

BILL NO. 19-87

AN ORDINANCE AMENDING ORDINANCE NO. 8493, DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT RIGHT-OF-WAY, PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE JEFFERSON STREET IMPROVEMENT PROJECT (OLDHAM PARKWAY TO PERSELS ROAD) BY CONDEMNATION; AND PROVIDING AN EASEMENT OF ACCESS TO JEFFERSON STREET FOR PROERTY OWNED BY TIMOTHY REISS OVER ADJACENT PROPERTY OWNED BY THE CITY.

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 property, permanent easements, and temporary construction easements for the purpose of constructing roadway improvements, as specified in the proposed project plans and specifications on file with the Lee's Summit Public Works Department, together with all appurtenances thereto, under, over, upon, across and through certain tracts of land within Lee's Summit Jackson County, Missouri; and,

WHEREAS, the Jefferson Street Improvement Project (Oldham PKWY to Persels Road) was included in the FY17 Capital Improvements Plan (CIP) approved as part of the FY17 budget on June 16, 2016; and,

WHEREAS, after approval of the FY17 CIP and FY17 budget, the City Manager and his designees had authority to negotiate and acquire by purchase certain interests in property necessary for the construction of the Jefferson Street Improvement Project; and,

WHEREAS, Ordinance No. 8493 authorized the institution of condemnation proceedings for the purpose of acquiring certain property, permanent easements and temporary construction easements that could not be acquired by purchase; and,

WHEREAS, the term "property" as used in this amendment and original Ordinance No. 8493 includes permanent right-of-way; and,

WHEREAS, the City has the authority by virtue of Sections 88.010 to 88.070, 88.073, 88.077 and 82.240 of the Revised Statutes of the State of Missouri, 2016, 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; and,

WHEREAS, condemnation proceedings were instituted in the Circuit Court of Jackson County, Missouri, Case No. 1816-CV32716, and the owners of certain property included in that action have raised objections to the sufficiency of Ordinance No. 8493.

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

SECTION 1. That Ordinance NO. 8493 passed by the Council of the City of Lee's Summit, Missouri on the 9th day of November, 2018, a true and accurate copy being attached hereto as Exhibit C, be and the same is hereby amended to read as follows:

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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 road improvements as depicted in Exhibit "A" attached hereto and incorporated by reference as if fully set forth herein in the City of Lee's Summit, Jackson County, Missouri, pursuant to proposed plans and specifications on file with the Lee's Summit Public Works Department, to acquire, by purchase or condemnation proceedings , certain property, permanent easements , and temporary construction easements for such public improvements, including but not limited to installation, maintenance and repair of a storm sewer line, curb and gutter, sidewalk, sewer and water line, 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 Exhibit "B" attached hereto and incorporated by reference as if fully set forth herein.

SECTION 2. That the City Manager and his designees have negotiated in good faith with the owners of property herein described for the purpose of acquiring certain permanent right-of-way, permanent easements and temporary construction easements relating to the property herein described, and are authorized to continue negotiations notwithstanding the institution of condemnations proceedings.

SECTION 4. That good faith negotiations having failed to reach agreement on the amount of compensation to be paid for certain permanent right-of-way, permanent easements and temporary construction easements, and the acquisition thereof by purchase, the City Attorney and his designees are hereby authorized and directed to institute condemnation proceedings for the purpose of acquiring such property 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 2. That in all other ways the terms of Ordinance NO. 8493 are hereby ratified and affirmed.

SECTION 3. That this ordinance shall be in full force and effect from and after the date of its passage, adoption, and approval by the Mayor.

