

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING ORDINANCE NO. 18750, BY ADDING THE ACQUISITION OF AN EASEMENT ON ONE (1) NEW PARCEL RELATED TO THE 16<sup>TH</sup> AND SCOTT AVENUE STORMWATER AND SANITARY SEWER PROJECT (NO. 70131503 AND NO. 70300801); IN ORDER TO ACQUIRE A TEMPORARY CONSTRUCTION AND GRADING EASEMENT FOR THE PROJECT.

WHEREAS, Consent Agenda Item Number 3 was approved on October 3, 2016, for HDR Engineering to provide engineering work on the 16<sup>th</sup> and Scott Avenue Stormwater and Sanitary Sewer project; and,

WHEREAS, the City Council of the City of Independence, Missouri, pursuant to advice and recommendation of the Public Works Director, deems it necessary, advisable and in the public interest to obtain 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 storm drainage system and sanitary sewer system designated as the 16<sup>th</sup> and Scott Avenue Stormwater and Sanitary Sewer Project (No. 70131503 and No. 70300801), together with all appurtenances, thereto, along, over, under, upon, across and through certain tracts of land within Independence, Jackson County, Missouri; and,

WHEREAS, since the enactment of Ordinance No. 18750, it has been determined that the acquisition of a temporary construction and grading easement must be completed on one (1) more parcel for the sanitary sewer lateral reconnection to be completed; 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 Ordinance No. 18750, adopted by the City Council on June 5, 2017, is hereby amended, such that it continues to be found, determined and declared that it is necessary for the purpose of construction, operation and maintenance of improved storm drainage and sanitary sewer systems designated as the 16<sup>th</sup> and Scott Avenue Stormwater and Sanitary Sewer Project (No. 70131503 and No. 70300801), for the City of Independence, Missouri, to acquire by purchase or eminent domain proceedings, 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 and storm sewers, together with all appurtenances thereunto belonging along, over, under, upon, across and through Parcel 4A, the legal description for which is as follows with all other legal descriptions of Parcels remaining as provided in Ordinance No. 18750, all of which is situated in Independence, Jackson County, Missouri; to wit:

## PARCEL 4A

### *TEMPORARY CONSTRUCTION AND GRADING EASEMENT:*

*All that part Lot 1, Resurvey of Lynnhurst, a subdivision in the City of Independence, Jackson County, Missouri, more particularly described as follows:*

*Commencing at the southeast corner of said Lot 1, thence N01°36'32"E, along the east line thereof, 93.37 feet to the Point of Beginning; thence continue N01°36'32"E, 10.43 feet; thence departing said east line, N86°07'34"W, 50.02 feet to the west line of said Lot 1; thence S01°36'32"W, along said west line, 11.92 feet; thence departing said west line, S87°49'52"E, 49.99 feet to the Point of Beginning.*

*Containing 559 square feet, more or less.*

*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.

SECTION 7. That all other parts and provisions of Ordinance No. 18750 shall remain in full force and effect, except as amended herein.

PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, 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:

\_\_\_\_\_  
City Manager

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: Stormwater and Sewer Funds

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Director of Finance  
City of Independence, Missouri