

One-rdg. _____
P. Hrngs. _____
Pgs. 12
Filed: 11-06-16

Sponsored by: Prater

First Reading: _____

Second Reading: _____

COUNCIL BILL NO. 2016-299

SPECIAL ORDINANCE NO. _____

AN ORDINANCE

1 AUTHORIZING the Mayor, on behalf of the City of Springfield, Missouri, to enter into
2 an agreement regarding the priority of easements with the United
3 States of America, said agreement to grant the United States of
4 America priority status for their Transmission Line easement over
5 approximately six square feet of City-owned right-of-way on Stewart
6 Avenue.
7 _____
8

9 WHEREAS, it has been requested that the City of Springfield, Missouri, enter into
10 an agreement with the United States of America ("USA"), whereby the City will
11 subordinate approximately six square feet of Stewart Avenue right-of-way to the
12 Transmission Line easement held by the USA; and
13

14 WHEREAS, the USA is requesting that this agreement be made so that the USA
15 can relocate the now existing transmission lines which cross Stewart Avenue to allow
16 for redevelopment of property within USA's now existing transmission line easement
17 area; and
18

19 WHEREAS, City staff have reviewed the proposed agreement, which is attached
20 hereto as "Exhibit A" and incorporated herein by reference as though fully set forth, and
21 have determined that the additional six square feet of easement area will not unduly
22 hinder use of the City's right-of-way.
23

24 NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
25 SPRINGFIELD, MISSOURI, as follows, that:
26

27 Section 1 – The Mayor is hereby authorized to enter into an agreement with the
28 United States of America regarding the priority status of a transmission line easement
29 held by the USA which crosses City right-of-way along Stewart Avenue. Said agreement
30 shall be substantially similar in form and content as that document attached hereto and
31 incorporated herein by reference as "Exhibit A."
32

33 Section 2 – This Ordinance shall be in full force and effect from and after
34 passage.

35
36 Passed at meeting: _____

37
38 _____
39 Mayor

40
41 Attest: _____, City Clerk

42
43 Filed as Ordinance: _____

44
45 Approved as to form: Richard T. Wiedu, Assistant City Attorney

46
47 Approved for Council action: Greg Burt, City Manager

EXPLANATION TO COUNCIL BILL NO: 2016- 299

FILED: 12-06-16

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: To authorize the City of Springfield, Missouri, to enter into an Agreement regarding the priority of easements ("Agreement") with the United States of America ("USA"), said agreement to grant the USA priority status for their electric transmission lines which run over a six square foot portion of Stewart Avenue right-of-way held by the City.

REQUEST TO GRANT EASEMENT NUMBER 843

BACKGROUND INFORMATION: The applicant is requesting that the City enter into a subordination agreement with the USA granting the USA's electric line easement priority status over a six (6) square foot portion of right of way in order to maintain public utilities once proposed development of nearby property has been completed. Said Agreement will grant the USA priority status over that six (6) square foot portion of Stewart Avenue for the running of transmission lines across Stewart Avenue.

RECOMMENDATIONS: The Planning and Zoning Commission held a public hearing on December 8, 2016 and recommended the approval of the grant easement by a vote of ___ to ___.

The Planning and Zoning Commission has the authority to prepare and recommend to City Council a master plan for the physical development of the City as defined in City Charter Section 11.2. The master plan is to guide public improvements. Section 11.7 of the City Charter requires any acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use, acquisition of land, sale or lease of any street or other public facility be subject to review by the Planning and Zoning Commission prior to approval or action by City Council.

REMARKS: The Planning and Development staff recommends the application be approved (see the attached Development Review Staff Report).

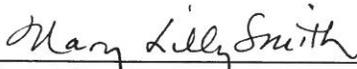
Since the proposed agreement is one which would alter a City street, the Planning and Zoning Commission must first provide a recommendation to City Council before City Council authorizes action on the agreement. This requirement is found in Section 11.7 of the City's Charter and also in Section 89.380 RSMo.

Submitted by:



Alyssa Ahner, Assistant Planner

Reviewed by:



Mary Lilly Smith, Director

Approved by:



Greg Burris, City Manager

EXHIBITS:

Exhibit A, Agreement

Exhibit B, Record of Proceedings

Exhibit C, Development Review Staff Report

ATTACHMENTS:

Attachment 1: Drawing

Exhibit A

AGREEMENT
GRANT EASEMENT 843

**AGREEMENT REGARDING PRIORITY BETWEEN EASEMENTS AND
RELINQUISHMENT OF EASEMENT**

THIS AGREEMENT REGARDING PRIORITY BETWEEN EASEMENTS AND RELINQUISHMENT OF EASEMENT ("Agreement") is made by the City of Springfield, Missouri, a municipal corporation (the "City") in favor of the United States of America ("USA") this ____ day of _____, 2016.

