ORDINANCE NO. 17725

AN ORDINANCE introduced by Mayor Felker authorizing initiation of condemnation proceedings to acquire property by eminent domain for City of Topeka Interceptor Sewer Improvement Project No. 29057-04 in the area of Deer Creek Interceptor Pumping Station at NE Strait Street and Doran Street, to SE 10th Street at Deer Creek.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1.

That it is hereby declared necessary to condemn and appropriate for the use of the City of Topeka certain lands within the City of Topeka for Deer Creek North Interceptor Sewer Improvement Project No. 29057-04, and for other public purposes, said lands being described as follows:

PARCEL NO. 5

Owner of Record: The Atchison, Topeka and Santa Fe Railway Company now known as The Burlington Northern Santa Fe Railway Company

Legal Department

2500 Lou Menk Drive

Fort Worth, Texas 76131

Contract Purchaser: None

Lienholder of Record: None

Party in Possession: Owner of Record

Permanent Sanitary Sewer Easement No. 5P

A tract of land situated in Lot E in Muivane’s Subdivision to the City of Topeka, Shawnee County, Kansas, more particularly described as follows:

Beginning at a point on the south line of the north 330 feet of said Lot, said point being 476.16 feet east of the west line of the Northwest Quarter of Section 34, Township 11 South, Range 16 East of the Sixth Principal Meridian in Shawnee County, Kansas; thence along said south line on an assumed bearing of North 88
degrees 30 minutes 33 seconds East, 16.00 feet; thence South 00 degrees 19
minutes 02 seconds East, 413.09 feet to the north right-of-way line of Bates Road;
thence along said right-of-way line South 83 degrees 45 minutes 50 seconds West,
16.09 feet; thence North 00 degrees 19 minutes 02 seconds West, 414.42 feet to the
point of beginning.

The above-described property to be acquired contains 6,620 square feet, more or
less, and is subject to all rights-of-way, easements, restrictions, and covenants of
record, if any.

Temporary Construction Easement No. 5AT

A tract of land situated in Lot E in Mulvane's Subdivision to the City of Topeka,
Shawnee County, Kansas, more particularly described as follows:
Beginning at a point on the south line of the north 330 feet of said Lot, said point
being 492.16 feet east of the west line of the Northwest Quarter of Section 34,
Township 11 South, Range 16 East of the Sixth Principal Meridian in Shawnee
County, Kansas; thence continuing along said south line on an assumed bearing
North 88 degrees 30 minutes 33 seconds East, 32.01 feet; thence South 00 degrees
19 minutes 02 seconds East, 25.48 feet; thence South 88 degrees 38 minutes 19
seconds West, 32.01 feet; thence North 00 degrees 19 minutes 02 seconds West,
25.41 feet to the point of beginning.

The above-described temporary construction easement contains 814 square feet,
more or less, and is subject to all rights-of-way, easements, restrictions, and
covenants of record, if any.

AND

Temporary Construction Easement No. 5BT

A tract of land situated in Lot E in Mulvane's Subdivision to the City of Topeka,
Shawnee County, Kansas, more particularly described as follows:
Beginning at a point on the east right-of-way line of Strait Avenue, said point being the
southwest corner of the north 330 feet of said Lot E; thence along the south line of
said north 330 feet on an assumed bearing of North 88 degrees 30 minutes 33
seconds East, 446.15 feet; thence South 00 degrees 19 minutes 02 seconds East,
25.37 feet; thence South 88 degrees 38 minutes 19 seconds West, 72.01 feet; thence
North 00 degrees 19 minutes 02 seconds West, 13.65 feet; thence South 88 degrees
30 minutes 33 seconds West, 404.10 feet to the west line of the Northwest Quarter
of Section 34, Township 11 South, Range 16 East of the Sixth Principal Meridian in
Shawnee County, Kansas; thence along said west line North 00 degrees 32 minutes
32 seconds West, 11.55 feet; thence North 88 degrees 30 minutes 33 seconds East,
30.00 feet to the point of beginning.

The above-described temporary construction easement contains 6,489 square feet,
more or less, and is subject to all rights-of-way, easements, restrictions, and
covenants of record, if any.

