

BILL NO. 23-220

AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR SANITARY SEWER, WATER, STORM WATER, OTHER PUBLIC IMPROVEMENTS, AND ALL WORK INCIDENTAL AND SUBSIDIARY THERETO, ASSOCIATED WITH THE PROPOSED NORTH AND SOUTH SUMMIT MILL IMPROVEMENTS 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, the City Council for the City of Lee's Summit, Missouri deems it necessary, desirable, advisable, and in the public interest to obtain certain permanent easements and temporary construction easements for the purpose of constructing sanitary sewer, water, storm water, additional infrastructure facilities, other public improvements, and all work incidental and subsidiary thereto associated with the proposed North and South Summit Mill Improvements ("Project"); and,

WHEREAS, the City Manager and his designees had the authority to negotiate and acquire by purchase certain interests in property necessary for the Project; and,

WHEREAS, City staff has tried to acquire the necessary land interests for the Project through good faith negotiation but have not yet been able to acquire all necessary land interests for 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, as amended, and by virtue of the Missouri Statues, the Missouri Constitution, and 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. It is hereby found, determined and declared that it is necessary and in the public interest for the public purpose of constructing sanitary sewer, water, storm water, additional infrastructure facilities, other public improvements, and all work incidental and subsidiary thereto associated with the proposed Project as depicted in LOCATION MAP attached hereto and incorporated by reference as if fully set forth herein in Jackson County, Missouri, pursuant to plans and specifications on file with the City of Lee's Summit, to acquire, by purchase or condemnation proceedings, permanent easements and temporary construction easements for such public improvements, including but not limited to construction of sanitary sewer, water, storm water, additional infrastructure facilities, other public improvements, and all work incidental and subsidiary thereto, and are legally described and depicted, which also contains the ownership, in Exhibit A attached hereto and incorporated by reference as if fully set forth herein.

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SECTION 2. The City Manager and his designees have negotiated in good faith under Missouri Law with the owners of the property herein described for the purpose of acquiring certain permanent 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 designees are hereby authorized to execute all 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 an agreement on the amount of compensation to be paid for such permanent easements and temporary construction easements, and the acquisition thereof by purchase, the City Attorney and his designees, 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 _____, 2023.

ATTEST:

Mayor *William A. Baird*

City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this ____ day of _____, 2023.

ATTEST:

Mayor *William A. Baird*

City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

City Attorney *Brian W. Head*