

## Legislation Text

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**File #:** BILL NO. 19-25, **Version:** 1

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An Ordinance determining and declaring the necessity of acquiring for public use certain Permanent Easements and Temporary Construction Easements for streambank stabilization improvements associated with the Streambank Stabilization Projects in Lee's Summit, Missouri; 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. (First Reading by Council on February 5, 2019. Passed by unanimous vote.)

Issue/Request:

An Ordinance determining and declaring the necessity of acquiring for public use certain Permanent Easements and Temporary Construction Easements for streambank stabilization improvements associated with the Streambank Stabilization Projects in Lee's Summit, Missouri; 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.

We are asking approval to bring forth a condemnation ordinance to acquire the needed easements.

Key Issues:

- The eroding streambank at 2<sup>nd</sup> and Independence is in urgent need of repair to mitigate the risk of future erosion that would undermine and collapse 2<sup>nd</sup> Street
- The project is for public purpose of preserving existing public infrastructure
- Permanent and temporary easements are required for the work
- One remaining property owner and the City have not reached an agreement through good faith negotiations

Proposed City Council Motion:

I move for adoption of an Ordinance determining and declaring the necessity of acquiring for public use certain Permanent Easements and Temporary Construction Easements for streambank stabilization improvements associated with the Streambank Stabilization Projects in Lee's Summit, Missouri; 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.

Background:

This project is one of four streambank stabilization projects programmed in the FY2019 Capital Improvement plan. Erosion of the streams have created the risk of undermining public streets near NE Bristol Drive, NE Douglas Street, NE 2<sup>nd</sup> Street and SW 3<sup>rd</sup> Street. Each of sites require temporary and permanent easements to complete the work, and five out of the 6 easements have been acquired through good faith negotiations.

The purpose of 2<sup>nd</sup> Street project is to stabilize the streambank that is threatening the public sidewalk and roadway along 2<sup>nd</sup> Street near Independence Avenue. The bank stabilization work will consist of installing a precast concrete block wall along the south side of the creek and armoring the channel to reduce the risk of potentially catastrophic failure. In order to complete the work, a permanent drainage easement and temporary construction easements are required along 2<sup>nd</sup> Street.

The segment of the stream to be improved is currently owned by the City, whereas the adjoin segments are privately owned. As part of the negotiations, the property owner requested additional work along the stream to improve private property that would cost \$180,000, which far exceeds the costs necessary to acquire the easement at a fair market value price.

City Staff is requesting to proceed with eminent domain proceedings based on the public necessity for the project and the inability to obtain the necessary easement through good faith negotiations. Staff has followed state statutes in providing necessary notices, correspondence, valuations and other requirements necessary to initiate legal proceedings.

Timeline:

Start: We will bid the project once we have the easements.

Finish: Construction work is estimated to take 45 days.

Dena Mezger, Director of Public Works

Recommendation: Staff recommends approval.