

BILL NO. 23-115

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, STORM WATER AND ADDITIONAL PEDESTRIAN AMENITIES ASSOCIATED WITH THE PROPOSED 3RD STREET IMPROVEMENTS FROM BLUE PARKWAY TO JEFFERSON STREET PROJECT; AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES 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, temporary construction easements, and public right of way for the purpose of constructing road, water, storm water, additional infrastructure facilities, and additional pedestrian amenities associated with the proposed 3rd Street Improvements from Blue Parkway to Jefferson Street ("Project"); and,

WHEREAS, the Project was included in the City's 2006 and 2016 Thoroughfare Master Plan, and approved under the 2017 CIP sales tax renewal; and,

WHEREAS, after approval of the Capital Improvement Plan and City budgets, 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, 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 road, water, storm water, additional infrastructure facilities, and additional pedestrian amenities associated with the proposed 3rd Street Improvements from Blue Parkway to Jefferson Street as depicted in LOCATION MAP attached hereto 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, permanent easements, temporary construction easements and permanent right of way for such public improvements, including but not limited to construction of roadway, sidewalks, installation, maintenance and repair of public storm sewer lines, sewers, water lines, lighting, 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 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. That the City Manager and his designees have negotiated in good faith with the owners of the property herein described for the purpose of acquiring certain permanent rights of way, 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 right of way, 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*