

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 temporary easement in, on, over, across, under and along portions 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-TE-1", "Parcel X-TE-2", "Parcel X-TE-3", "Parcel X-TE-4", "Parcel X-TE-5", "Parcel X-TE-6", "Parcel X-TE-7", "Parcel X-TE-8", "Parcel X-TE-9", "Parcel X-TE-10", "Parcel X-TE-11", "Parcel X-TE-12", "Parcel X-TE-13", "Parcel X-TE-15", "Parcel X-TE-16", "Parcel X-TE-17", and "Parcel X-TE-19" (collectively, the "Easement Areas"), owned by those certain owners set forth in Appendix A attached hereto (collectively, the "Owners") under those certain deeds 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 temporary easement interests and rights in the Easement Areas 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 temporary easement interests and rights in, on, over, across, under and along the Easement Areas:

1. A temporary, non-exclusive right and easement for a period of thirty-six (36) months from the date of recording of this Order of Taking (the "Duration Period") to: (a) utilize the Easement Areas 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 Areas 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); (c) pass and repass on foot and with vehicles and equipment along the Easement Areas as is reasonable, necessary, and proper in connection with the exercise of the rights and easements taken herein; and (d) excavate, remove soils from, fill and/or change the grade of the Easement Areas as is reasonable, necessary, and proper in connection with the exercise of rights and easements taken herein.

2. No acts are permitted within the Easement Areas 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 Areas (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 Areas will not be changed or altered by the Owners of the Easement Areas 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 Areas 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 Areas needed to construct, reconstruct, install, repair, replace, maintain, use, inspect, add to or otherwise change the Project; the Owners execute, acknowledge and deliver 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 Owners and shall inure to the benefit and bind the respective legal representatives, successors and assigns of the Owners. 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 Areas, 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, awards as set forth in Appendix A are made. The Town reserves the right to amend the awards 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: Frank Caloiero and Claire A. Caloiero
Parcel Address: 150 Ridge Street
Record Title: Book 45522, Page 540
Interests Taken: Parcel X-TE-1
Area: 543 sq. ft.
Award: \$2,600

Record Owner: Mohammad G. M. Khan and Anna-Margareta R. Ryden
Parcel Address: 154 Ridge Street
Record Title: Book 69882, Page 542
Interests Taken: Parcel X-TE-2
Area: 477 sq. ft.
Award: \$1,900

Record Owner: Sabatino Sarra and Silvia Sarra
Parcel Address: 149 Ridge Street
Record Title: Book 23285, Page 72
Interests Taken: Parcel X-TE-3
Area: 1,195 sq. ft.
Award: \$5,800

Record Owner: James R. Porter and Erin M. Corrow
Parcel Address: 164 Ridge Street
Record Title: Book 70694, Page 353; and
Document No. 1782927 on Certificate of Title No. 267179
Interests Taken: Parcel X-TE-4 and Parcel X-TE-19
Area: 243 sq. ft. and 701 sq. ft.
Award: \$4,500

Record Owner: Gregory A. Butler and Jacqueline Butler
Parcel Address: 2 Vinson Circle
Record Title: Book 36034, Page 229; and
Document No. 1221424 on Certificate of Title No. 225204
Interests Taken: Parcel X-TE-5
Area: 69 sq. ft.
Award: \$250

Record Owner: Sonja E. Lawson
Parcel Address: 157 Ridge Street
Record Title: Book 9856, Page 514, as affected by Book 43503, Page 528
Interests Taken: Parcel X-TE-6
Area: 29 sq. ft.
Award: \$100

Record Owner: Town of Winchester, School Department
Parcel Address: 75 Johnson Road
Record Title: Book 8217, Page 1
Interests Taken: Parcel X-TE-7
Area: 8,080 sq. ft.
Award: N/A

Record Owner: Town of Winchester, School Department
Parcel Address: 75 Johnson Road
Record Title: Book 8217, Page 1
Interests Taken: Parcel X-TE-10
Area: 1,679 sq. ft.
Award: N/A

Record Owner: Linda J. Richardson, Trustee of The 78 Johnson Road Trust, u/d/t dated
April 19, 2005
Parcel Address: 78 Johnson Road
Record Title: Book 45315, Page 180
Interests Taken: Parcel X-TE-8
Area: 198 sq. ft.
Award: \$500

Record Owner: Sharon A. Murano, Trustee of SAM Realty Trust, u/d/t dated November
29, 1996
Parcel Address: 76 Johnson Road
Record Title: Book 26911, Page 448
Interests Taken: Parcel X-TE-9
Area: 184 sq. ft.
Award: \$500

Record Owner: Jie Ma and Chenying Guo
Parcel Address: 146 Ridge Street
Record Title: Book 73445, Page 238
Interests Taken: Parcel X-TE-11
Area: 749 sq. ft.
Award: \$3,000

Record Owner: Michael A. Trethewey and Rosalia F. Trethewey
Parcel Address: 1 Aricia Lane
Record Title: Book 29960, Page 325
Interests Taken: Parcel X-TE-12
Area: 34 sq. ft.
Award: \$200

Record Owner: 142 Ridge Street LLC
Parcel Address: 142 Ridge Street
Record Title: Book 71787, Page 166
Interests Taken: Parcel X-TE-13
Area: 856 sq. ft.
Award: \$3,500

Record Owner: Robert Berberian and Elizabeth Berberian, Trustees of 140 Ridge Street Realty Trust, u/d/t dated November 15, 2010
Parcel Address: 140 Ridge Street
Record Title: Book 56487, Page 285
Interests Taken: Parcel X-TE-15
Area: 947 sq. ft.
Award: \$4,400

Record Owner: Joseph F. Geary, Trustee of Geary Ridge Realty Trust, u/d/t dated December 9, 2013
Parcel Address: 137 Ridge Street
Record Title: Document No. 1665084 on Certificate of Title No. 256032
Interests Taken: Parcel X-TE-16
Area: 292 sq. ft.
Award: \$700

Record Owner: Chahe Soumbulian and Vatche Soumbulian
Parcel Address: 170 Ridge Street
Record Title: Book 37498, Page 115; and
Document No. 1246343 on Certificate of Title No. 226503
Interests Taken: Parcel X-TE-17
Area: 93 sq. ft.
Award: \$300