AN ORDINANCE introduced by Mayor Felker authorizing the initiation of condemnation proceedings to acquire property by eminent domain for the City of Topeka Water System Improvement Project No. 28489-00, in the Burnetts Mound area.

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 Water System Improvement Project No. 28489-00, and for other public purposes, said lands being described as follows:

Parcel No. 1

Owner of Record: Jim Lance Woodward and BoMac Development Inc.  
dba Shunga Creek Partnership  
5040 SW 28th  
Topeka, KS 66614

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: 1.) Heartland Clinical Consultants  
5040 SW 28th  
Topeka, KS 66614

2.) Shunga Creek Mental Health  
5040 SW 28th  
Topeka, KS 66614

3.) R. M. Hanson Design Company  
5040 SW 28th  
Topeka, KS 66614
PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A parcel of land situated in Lot 5 and 6, Block "D" Shunga Plaza Subdivision to the City of Topeka, Shawnee County, Kansas, described as follows:

The Northeast 69.00 feet of that certain tract of land described as "Tract One" in Deed recorded in Book 2253, Page 752, official records of Shawnee County, being "all of Lot 5 and Lot 6 except the east one-hundred twelve (112) feet of Lot 6" …

EXCEPTING THEREFROM:

A strip of land situated in Lot 6, Block "D" Shunga Plaza Subdivision to the City of Topeka, Shawnee County, Kansas, being 20.00 feet wide, 10.00 feet each side of the following described centerline:

Commencing at the southwest corner of said Lot 6; thence northeasterly, coincident with the southerly line of said Lot 6, also being the northerly line of S.W. 28th Street, (60.00 feet wide), on Az. 64 degrees 25 minutes 53 seconds, (assumed), a distance of 14.41 feet to the point of beginning; thence Northerly, on Az. 336 degrees 30 minutes 49 seconds, a distance of 181.1 feet, more or less to the centerline of Shunganunga Creek, being the northerly line of said Lot 6 and the point of termination. The side lines of the above described strip, being prolonged or shortened to conform to said Lot 6 boundary lines.

The above-described property to be acquired contains 8,935 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires one (1) year after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Easement:

A strip of land situated in Lot 6, Block "D" Shunga Plaza Subdivision to the City of Topeka, Shawnee County, Kansas, being 20.00 feet wide, 10.00 feet each side of the following described centerline:

Commencing at the Southwest corner of said Lot 6; thence northeasterly, coincident with the southerly line of said Lot 6, also being the northerly line of S.W. 28th Street, (60.00 feet wide), on Az. 64 degrees 25 minutes 53 seconds, (assumed), a distance of 14.41 feet to the point of beginning; thence Northerly, on Az. 336 degrees 30 minutes 49 seconds, a distance of 181.1 feet, more or less to the centerline of
Shunganunga Creek, being the northerly line of said Lot 6 and the point of termination. The side lines of the above described strip, being prolonged or shortened to conform to said Lot 6 boundary lines.

The above-described property to be acquired contains 3,642 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel No. 2

Owner of Record: Super Market Developers Inc.
Attention: Peter Bohling
5000 Kansas Avenue
Kansas City, KS 66106

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: Vacant building and land

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A parcel of land situated in Lots 4 and 5, Block “A” Butler Plaza Subdivision to the City of Topeka, Shawnee County, Kansas, described as follows: All of said Lots 4 and 5, Block “A”, EXCEPTING THEREFROM:

A strip of land situated in Lots 4 and 5, Block “A” Butler Plaza Subdivision to the City of Topeka, Shawnee County, Kansas, being a 20.00 feet wide, 10.00 feet each side of the following described centerline:

Commencing at the southeast corner of said Lot 4; thence westerly coincident with the southerly line of said Lot 4, also being the northerly line of S.W. 29th Street, on Az. 267 degrees 37 minutes 09 seconds, (assumed), a distance of 35.02 feet to the point of beginning; thence northerly, on Az. 359 degrees 20 minutes 51 seconds, a distance of 399.95 feet; thence northwesterly, on Az. 336 degrees 30 minutes 49 seconds, a distance of 188.91 feet to the northline of said Lot 5, being the southerly line of S.W. 28th Street and the point of termination, being 119.33 feet, as measured coincident with the northerly line of said Lot 5, southwesterly from the northeast corner of said Lot 5, excepting therefrom an existing 16 foot wide utility easement, the centerline of said easement being the line common to Lots 4 and 5. Containing 11,457 square feet, more or less.
ALSO EXCEPTING THEREFROM:

All of the existing 16 foot wide utility easements and 30 foot wide utility easement situated in Lots 4 and 5 as shown on the plat of said Butler Plaza Subdivision, recorded in Book 35, Page 129, official records of Shawnee County, Kansas. The side lines of the above described strip, being prolonged or shortened to conform to said Lots 4 and 5 boundary lines.