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*

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

Mayor *William A. Baird*

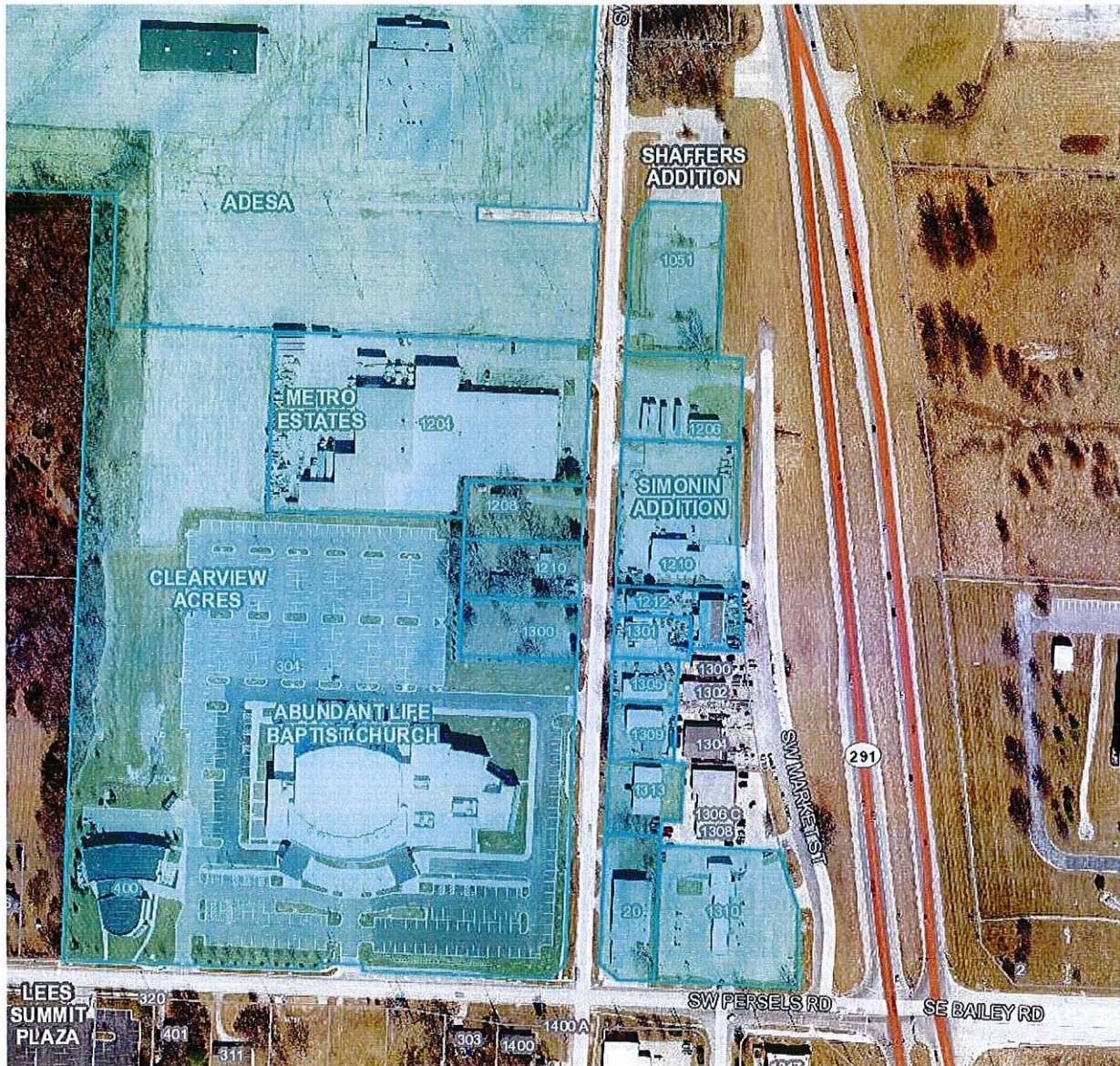
ATTEST:

City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

Chief of Litigation *Zach Cartwright*

EXHIBIT A



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EXHIBIT B

TIMOTHY REIS. TRACT 06

BEGINNING AT A POINT ON THE WEST LINE OF LOT 6, OF RESURVEY OF LOT 2, SIMONIN ADDITION, A SUBDIVISION IN LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, SAID POINT BEING 76.41 FEET NORTH OF THE SOUTHWEST CORNER THEREOF; THENCE CONTINUING NORTH ALONG AND WITH SAID WEST LINE OF LOT 6, A DISTANCE OF 71.72 FEET TO A POINT; THENCE EAST PARALLEL TO THE NORTH LINE OF SAID LOT 6, A DISTANCE OF 135 FEET; THENCE SOUTH 71.72 FEET; THENCE WEST 135 FEET TO THE POINT OF BEGINNING, EXCEPT ANY PART THEREOF IN ANY PUBLIC ROAD.

PERMANENT RIGHT-OF-WAY DEDICATION:

ALL THAT PART OF LOT 6, RESURVEY OF LOT 2, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 6, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE NORTH 02°33'14" EAST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 76.41 FEET, TO THE POINT OF BEGINNING; THENCE NORTH 02°33'14" EAST, CONTINUING ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 71.72 FEET; THENCE SOUTH 87°49'23" EAST, DEPARTING SAID EAST RIGHT-OF-WAY LINE, ALONG THE NORTH LINE OF SAID LOT 6, A DISTANCE OF 13.00 FEET; THENCE SOUTH 02°33'14" WEST, DEPARTING SAID NORTH LOT LINE, A DISTANCE OF 71.72 FEET; THENCE NORTH 87°49'23" WEST, A DISTANCE OF 13.00 FEET, TO THE POINT OF BEGINNING, CONTAINING 932.34 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.

PERMANENT WATER EASEMENT:

ALL THAT PART OF LOT 6, RESURVEY OF LOT 2, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 6, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE NORTH 02°33'14" EAST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 76.41 FEET; THENCE SOUTH 87°49'23" EAST, DEPARTING SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 13.00 FEET, TO THE POINT OF BEGINNING; THENCE NORTH 02°33'14" EAST, A DISTANCE OF 71.72 FEET, TO A POINT ON THE NORTH LINE OF SAID LOT 6; THENCE SOUTH 87°49'23" EAST, ALONG SAID NORTH LOT LINE, A DISTANCE OF 10.00 FEET; THENCE SOUTH 02°33'14" WEST, DEPARTING SAID NORTH LOT LINE, A DISTANCE OF 71.72 FEET; THENCE NORTH 87°49'23" WEST, A DISTANCE OF 10.00 FEET, TO THE POINT OF BEGINNING, CONTAINING 717.18 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.

