

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 19084, FINDING, DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING ADDITIONAL GENERAL UTILITY EASEMENTS, AND TEMPORARY CONSTRUCTION AND GRADING EASEMENTS FOR THE WALNUT GARDENS STORMWATER IMPROVEMENT PROJECT IN THE CRACKERNECK WATERSHED (NO. 70131809); AUTHORIZING THE NEGOTIATION AND EMINENT DOMAIN PROCEEDINGS IF NECESSARY; APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT; AUTHORIZING THE USE OF EXPERTS AS NEEDED; AUTHORIZING AND DIRECTING THE EXECUTION OF DOCUMENTS AND THE PAYMENT OF FUNDS TO PROPERTY OWNERS OR OTHERS HOLDING PROPERTY RIGHTS, IN CONJUNCTION WITH THE PROJECT.

WHEREAS, the City Council of the City of Independence, Missouri, pursuant to advice and recommendation of the Municipal Services Director, deems it necessary, advisable and in the public interest to obtain additional general utility easements and temporary construction and grading easements in accordance with the plans and specifications as approved for construction, operation and maintenance of an improved WALNUT GARDENS PHASE 2 STORMWATER IMPROVEMENTS PROJECT (No. 70131809), together with all appurtenances, thereto, along, over, under, upon, across and through certain tracts of land within Independence, Jackson County, Missouri; and,

WHEREAS, the City has authority by virtue of Section 82.240 of the Revised Statutes of the State of Missouri, 1969, as amended, and Section 1.3 and 1.4 of the Charter of the City of Independence, Missouri, revised August 8, 1978, to acquire private property by eminent domain proceedings for any public or municipal use, including the uses or purposes stated herein;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI, AS FOLLOWS:

SECTION 1. That it is hereby found, determined and declared that it is necessary for the purpose of construction, operation and maintenance of improved WALNUT GARDENS PHASE 2 STORMWATER IMPROVEMENTS PROJECT (No. 70131809), for the City of Independence, Missouri, to acquire by purchase or eminent domain proceedings, additional general utility easements, and temporary construction, and grading easements for such public improvements, including, but not limited to, the right to construct curbs, drives, trails, sidewalks, sanitary sewers and storm sewers, together with all appurtenances thereunto belonging along, over, under, upon, across and through the following described tracts of land, all of which are situated in Independence, Jackson County, Missouri; to wit:

Parcel 12

TEMPORARY CONSTRUCTION EASEMENT DESCRIPTION

A TRACT OF LAND FOR TEMPORARY CONSTRUCTION EASEMENT PURPOSES, BEING THAT PART OF LOT 251, WALNUT GARDENS RESURVEY OF LOT 228 AND LOTS 247-258 INCLUDED, AS RECORDED IN BOOK 29 AT PAGE 24 AND BEING A SUBDIVISION OF LAND IN THE CITY OF INDEPENDENCE, JACKSON COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 251; THENCE NORTH 87°32'40" WEST, ALONG THE SOUTH LINE OF SAID LOT 251, A DISTANCE OF 7.50 FEET TO THE POINT OF BEGINNING, SAID POINT BEING AT THE INTERSECTION OF THE SOUTH LINE OF SAID LOT 251 AND THE WEST LINE OF AN EXISTING PLATTED UTILITY EASEMENT; THENCE CONTINUING

AMENDING Walnut Gardens Phase 2
Stormwater Improvements Project
Crackmeck Watershed
City Project Number; 70131809
05/19/20 - JF

SOUTH 87°32'40" WEST, ALONG THE SOUTH LINE OF SAID LOT 251, A DISTANCE OF 30.50 FEET; THENCE NORTH 02°27'06" EAST, PARALLEL TO THE WEST LINE OF SAID PLATTED UTILITY EASEMENT, A DISTANCE OF 14.50 FEET; THENCE SOUTH 87°32'50" EAST, PARALLEL TO THE SOUTH LINE OF SAID LOT 251, A DISTANCE OF 30.50 FEET TO A POINT ON THE WEST LINE OF SAID PLATTED UTILITY EASEMENT; THENCE SOUTH 02°27'10" WEST, ALONG THE WEST LINE OF SAID PLATTED UTILITY EASEMENT, A DISTANCE OF 14.50 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED TRACT CONTAINS 445.95 SQUARE FEET AND IS SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS, CONDITIONS AND RIGHT OF WAYS OF RECORD.

The temporary construction and grading easement shall terminate at the earlier of:

- 1: Two (2) years from the date construction begins, or
- 2: The date construction is completed and accepted by the City.

SECTION 2. That the City Manager and his designates are hereby authorized and directed to negotiate with the owners of the properties herein described for the purchase of general utility easements and temporary construction and grading easements relating to said lands.

SECTION 3. That in the event of failure to negotiate the proper compensation to be paid for such general utility easements and temporary construction and grading easements and the acquisition thereof by purchase, the City Counselor and his designates are hereby authorized and directed to institute eminent domain proceedings for the purpose of acquiring such general utility easements and temporary construction and grading easements in the manner provided by law.

SECTION 4. That the City Manager is hereby authorized to request proposals, if required, for surveys, appraisals, and necessary title reports for said property.

SECTION 5. That the improvements herein referred to shall be of the nature described herein and shall be done in accordance with the plans and specifications as completed, hereby approved, and on file in the office of the Public Works Director.

SECTION 6. That the City Manager of the City of Independence, Missouri, is hereby authorized and directed to execute necessary documents, to pay and disburse funds, within appropriations authorized for this project, to property owners, others holding property rights and escrow agents pursuant to negotiated agreements for purchase of said general utility easements and temporary construction and grading easements, all in accordance with established acquisition procedure and approved appraisals.

PASSED THIS _____ DAY OF _____, 2020, BY THE CITY COUNCIL
OF THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED - FORM AND LEGALITY:

City Counselor

REVIEWED BY:

I hereby certify that there is a balance, otherwise unencumbered, to the credit of the appropriation to which the foregoing expenditure is to be charged, and a cash balance, otherwise unencumbered, in the treasury, to the credit of the fund from which payment is to be made, sufficient to meet the obligation hereby incurred.

Source is: Sanitary Sewer Funds

AMENDING Walnut Gardens Phase 2
Stormwater Improvements Project
Crackmeck Watershed
City Project Number; 70131809
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City Manager

Director of Finance and Administration
City of Independence, Missouri