

## **SUBSTITUTE BILL NO. 21-139**

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AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN RIGHT OF WAY, PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD, WATER, STORMWATER AND SEWER IMPROVEMENTS ASSOCIATED WITH THE PROPOSED CHIPMAN ROAD IMPROVEMENTS FROM VIEW HIGH DRIVE TO BENT TREE DRIVE PROJECT; AUTHORIZING THE CITY MANAGER AND HIS DESIGNEE(S) TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEE(S) TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS.

WHEREAS, as recommended in the City's 2006 Thoroughfare Master Plan and approved under the FY22 CIP, the Chipman Road Improvements from View High Drive to Bent Tree Drive Project would improve the existing roadway to a 3-lane or 30' wide two-lane facility with curb and gutter, enclosed storm water drainage, and relocation and/or upsizing of water and sanitary sewer lines for safety enhancements and future development (hereinafter "Project"); and,

WHEREAS, City staff has tried to acquire the necessary land interests for the Project through negotiation and have been unsuccessful; and,

WHEREAS, the City Council for the City of Lee's Summit, Missouri, deems it necessary, desirable, advisable and in the public interest to obtain certain right of way, permanent easements and temporary construction easements for the purpose of constructing the Project; and,

WHEREAS, the City has the authority by virtue of Sections 88.010 to 88.070, 88.073, and 82.240 of the Revised Statutes of the State of Missouri, 2000, as amended, and by virtue of the Charter of the City of Lee's Summit, Missouri, to acquire private property by condemnation proceedings for any public or municipal use, including uses or purposes stated herein.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That it is hereby found, determined and declared that it is necessary and in the public interest for the public purpose of constructing the Project as depicted generally in "LOCATION MAP" attached hereto as "Exhibit C" and incorporated by reference as if fully set forth herein in the City of Lee's Summit, Jackson County, Missouri, pursuant to plans and specifications on file with the Lee's Summit Public Works Department, to acquire, by purchase or condemnation proceedings, certain right of way, permanent easements and temporary construction easements for such public improvements, including but not limited to, expansion of a roadway; curb and gutter; sidewalks; streetlighting; enclosed storm drainage; relocation, upsize, maintenance and repair of public water and sewer lines; and, all work incidental and subsidiary thereto all of which are situated in the City of Lee's Summit, Jackson County, Missouri, and are legally described in "Exhibits A-1 through A-11", which also contains the ownership, and "Exhibits B-1 through B-11" which consist of diagrams depicting the location of each easement and property interest to be acquired, attached hereto and incorporated by reference as if fully set forth herein.

SECTION 2. That the City Manager and his designee(s) have negotiated in good faith with the owners of property herein described for the purpose of acquiring certain right of way,

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permanent easements and temporary construction easements, relating to the property herein described, and are hereby authorized to continue negotiations notwithstanding the filing of condemnation proceedings.

SECTION 3. That the City Manager and his designee(s) are hereby authorized to execute necessary documents to pay and disburse funds to property owners, others holding property rights and escrow agents pursuant to negotiated agreements.

SECTION 4. That, in the event of failure, following good faith negotiations, to reach agreement on the amount of compensation to be paid for such right of way, permanent easements and temporary construction easements, and the acquisition thereof by purchase, the City Attorney and his designee(s), including special counsel, are hereby authorized and directed to institute condemnation proceedings for the purpose of acquiring such permanent right of way, permanent easements and temporary construction easements in the manner provided by the Revised Statutes of Missouri.

SECTION 5. That this Ordinance shall be in full force and effect from and after the date of its passage, adoption, and approval by the Mayor.

SECTION 6. Should any section, sentence, or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Mayor *William A. Baird*

ATTEST:

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this \_\_\_\_ day of \_\_\_\_\_, 2021.

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Mayor *William A. Baird*

ATTEST:

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City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

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City Attorney *Brian W. Head*