WHEREAS, the USA is acquiring additional easement for transmission line purposes as described in that certain Perpetual Easement for Transmission Line Purposes (the "Easement") recorded in Book _____, Page _____ in the Recorder's Office of Greene County, Missouri, which easement covers that certain real property described on Exhibit A, attached hereto and incorporated herein (the "Easement Area").

WHEREAS, the Easement Area is adjacent to an easement area that exists by way of a Judgment Upon Declaration of Taking dated April 9, 1953 and recorded in Book 918, Page 1 in the Recorder's Office for Greene County, Missouri (the "USA Condemnation"); and

WHEREAS, the Easement Area is located on an easement for right of way purposes for S. Stewart Ave., located in Springfield, Greene County, Missouri that exists by way of a Final Amended Plat of Primrose Marketplace recorded at Plat Book MM, Page 97 in the Recorder's Office for Greene County, Missouri (the "Stewart ROW"); and

WHEREAS, City and the USA desire to confirm their understanding and agreement that USA shall have priority in its rights in the Easement Area as shown in the Easement in relation to the Stewart ROW and the rights of City in the Easement Area.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and USA agree as follows:

1. City hereby agrees that its rights in the Easement Area as described in the Stewart ROW are inferior and subordinate to those rights of the USA in the Easement Area as described in the Easement.
2. USA shall consider the relinquishing of easement rights it acquired in the USA Condemnation in the area of the easement that City acquired in the Stewart ROW that is outside of the Easement Area.

3. USA acknowledges that work performed by or with the permission of the USA in the Easement Area requires a permit from the City.
4. USA and City acknowledge and agree that the rights of City under the Stewart ROW, and the rights of USA under the USA Condemnation, shall remain in full force and effect and undisturbed other than as expressly set forth herein.

This agreement shall be binding upon us, and our successors and/or assigns. Grantee USA's mailing address is _____.

IN WITNESS WHEREOF, the undersigned has hereunto set their hands this _____ day of _____, 2016.

(Remainder of Page intentionally left blank. Signature pages to follow.)

City of Springfield, Missouri

By: _____
Robert Stephens, Mayor

Attest: _____
City Clerk or his/her designee

Approved as to form:

City Attorney or Assistant Attorney

STATE OF MISSOURI
COUNTY OF GREENE SS.

ACKNOWLEDGEMENT BY CITY

On this _____ day of _____, 20 ____, before me appeared **Robert Stephens**, personally known to me, who being by me duly sworn, did say that he is the Mayor of the City of Springfield and that the foregoing instrument was signed and sealed on behalf of the City of Springfield and that he acknowledged said instrument to be the free act and deed of the City of Springfield and that it was executed for the consideration stated herein and no other.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, in the County and State aforesaid the day and year first above written.

Notary Public: _____

“Notary Seal”

Print Name: _____

UNITED STATES OF AMERICA

BY: _____

TITLE: _____

STATE OF _____

)

COUNTY OF _____

)

ss

)

In the State of _____, County of _____, on this ____ day of _____, 2016, before me, appeared _____, to me personally known, who being by me duly sworn, did say that he/she is the _____ of THE UNITED STATES OF AMERICA, and that said instrument was signed on authority of said governmental entity.

Witness my hand and Notarial Seal subscribed and affixed in said County and State, the day and year in this certificate above written.

Notary Public

My Term Expires: _____

Exhibit B

EXHIBIT B
RECORD OF PROCEEDINGS
GRANT EASEMENT 843

(The Record of Proceedings will be prepared for the City Council meeting)

Exhibit C

**DEVELOPMENT REVIEW STAFF REPORT
REQUEST TO GRANT EASEMENT NUMBER 843**

PURPOSE: To authorize the City of Springfield, Missouri to enter into an Agreement regarding the priority of easements ("Agreement") with the United States of America ("USA"), said agreement to grant the United States of America priority status for their electric transmission lines which run over a six (6) square foot portion of Stewart Avenue right of way held by the City.

REPORT DATE: November 21, 2016

LOCATION: 3200 S. Stewart Avenue

APPLICANT: Kevin Guffey

RECOMMENDATION:

The request be **approved**.

FINDING:

The applicant is requesting that the City of Springfield enter into an agreement with the USA regarding the priority of easements located on a six (6) square foot portion of Stewart Avenue in Springfield, Missouri. Said Agreement will grant the USA priority status over that six (6) square foot portion of Stewart Avenue for the running of transmission lines across Stewart Avenue.

