANITA BURGESS, CITY ATTORNEY

BY: \_\_\_\_\_

## “Property Interests”

### U.S. Hwy 377 Utility Relocation, I-35E to FM 1830 Project Property Ownership Roster / Possible Eminent Domain Cases

Address	Owner	DCAD Parcel No.	Parcel #	Easement Type
518 Acme Street	GJO & AM Investments, Inc.	137395	P2E-SSWLE-1 P2E-TCE-1 P2E-TCE-2	sanitary sewer & water temporary construction temporary construction
521 Acme Street	PKR Properties, LP	21433, 40179	P3E-SSWLE-1 P3E-TCE-1	sanitary sewer & water temporary construction
703 Massey Street	James A. Blanton	34195	P8W-SSWLE-1 P8W-TCE-1	sanitary sewer & water temporary construction
915 Fort Worth Drive	vanCalle Denton LLC	36950	P1E-TCE-1	temporary construction
1008 Fort Worth Drive	Melinda Webb	25797	P1W-SSE-1	sanitary sewer
1018 Fort Worth Drive	United Pawn Inc.	114200	P3W-SSE-1	sanitary sewer
1123 Fort Worth Drive	David M. Nichols	25824	P4E-SSWLE-1 P4E-TCE-1	sanitary sewer & water temporary construction
1200 Fort Worth Drive	Tommy L. Caruthers, Sr.	32448	P6W-SSE-1 P6W-TCE-1	sanitary sewer temporary construction
1701 Fort Worth Drive	CS Rodgers Properties LLC	34176	P7E-WLE-1 P7E-TCE-1	water temporary construction
1715 Fort Worth Drive	Thomas A. Farlow	34175	P8E-WLE-1	water
1800 Fort Worth Drive	Douglas Wade Carr and Cynthia G. Carr	34197	P10W-SSWLE-1 P10W-TCE-1	sanitary sewer & water temporary construction
1804 Fort Worth Drive	Thomas A. Farlow	34198	P11W-SSWLE-1 P11W-TCE-1	sanitary sewer & water temporary construction
2201 Fort Worth Drive	4 <sup>th</sup> Frame, LLC	36165	P11E-TCE-1	temporary construction
2212 Fort Worth Drive	Regi Investments Inc.	36174	P12W-SSE-1 P12W-SSE-2 P12W-SSE-3 P12W-TCE-1	sanitary sewer sanitary sewer sanitary sewer temporary construction
2401 Fort Worth SEC Mission	Helen Poole	36204	P13E-SSWLE-1 P13E-TCE-1	sanitary sewer & water temporary construction
2411 Fort Worth Drive	Key Ventures, LLC	36201	P14E-SSWLE-1 P14E-TCE-1	sanitary sewer & water temporary construction
2414 Fort Worth Drive	Maribel and Rogelio Vega	36193	P13W-SSE-1	sanitary sewer
2420 Fort Worth Drive	Maribel and Rogelio Vega	36195	P13W-SSE-1	sanitary sewer
2500 Fort Worth Drive	Hillcrest Chiesa, LP	36190	P14W-SSE-1	sanitary sewer
2601 Fort Worth Drive	Jose T. Corona	36221	P18E-SSWLE-1 P18E-TCE-1	sanitary sewer & water temporary construction
2615 Fort Worth Drive	J. Michael and Monica Brooks	36218	P20E-SSWLE-1 P20E-TCE-1	sanitary sewer & water temporary construction
2721 Fort Worth Drive	Vandesmith Developers, Ltd.	36211	P22E-SSE-1 P22E-TCE-1	sanitary sewer temporary construction
2620 James Street	Vaughn W. Meador	36231	P16W-SSE-1	sanitary sewer
2623 James Street	Vaughn Wayne Meador	36232	P16W-SSE-1	sanitary sewer