AND

Temporary Construction Easement No. 5CT

A tract of land situated in Lots F and E in Mulvane's Subdivision to the City of Topeka, Shawnee County, Kansas, more particularly described as follows: Commencing at a point on the west right-of-way line of Norwood Avenue 330 feet south of the northeast corner of Lot F in said subdivision; thence along said right-of-way line on an assumed bearing of South 00 degrees 32 minutes 32 seconds East, 75.82 feet to the point of beginning; thence South 82 degrees 44 minutes 54 seconds West, 736.92 feet; thence South 84 degrees 02 minutes 50 seconds West, 150.81 feet; thence South 00 degrees 00 minutes 00 seconds West, 50.00 feet; thence South 88 degrees 21 minutes 42 seconds East, 150.06 feet; thence North 00 degrees 00 minutes 00 seconds East, 39.71 feet; thence North 82 degrees 44 minutes 53 seconds East, 737.21 feet to said right-of-way line; thence along said right-of-way line North 00 degrees 32 minutes 32 seconds West, 30.18 feet to the point of beginning.

The above-described temporary construction easement contains 31,088 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

These temporary construction easements expire two years after legal possession through condemnation or ninety days after completion of the sanitary sewer construction for which this easement is acquired or whichever comes first.

PARCEL NO. 10

Owner of Record: Luella F. Filkins
3201 SE 2nd Street
Topeka, Kansas 66607-2186

Contract Purchaser: None

Lienholder of Record: None

Party in Possession: 1) Owner of Record

2) Larry P. Adams
   Sandra L. Adams
   434 NE Chester
   Topeka, Kansas 66616
3) John R. Miller
   Belinda S. Miller
   3301 SE 2nd
   Topeka, KS  66607

Permanent Sanitary Sewer Easement No. 10P Sewer

A tract of land situated in the Southwest Quarter of Section 34, Township 11 South, Range 16 East of the Sixth Principal Meridian, Shawnee County, Kansas, more particularly described as follows: Commencing at the northwest corner of said Southwest Quarter; thence along the west line of said Southwest Quarter on an assumed bearing of South 00 degrees 44 minutes 17 seconds East, 468.85 feet to the point of beginning; thence North 39 degrees 26 minutes 05 seconds East, 101.20 feet; thence North 57 degrees 47 minutes 18 seconds East, 476.81 feet; thence North 00 degrees 44 minutes 17 seconds West, 119.60 feet to a point on the south right-of-way line of E. 2nd Street, said point being 471.99 feet east of the west line of said Southwest Quarter; thence along said right-of-way line North 88 degrees 24 minutes 36 seconds East, 16.00 feet; thence South 00 degrees 44 minutes 17 seconds East, 128.80 feet; thence South 57 degrees 47 minutes 18 seconds West, 483.19 feet; thence South 39 degrees 26 minutes 05 seconds West, 117.56 feet to the west line of said Southwest Quarter; thence along said west line North 00 degrees 44 minutes 17 seconds West, 24.80 feet to the point of beginning.

The above-described permanent sanitary sewer easement contains 11,417 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

AND

Permanent Recreational Trail Easement No. 10P Trail

A tract in the Southwest Quarter of Section 34, Township 11 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as: Commencing at the Northwest corner of said Southwest Quarter; thence on an assumed bearing of South 00°44'17" East, on the West line of said Southwest Quarter, 30.00 feet, to the point of beginning; thence continuing on the West line of said Southwest Quarter, 463.65 feet; thence North 39°26’05" East, on the South line of a Permanent Sanitary Sewer Easement for City of Topeka Interceptor Sewer Project 29057-04, on Parcel 10, 24.80 feet; thence North 00°44'17"West, parallel with the West line of said Southwest Quarter, 444.94 feet; thence South 88°24’36" West, on the South line of Southeast 2nd Street, 16.00 feet, to the point of beginning.