CITY COUNCIL MEETING:

December 12, 2016

STAFF CONTACT PERSON:

Alyssa S. Ahner
Assistant City Planner

REQUEST TO GRANT EASEMENT 843
BACKGROUND REPORT

APPLICANT'S PROPOSAL:

The applicant is requesting that the City enter into a subordination agreement with the USA granting the USA's electric line easement priority status over a six (6) square foot portion of right of way in order to maintain public utilities once proposed development of nearby property has been completed.

RIGHT OF WAY COMMENTS:

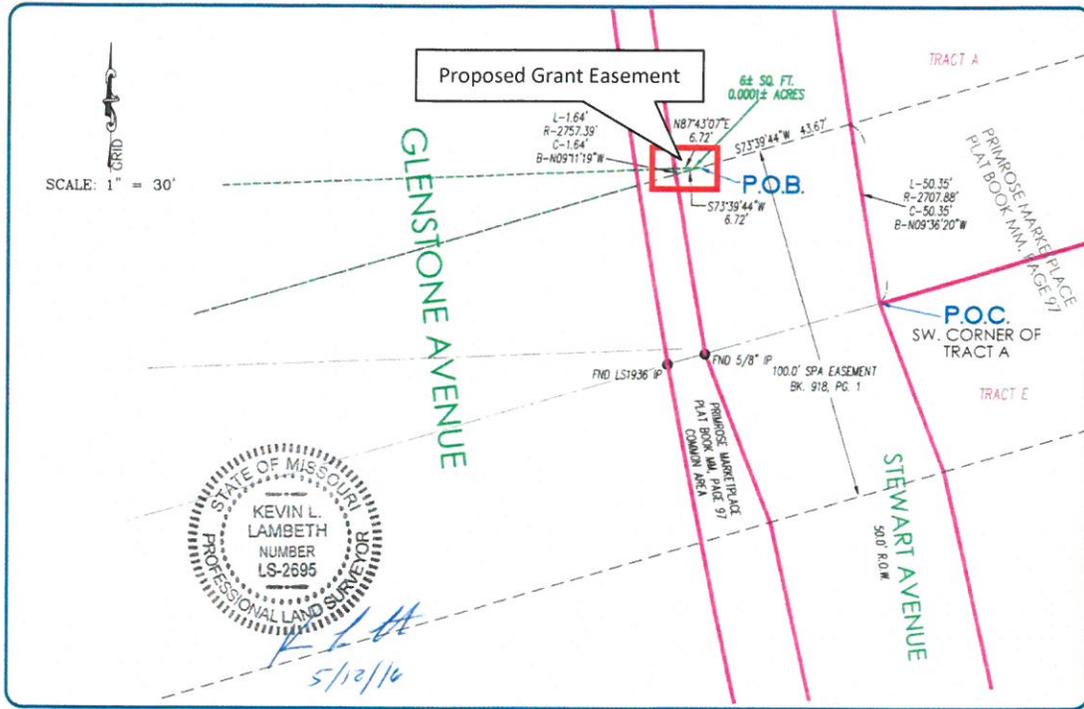
There is an existing 100' wide Southwestern Power Administration (SWPA) electric easement (Book 918 Page 1) adjacent to the proposed easement. The additional six square feet of SWPA electric easement area will not hinder the use of the City's right-of-way. Public Works supports the granting of the electric easement.

TRAFFIC COMMENTS:

Traffic has approved the granting of the easement.

STAFF COMMENTS:

1. The applicant is requesting that the City enter into an agreement with the USA to subordinate six (6) square feet of right of way to an electric line easement in order to maintain public utilities once proposed development of nearby property has been completed. The subject easement is located inside of the city limits.
2. The Planning and Zoning Commission has the authority to prepare and recommend to the city council a master plan for the physical development of the city as defined in City Charter Section 11.2. The master plan is to guide public improvements. Section 11.7 of the City Charter requires any acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use, acquisition of land, sale or lease of any street or other public facility be subject to review by the Planning and Zoning Commission prior to approval or action by City Council.
3. No one has objected to this request to date.



ANDERSON ENGINEERING, INC.
ENGINEERS - SURVEYORS - LABORATORIES - DRILLING
291 W. HICKLAND • SPRINGFIELD, MISSOURI 65801 • PHONE 417-880-2741

SWPA
ELECTRIC EASEMENT SKETCH
S. GLENSTONE AVENUE, SPRINGFIELD, MO

DRAWN BY BAC	FIELD BY BH
DATE 5-09-2016	FIELD BK. -
CLIENT NO 30049-18	DRAWING NO 110600 DWG