ACCESS TO JEFFERSON STREET

ACCESS TO JEFFERSON STREET SHALL BE PROVIDED FOR THE REMAINING REISS PROPERTY BY A 30-FOOT EASEMENT OVER PROPERTY OWNED BY THE CITY OF LEE'S SUMMIT ADJACENT TO AND IMMEDIATELY SOUTH OF THE REISS PROPERTY.

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ROMEO TRUCKING, LLC. TRACT 07

PERMANENT RIGHT-OF -WAY DEDICATION:

ALL THAT PART OF LOT 5, RESURVEY OF LOT 2, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY , MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS :

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 5, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE NORTH 02°33'14" EAST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 49.38 FEET; THENCE SOUTH 87°49'23" EAST, DEPARTING SAID EAST RIGHT-OF-WAY LINE, ALONG THE NORTH LINE OF SAID LOT 5, A DISTANCE OF 13.00 FEET; THENCE SOUTH 02°33'14" WEST, DEPARTING SAID NORTH LOT LINE, A DISTANCE OF 49.38 FEET, TO A POINT ON THE SOUTH LINE OF SAID LOT 5; THENCE NORTH 87°49'23" WEST, ALONG SAID SOUTH LOT LINE, A DISTANCE OF 13.00 FEET, TO THE POINT OF BEGINNING, CONTAINING 641.93 SQUARE FEET OR 0.01 ACRES, MORE OR LESS.

PERMANENT WATER EASEMENT:

ALL THAT PART OF LOT 5, RESURVEY OF LOT 2, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 5, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE SOUTH 87°49'23" EAST, ALONG THE SOUTH LINE OF SAID LOT 5, A DISTANCE OF 13.00 FEET, TO THE POINT OF BEGINNING; THENCE NORTH 02°33'14" EAST, DEPARTING SAID SOUTH LOT LINE, A DISTANCE OF 49.38 FEET, TO A POINT ON THE NORTH LINE OF SAID LOT 5; THENCE SOUTH 87°49'23" EAST, ALONG SAID NORTH LOT LINE, A DISTANCE OF 10.00 FEET; THENCE SOUTH 02°33'14" WEST, DEPARTING SAID NORTH LOT LINE, A DISTANCE OF 49.38 FEET, TO A POINT ON SAID SOUTH LOT LINE; THENCE NORTH 87°49'23" WEST, ALONG SAID SOUTH LOT LINE, A DISTANCE OF 10.00 FEET , TO THE POINT OF BEGINNING, CONTAINING 493.79 SQUARE FEET OR 0.01 ACRES, MORE OR LESS.

TEMPORARY CONSTRUCTION EASEMENT:

ALL THAT PART OF LOT 5, RESURVEY OF LOT 2, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 5, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE SOUTH 87°49'23" EAST, ALONG THE SOUTH LINE OF SAID LOT 5, A DISTANCE OF 23.00 FEET, TO THE POINT OF BEGINNING ; THENCE NORTH 02°33'14" EAST, DEPARTING SAID SOUTH LOT LINE, A DISTANCE OF 49.38 FEET, TO A POINT ON THE NORTH LINE OF SAID LOT 5; THENCE SOUTH 87°49'23" EAST, ALONG SAID NORTH LOT LINE, A DISTANCE OF 3.20 FEET; THENCE SOUTH 02°31'07" WEST, DEPARTING SAID NORTH LOT LINE, A DISTANCE OF 49.38 FEET, TO A POINT ON SAID SOUTH LOT LINE; THENCE NORTH 87°49'23" WEST, ALONG SAID SOUTH LOT LINE , A DISTANCE OF 3.23 FEET, TO THE POINT OF BEGINNING, CONTAINING 158.70 SQUARE FEET OR 0.01 ACRES,

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MORE OR LESS

291 HIGHWAY, LLC, TRACT 15

PERMANENT WATER EASEMENT:

ALL THAT PART OF TRACT 11, MINOR PLAT, REPLAT OF LOT 2, RESURVEY LOT 4, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID TRACT II, SAID POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY LINE OF SOUTHWEST PERSELS ROAD, AS NOW ESTABLISHED; THENCE NORTH 02°33'14" EAST, ALONG THE WEST LINE OF SAID TRACT 11, A DISTANCE OF 10.00 FEET; THENCE SOUTH 87°43'36" EAST, DEPARTING SAID WEST TRACT LINE, A DISTANCE OF 136.37 FEET; THENCE SOUTH 02°16'24" WEST, A DISTANCE OF 10.00 FEET, TO A POINT ON SAID NORTH RIGHT-OF-WAY LINE; THENCE NORTH 87°43'36" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 136.42 FEET, TO THE POINT OF BEGINNING, CONTAINING 1,363.94 SQUARE FEET OR 0.03 ACRES, MORE OR LESS.