The above-described permanent recreational trail easement contains 7,269 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.
Temporary Construction Easement No. 10AT

A tract of land situated in the Southwest Quarter of Section 34, Township 11 South, Range 16 East of the Sixth Principal Meridian, Shawnee County, Kansas, more particularly described as follows:

Commencing at the northwest corner of said Southwest Quarter; thence along the west line of said Southwest Quarter on an assumed bearing of South 00 degrees 44 minutes 17 seconds East, 493.65 feet to the point of beginning; thence North 39 degrees 26 minutes 05 seconds East, 117.56 feet; thence North 57 degrees 47 minutes 18 seconds East, 483.19 feet; thence North 00 degrees 44 minutes 17 seconds West, 128.80 feet to a point on the south right-of-way line of E. 2nd Street, said point being 488 feet east of the west line of said Southwest Quarter; thence along said right-of-way line North 88 degrees 24 minutes 36 seconds East, 32.00 feet to the northwest corner of Sandy Lou Subdivision; thence along the west line of Sandy Lou Subdivision South 00 degrees 44 minutes 17 seconds East, 147.21 feet; thence South 57 degrees 47 minutes 18 seconds West, 495.95 feet; thence South 39 degrees 26 minutes 05 seconds West, 150.30 feet to the west line of said Southwest Quarter; thence along said west line North 00 degrees 44 minutes 17 seconds West, 49.61 feet to the point of beginning.

The above-described temporary construction easement contains 24,368 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

AND

Temporary Construction Easement No. 10BT

A tract of land situated in the Southwest Quarter of Section 34, Township 11 South, Range 16 East of the Sixth Principal Meridian, Shawnee County, Kansas, more particularly described as follows: Commencing at the northwest corner of said Southwest Quarter; thence along the west line of said Southwest Quarter on an assumed bearing of South 00 degrees 44 minutes 17 seconds East, 357.24 feet to the point of beginning; thence North 39 degrees 26 minutes 05 seconds East, 27.54 feet; thence North 57 degrees 47 minutes 18 seconds East, 121.13 feet; thence North 85 degrees 44 minutes 45 seconds East, 85.21 feet; thence North 04 degrees 14 minutes 04 seconds West, 45.23 feet; thence North 57 degrees 47 minutes 18 seconds East, 230.49 feet; thence North 00 degrees 44 minutes 17 seconds West, 78.19 feet to a point on the south right of way line of E. 2nd Street, said point being 399.99 feet east of the west line of said Southwest Quarter; thence along said right of way line North 88 degrees 24 minutes 36 seconds East, 72.01 feet; thence South 00 degrees 44 minutes 17 seconds East, 119.60 feet; thence South 57 degrees 47 minutes 18 seconds West, 476.81 feet; thence South 39 degrees 26 minutes 05 seconds West, 101.20 feet to the west line of said Southwest Quarter; thence along
said west line North 00 degrees 44 minutes 17 seconds West, 111.61 feet to the point of beginning.

The above-described temporary construction easement contains 43,124 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

These temporary construction easements expire two years after legal possession through condemnation or ninety days after completion of the sanitary sewer construction for which this easement is acquired or whichever comes first.

PARCEL NO. 26

Owner of Record: Board of Discipleship
Kansas East Conference of United Methodist Church,
Inc.
PO Box 4187
Topeka, Kansas 66604

Contract Purchaser: None

Lienholder of Record: None

Party in Possession: Owner of Record

Permanent Sanitary Sewer Easement No. 26 P

A tract of land situated in the Northeast Quarter of Section 4, Township 12 South, Range 16 East of the Sixth Principal Meridian, Shawnee County, Kansas, more particularly described as follows: Commencing at the southeast corner of said Northeast Quarter; thence along the south line of said Northeast Quarter on an assumed bearing of South 88 degrees 56 minutes 51 seconds West, 787.22 feet; thence North 01 degrees 03 minutes 09 seconds West, 398.71 feet to the point of beginning; thence North 20 degrees 35 minutes 10 seconds East, 57.13 feet; thence North 05 degrees 54 minutes 42 seconds West, 435.44 feet; thence North 40 degrees 46 minutes 54 seconds East, 408.47 feet; thence North 45 degrees 47 minutes 35 seconds East, 226.44 feet to a point on the southerly right-of-way line of formerly Kansas Turnpike Authority Service Road L said point being North 59 degrees 04 minutes 27 seconds West, 45.28 feet from the T.S. of a spiral curve concave to the north which has a central angle of 12 degrees, a radius of 841.2 feet, a length of 352.36 feet and a back tangent direction of North 59 degrees 09 minutes 49 seconds East; thence along said southerly right-of-way line along said spiral curve having a chord direction of South 58 degrees 58 minutes 55 seconds East, 16.55 feet; thence departing said right-of-way line South 45 degrees 47 minutes 35 seconds West, 229.96 feet; thence South 40 degrees 46 minutes 54 seconds West, 400.87 feet; thence South 05 degrees 54 minutes 42 seconds East, 432.30 feet; thence South 20
degrees 35 minutes 10 seconds West, 60.89 feet; thence North 69 degrees 24 minutes 50 seconds West, 16.00 feet to the point of beginning.

