

BILL NO. 19-159

AN ORDINANCE APPROVING THE FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN WHISPERING WOODS LAND, LLC, AND THE CITY OF LEE'S SUMMIT, MISSOURI, FOR THE WHISPERING WOODS DEVELOPMENT.

WHEREAS, on October 24, 2018, the City and Developer entered into the "Development Agreement Between Whispering Woodland, LLC, and the City of Lee's Summit, Missouri for the Whispering Woods Development" (the "**Agreement**"), which required, among other items, that Developer construct and pay for approximately 4,030 linear feet of 16 inch public water main along SW Pryor Road, connecting the existing water main located on the west side of SW Pryor Road to the existing 20 inch public water main located on the north side of SW Scherer Road (the "**Water Line**"); and,

WHEREAS, the parties desire to amend the Agreement to provide for the construction of the larger water line by Developer with a certain amount of the cost of such upsizing in the Water Line to be reimbursed to Developer by the City after construction is complete; and,

WHEREAS, the City, pursuant to Article I of the City's Design and Construction Manual and Sections 32-5 and 32-8 of the City's Code of Ordinances, has determined that Developer should be compensated the sum of \$200,436 as the extra cost to enlarge the Water Line, pursuant to a comparison of cost estimates prepared by Phoenix Engineering and Surveying, LLC; and,

WHEREAS, the parties have freely negotiated in good faith and this First Amendment reflects the desires of the parties.

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

SECTION 1. The First Amendment to the Development Agreement which is attached hereto as **Exhibit A** and incorporated herein by reference (the "Agreement"), is hereby approved and the City Manager is authorized and directed to execute the Agreement in substantial compliance with the attached Agreement.

SECTION 2. City officers and agents of the City are each hereby authorized and directed to take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and the Development Agreement.

SECTION 3. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 4. This Ordinance shall be in full force and effect from and after its passage, adoption, and approval by the Mayor.

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PASSED by the City Council of the City of Lee's Summit, Missouri, this ____ day of _____, 2019.

Mayor *William A. Baird*

ATTEST:

City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this ____ day of _____, 2019.

Mayor *William A. Baird*

ATTEST:

City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

City Attorney *Brian Head*

EXHIBIT A

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

[ATTACHED]