



## ENGINEERING SERVICES

**To: Mayor and Town Council**

**From: Hulon T. Webb, Jr., P.E., Director of Engineering Services**

**Through: Mario Canizares, Town Manager  
Chuck Ewings, Assistant Town Manager**

**Re: Eminent Domain Authorization Resolution: First Street (DNT - Coleman)**

**Town Council Meeting – August 8, 2023**

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### **Agenda Item:**

Consider and act upon a resolution of the Town Council of the Town of Prosper, Texas, declaring the public necessity to acquire certain properties for right-of-way, drainage easements, and temporary construction easements for the construction of the First Street (DNT – Coleman) project; determining the public use and necessity for such acquisition; authorizing the acquisition of property rights necessary for said Project; appointing an appraiser and negotiator as necessary; authorizing the Town Manager to establish just compensation for the property rights to be acquired; authorizing the Town Manager to take all steps necessary to acquire the needed property rights in compliance with all applicable laws and resolutions; and authorizing the Town Attorney to institute condemnation proceedings to acquire the property if purchase negotiations are not successful.

### **Description of Agenda Item:**

The Town is in the process of developing engineering plans for the construction of the First Street (DNT – Coleman) project. To facilitate the construction of the project, it is necessary for the Town to acquire several parcels of right-of-way, drainage easements, and temporary construction easements. At the July 26, 2022, Town Council Meeting, Town Council approved a similar resolution for the properties from the DNT to Main Street since the impacts from the Coleman Road roundabout design were not yet fully determined.

This resolution contains the eleven (11) parcels impacted by the roundabout design that were not included in the previous Town Council action, and the location map included with this agenda item depicts the properties affected. As with other similar road construction projects, it is not anticipated that all parcels will require the use of eminent domain to complete the acquisition process, however, staff is requesting advance authorization to pursue acquisition by eminent domain if standard negotiations are unsuccessful.

### **Budget Impact:**

There is no budgetary impact affiliated with this item.

### **Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the resolution as to form and legality.

**Attached Documents:**

1. Resolution
2. Location Map

**Town Staff Recommendation:**

Town staff recommends that the Town Council of the Town of Prosper, Texas, approve the attached resolution declaring the public necessity to acquire certain properties for right-of-way, drainage easements, and temporary construction easements for the construction of the First Street (DNT – Coleman) project with such properties being more particularly described in the attached Resolution; determining the public use and necessity for such acquisition; authorizing the acquisition of property rights necessary for said Project; appointing an appraiser and negotiator as necessary; authorizing the Town Manager to establish just compensation for the property rights to be acquired; authorizing the Town Manager to take all steps necessary to acquire the needed property rights in compliance with all applicable laws and resolutions; and authorizing the Town Attorney to institute condemnation proceedings to acquire the property if purchase negotiations are not successful.

**Proposed Motion:**

I move to approve the attached resolution declaring the public necessity to acquire certain properties for right-of-way, drainage easements, and temporary construction easements, and drainage easements for the construction of the First Street (DNT – Coleman) project with such properties being more particularly described in the attached Resolution; determining the public use and necessity for such acquisition; authorizing the acquisition of property rights necessary for said Project; appointing an appraiser and negotiator as necessary; authorizing the Town Manager to establish just compensation for the property rights to be acquired; authorizing the Town Manager to take all steps necessary to acquire the needed property rights in compliance with all applicable laws and resolutions; and authorizing the Town Attorney to institute condemnation proceedings to acquire the property if purchase negotiations are not successful.

**Please note: Pursuant to Section 2206.053(c) of the Texas Government Code, if two (2) or more councilmembers object to adopting this single Resolution for all the properties referenced therein, a separate record vote must be taken for each unit of property.**

**This item requires a roll call vote.**