The above-described permanent easement contains 18,012 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

**Temporary Construction Easement No. 26T**

A tract of land situated in the Northeast Quarter of Section 4, Township 12 South, Range 16 East of the Sixth Principal Meridian, Shawnee County, Kansas, more particularly described as follows: Commencing at the southeast corner of said Northeast Quarter; thence along the south line of said Northeast Quarter on an assumed bearing of South 88 degrees 56 minutes 51 seconds West, 688.30 feet; thence North 01 degrees 03 minutes 09 seconds West, 40.00 feet to north right-of-way line of the Southeast 10th Avenue, being the point of beginning; thence North 21 degrees 44 minutes 00 seconds West, 347.33 feet; thence North 05 degrees 54 minutes 42 seconds West, 568.13 feet; thence North 40 degrees 46 minutes 54 seconds East, 415.22 feet; thence North 45 degrees 47 minutes 35 seconds East, 211.95 feet to a point on the southerly right-of-way line of formerly Kansas Turnpike Authority Service Road L, said point being North 58 degrees 33 minutes 35 seconds West, 119.49 feet from the T.S. of the spiral curve which has a central angle of 12 degrees a radius of 841.2 feet and a back tangent direction of North 59 degrees 09 minutes 49 seconds East; thence along said right-of-way 74.22 feet along said spiral curve having a chord direction of South 58 degrees 14 minutes 46 seconds East, 74.22 feet; thence departing said right-of-way line South 45 degrees 47 minutes 35 seconds West, 226.44 feet; thence South 40 degrees 46 minutes 54 seconds West, 408.47 feet; thence South 05 degrees 54 seconds 42 seconds East, 435.44 feet; thence South 20 degrees 35 minutes 10 seconds West, 57.13 feet; thence South 69 degrees 24 minutes 50 seconds East, 16.00 feet; thence North 20 degrees 35 minutes 10 seconds East, 60.89 feet; thence North 5 degrees 54 minutes 42 seconds West, 432.30 feet; thence North 40 degrees 46 minutes 54 seconds East, 400.87 feet; thence North 45 degrees 47 minutes 45 seconds East, 229.96 feet to the southerly right-of-way line of formerly Kansas Turnpike Authority Service Road L and being a point on said spiral curve; thence 28.73 feet along said curve having a chord direction of South 59 degrees 07 minutes 38 seconds East and a chord distance of 28.73 feet to the T.S. of said spiral curve; thence along said right-of-way line South 59 degrees 09 minutes 49 seconds East, 4.38 feet; thence departing said right-of-way line South 45 degrees 47 minutes 35 seconds West, 351.57 feet; thence South 40 degrees 46 minutes 54 seconds West, 262.19 feet; thence South 05 degrees 54 minutes 42 seconds East, 439.76 feet; thence South 20 degrees 35 minutes 10 seconds West, 112.43 feet; thence South 21 degrees 44 minutes 00 seconds East, 320.78 feet to the north right-of-way line of Southeast 10th Avenue; thence along said right-of-way line South 88 degrees 56 minutes 51 seconds West, 42.75 feet to the point of beginning.
The above-described temporary construction easement contains 2.75 acres, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This temporary construction easement expires two years after legal possession through condemnation or ninety days after completion of the sanitary sewer construction for which this easement is acquired or whichever comes first.

**Section 2.**

That the City Attorney of the City of Topeka, Kansas, on behalf of the Council of the City of Topeka, Kansas shall present a written application to the District Court of Shawnee County, Kansas, for the appointment of appraisers to make the appraisement and assessment required by law when land is taken for public purposes, and said City Attorney shall do all things necessary for the condemnation of said land completing the appropriation of the same for public purposes.

**Section 3.**

This ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

**PASSED and APPROVED by the City Council October 2, 2001.**

[Signature]

Harry Felker, Mayor

**ATTEST:**

[Signature]

Iris Walker, City Clerk

**APPROVED AS TO FORM AND LEGALITY**

[Signature]

Date: [Jul 22, 2010]