

ORDINANCE NO. 2002- 17

An ordinance declaring a public necessity for the acquisition of real property located in the following areas of Victoria County, Texas and being described as follows:

a 16,977.87 square foot tract of land in Block M of the Boulevard Addition to the City of Victoria, Texas, and being out of Lots 1 and 2, Block 3, Range 5, East Above Town in the Victoria Four League Grant, Victoria County, Texas, as more particularly described in Section 1 of this Ordinance

for the public purpose of intersection changes to Ben Jordan Street; authorizing all appropriate action of the City of Victoria in the institution and prosecution of condemnation proceedings to acquire this needed property; authorizing the city manager to execute offers and contracts for the purchase of this property and/or other easements from the owners thereof, authorizing the acceptance of deeds and joinder of other persons with rights in the aforementioned properties and adjacent areas; authorizing all other lawful action necessary or incidental to such acquisitions or eminent domain proceedings to survey, test, specify, define and secure the necessary property rights; declaring the sections of the ordinance to be severable one from the other in the event any section of this ordinance is determined to be invalid; and declaring an effective date.

The City of Victoria ("City") has determined that the acquisition of property located in Victoria County, Texas and described in Section 1 of this ordinance is necessary and desirable for the expansion of Ben Jordan Street and Houston Highway at and near their point of intersection, and has previously budgeted funds to be expended for these purposes, an adequate part of which remains on hand for such purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VICTORIA:

1.

Public necessity requires that the City acquire property described as follows:

A 16,977.87 square foot tract of land in Block M of the Boulevard Addition to the City of Victoria, Texas, and being out of Lots 1 and 2, Block 3, Range 5, East Above Town in the Victoria Four League Grant, Victoria County, Texas, as more particularly described as follows:

BEGINNING at the south corner of said Block M at the intersection of the east right-of-way line of Ben Jordan Street and the Northwest right-of-way line of U.S. Highway # 59 for the south corner of this tract;

THENCE North 5° 06' West with the East right-of-way line of Ben Jordan Street and the West line of said Block M for a distance of 150.0' to a point for the Northwest corner of this tract;

THENCE North 84° 56' East for a distance of 139.18' to a point for the Northeast corner of this tract;

THENCE South 5° 06' East parallel to and 139.18' from the East right-of-way line of Ben Jordan Street and the West line of said Block M for a distance of 93.97' to a point for the Southeast corner of this tract and being on the Northwest right-of-way line of U.S. Highway #59 and the Southeast line of said Block M;

THENCE South 63° 00' West with the Northwest right-of-way line of U.S. Highway #59 and the Southeast line of said Block M for a distance of 150.0' to the place of beginning.

for the public purpose of the expansion of Ben Jordan Street and Houston Highway at and near their point of intersection. Public necessity also requires the City to acquire any other necessary rights of ingress and egress over and across this property, either through purchase or by the process of eminent domain, and to take all other lawful action necessary or incidental to such acquisitions or eminent domain proceedings to survey, test, specify, define and secure the necessary property rights. This property to be acquired pursuant to this ordinance is, without restriction to the aforementioned property known by the street address of 2101 E. Houston Hwy., and deeds to this property may be accepted by the City Manager in a form to be approved by the City Attorney.

2.

The City, acting by and through its retained attorneys, is hereby directed and authorized to institute and prosecute to conclusion all necessary proceedings to condemn the property interests described in Section 1 of this Ordinance to acquire such interests in land as the City is unable to acquire through negotiation by reason of its inability to agree with the owners of the land as to the value of such interest in land, and to take any other legal action necessary or incidental to such acquisitions or eminent domain proceedings to survey, specify, define and secure the necessary property rights.

3.

The City Manager is authorized to execute offers and contracts, in a form to be approved by the City Attorney, for the purchase of the aforementioned property and easements related thereto (known by the street address of 2101 E. Houston Hwy.) from Mr. and Mrs. Stanley Heinold and other necessary parties in amounts not to exceed a total of \$226,560.00, plus a time-value adjustment of an amount not to exceed a 4% simple annual rate or \$9,062.40 for the time that any closing date occurs after December 31, 2002. All other necessary parties and lienholders may be joined in the aforementioned transactions, and the City Manager is authorized to accept deeds to the aforementioned property.

4.

If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof, or provisions or regulation contained herein, shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion hereof and all provisions of this Ordinance are declared to be severable for that purpose.

5.

This ordinance shall be effective on final passage and approval.

PASSED FIRST READING, this the 26 day of September, 2002.

AYES: 6

NAYS: 0

ABSTENTIONS: 0

PASSED SECOND READING, this the 1 day of October, 2002.

AYES: 6

NAYS: 0

ABSTENTIONS: 0

PASSED THIRD READING, this the 1 day of October, 2002.

AYES: 6

NAYS: 0

ABSTENTIONS: 0

APPROVED AND ADOPTED, this the 1 day of October, 2002.



ATTEST:

Scarlet Swoboda
SCARLET SWOBODA, City Secretary

Gary Middleton

GARY MIDDLETON, Mayor of the
City of Victoria, Texas

APPROVED AS TO LEGAL FORM:

David Atmar Smith
DAVID ATMAR SMITH, City Attorney

Distribution: Legal Department
City Manager
Department of Public Works

Copies Sent: October 2, 2002