

## ORDER OF TAKING

WHEREAS, the Select Board of the Town of Winchester, Massachusetts (the "Town") hereby certifies that the Town did vote to acquire by purchase or eminent domain a perpetual easement in, on, over, across, under and along a portion of land in Winchester, Massachusetts identified on a plan entitled "Winchester 2020 Town Layout Easement Plan & Middlesex 2020 County Layout Easement Plan, Safe Routes to Schools, Johnson Road and Ridge Street, in the Town of Winchester," prepared by WSP USA Inc., dated July 22, 2020 and stamped August 5, 2020, being recorded with the Middlesex South Registry of Deeds (the "Registry") simultaneously herewith (the "Plan"), as "Parcel X-PUE-1" (the "Easement Area"), owned by that certain owner set forth in Appendix A attached hereto (the "Owner") under that certain deed set forth in Appendix A;

WHEREAS, the Select Board has deemed that public necessity and convenience require that it should take charge of and take by eminent domain perpetual easement interests and rights in the Easement Area for the purpose of establishing, constructing, operating, and maintaining a traffic signal at the intersection of Johnson Road and Ridge Street (the "Project"); and

WHEREAS, the taking was authorized by a two-thirds vote at the 2018 Fall Town Meeting, held on November 15, 2018, pursuant to Article 19, a copy of which vote is recorded herewith.

NOW, THEREFORE, we, the undersigned members of the Select Board of the Town of Winchester, acting herein under the authority conferred on us by Chapters 40 and 79 of the General Laws, do hereby adopt this Order of Taking to take, on behalf of the Town, the following perpetual easement interests and rights in, on, over, across, under and along the Easement Area:

1. A perpetual, non-exclusive right and easement to: (a) during the initial construction of the Project, utilize the Easement Area for the performance of the necessary work for the Project and any incidental work necessary or convenient thereto; (b) clear and keep cleared by physical, chemical or other means the Easement Area of trees, underbrush and above and below ground buildings, improvements or structures (except for those improvements and structures completed or constructed by the Town of Winchester or its designees in connection with the construction, reconstruction, installation, repair, maintenance, use, inspection, additions

to the Project); and (c) pass and repass on foot and with vehicles and equipment along the Easement Area as is reasonable, necessary, and proper in connection with the exercise of the rights and easements taken herein.

2. No acts are permitted within the Easement Area which are inconsistent with, or unreasonably interfere with or prohibit the Town's full and reasonable use and enjoyment of, the rights and easements hereby taken; no permanent or temporary buildings, improvements or structures, or replacements thereof or additions thereto, or any other obstructions will be erected or constructed above or below grade within the Easement Area (except for those improvements and structures completed or constructed by the Town of Winchester or its designees in connection with the construction, reconstruction, installation, repair, maintenance, use, inspection, or additions to the Project); other than as permitted hereunder, the present grade or ground level of the Easement Area will not be changed or altered by the Owner of the Easement Area or others holding rights in the underlying properties by excavation or filling; and the rights and easements taken herein and the location of the Easement Area may not be changed or modified in whole or in part without the express written consent of the Town, which the Town may withhold in its sole discretion.

3. All the rights and easements aforesaid and any and all additional and/or incidental rights over the Easement Area needed to construct, reconstruct, install, repair, replace, maintain, use, inspect, add to or otherwise change the Project; the Owner executes, acknowledges and delivers to the Town such further deeds or instruments as may be necessary to secure to the Town the rights and easements intended to be herein taken.

4. The rights and easements described herein constitute easements in gross for the benefit of the Town and its assigns and these provisions shall run with the land of the Owner and shall inure to the benefit and bind the respective legal representatives, successors and assigns of the Owner. It is the intention that the rights and easements taken herein for the benefit of the Town shall be assignable in whole or in part and that they shall be divisible among two or more owners, as to any rights created hereunder, so that each assignee or owner shall have the full rights and privileges herein taken, to be owned and enjoyed by either in common or severally.

AND FURTHER ORDERED that included in this taking are all trees, roadway improvements and all structures located in, over, across, upon and under the Easement Area, including but not limited to structures for the collection of storm drainage and sewerage, but not including wires, cables, poles, towers, pipes, conduits and other appurtenances for the conveyance of gas, electricity, cable television or telephone communication located in or upon said parcel.

AND FURTHER ORDERED that in accordance with the provisions of M.G.L. Chapter 79, as amended, award as set forth in Appendix A is made. The Town reserves the right to amend the award at any time prior to the payment thereof for good cause shown.

AND FURTHER ORDERED that no betterments are to be assessed under this Taking.

AND FURTHER ORDERED that a representative of the Town shall record this Order of

Taking in the Registry within thirty (30) days from its final passage, shall notify the Treasurer and Collector of Taxes in the Town of Lexington of this taking in accordance with M.G.L. Chapter 79, and shall cause notice of the taking to be given to all persons entitled thereto and do all things necessary for the validity of this Order of Taking.

[Signatures to appear on next page.]

IN WITNESS WHEREOF, the undersigned being a majority of the Select Board of the Town of Winchester has executed this Order of Taking this \_\_ day of \_\_\_\_\_, 2020.

TOWN OF WINCHESTER

SELECT BOARD

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

COMMONWEALTH OF MASSACHUSETTS

Middlesex County, ss.

On this \_\_ day of \_\_\_\_\_, 2020, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_,  
Members of the Select Board of the Town of Winchester, proved to me through satisfactory evidence of identification which was personal knowledge, to be the persons whose names are signed on the preceding or attached document and acknowledged to me that they signed it voluntarily for its stated purpose as Members of the Select Board of the Town of Winchester.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

## APPENDIX A

Record Owner: Town of Winchester, School Committee  
Parcel Address: 75 Johnson Road  
Record Title: Book 8217, Page 1, as affected by Article 27 of the Town Report of 1956  
Interests Taken: Parcel X-PUE-1  
Area: 489 sq. ft.  
Award: N/A