The above-described property to be acquired contains 37,297 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires one (1) year after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Easement:

A strip of land situated in Lots 4 and 5, Block “A” Butler Plaza Subdivision to the City of Topeka, Shawnee County, Kansas, being a 20.00 feet wide, 10.00 feet each side of the following described centerline:

Commencing at the southeast corner of said Lot 4; thence westerly, coincident with the southerly line of said Lot 4, also being the northerly line of S.W. 29th Street, on Az. 267 degrees 37 minutes 09 seconds, (assumed), a distance of 35.02 feet to the point of beginning; thence northerly, on Az. 359 degrees 20 minutes 51 seconds, a distance of 399.95 feet; thence northwesterly, on Az. 336 degrees 30 minutes 49 seconds, a distance of 188.91 feet to the north line of said Lot 5, being the southerly line of S.W. 26th Street and the point of termination, being 119.33 feet, as measured coincident with the northerly line of said Lot 5, southwesterly from the northeast corner of said Lot 5.

EXCEPTING THEREFROM an existing 16 foot wide utility easement, the centerline of said easement being the line common to Lots 4 and 5.

The side lines of the above described strip, being prolonged or shortened to conform to said Lots 4 and 5 boundary lines.

The above-described property to be acquired contains 11,457 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.
Parcel No. 3

Owner of Record: Indian Hills L.P.
1111 Gage Blvd
Topeka, KS  66604

Contract Purchaser: NONE

Lienholder of Record: North American Savings Bank
12498 South 71 Highway
Grandview, MO  64030

Party in Possession:

1.) Westlake Hardware
   5001 SW 29th Street
   Topeka, KS  66614

2.) Shimer Store
   5003 SW 29th Street
   Topeka, KS  66614

3.) Hunan Chinese Restaurant
   5005 SW 29th Street
   Topeka, KS  66614

4.) Radio Shack
   5007 SW 29th Street
   Topeka, KS  66614

5.) Unicorn Bookstore
   5009A SW 29th Street
   Topeka, KS  66614

6.) Munns Discount Medical Outlet
   5009 SW 29th Street
   Topeka, KS  66614

7.) One Dollar Shop
   5119 SW 29th Street
   Topeka, KS  66614

Easement Owners

1.) Town and Country Christian Church of Topeka
   4925 SW 29th Street
   Topeka, KS  66614
2.) Commerce Bank and Trust
3035 S Topeka Blvd
Topeka, KS 66611

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

Two parcels of land situated in Lot 1, Block “A” Luttjohann Acres, a subdivision to the City of Topeka, Shawnee County, Kansas, described as follows:

Tract No. 1

Commencing at the northeast corner of said Lot 1; thence westerly, coincident with the north line of said Lot 1, on Az. 276 degrees 36 minutes 54 seconds, (assumed), a distance of 25.00 feet to the point of beginning; thence southerly, parallel with and 25.00 feet westerly of the east line of said Lot 1, on Az. 178 degrees 10 minutes 59 seconds, a distance of 122.05 feet; thence southeasterly, on Az. 145 degrees 35 minutes 51 seconds, a distance of 45.39 feet to the east line of said Lot 1; thence southerly coincident with the east line of said Lot 1, on Az. 178 degrees 22 minutes 52 seconds, a distance of 55.41 feet; thence northwesterly, on Az. 325 degrees 35 minutes 51 seconds, a distance of 225.61 feet; thence northerly, on Az. 359 degrees 20 minutes 51 seconds, a distance of 24.66 feet to the north line of said Lot 1, also being the southerly line of S.W. 29th Street; thence easterly, coincident with the north line of said Lot 1, on Az. 87 degrees 36 minutes 54 seconds, a distance of 96.75 feet to the point of beginning.

The above-described property to be acquired contains 11,192 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Tract No. 2

Commencing at the northeast corner of said Lot 1; thence westerly, coincident with the north line of said Lot 1, on Az. 276 degrees 36 minutes 54 seconds, (assumed), a distance of 141.76 feet to the point of beginning; thence southerly, on Az. 179 degrees 20 minutes 51 seconds, a distance of 30.12 feet; thence southeasterly, on Az. 145 degrees 35 minutes 51 seconds, a distance of 262.73 feet to the east line of said Lot 1; thence southerly, coincident with the east line of said Lot 1, on Az. 178 degrees 22 minutes 52 seconds, a distance of 18.47 feet; thence northwesterly, on Az. 325 degrees 35 minutes 51 seconds, a distance of 281.29 feet; thence northerly, on Az. 359 degrees 20 minutes 51 seconds, a distance of 32.85 feet to the north line of said Lot 1, also being the southerly line of S.W. 29th Street; thence easterly, coincident with the north line of said Lot 1, on Az. 87 degrees 36 minutes 54 seconds, a distance of 10.00 feet to the point of beginning.
The above-described property to be acquired contains 3,034 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

The two above-described parcels to be acquired contains a total of 14,226 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires one (1) year after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Easement:

A strip of land situated in Lot 1, Block “A” Luttjohann Acres, a subdivision to the City of Topeka, Shawnee County, Kansas, being 20.00 feet wide, 10.00 feet each side of the following described centerline:

Commencing at the northeast corner of said Lot 1; thence westerly, coincident with the northerly line of said Lot 1, also being the southerly line of S.W. 29th Street, on Az. 267 degrees 36 minutes 54 seconds, (assumed), a distance of 131.76 feet to the point of beginning; thence southerly, on Az. 179 degrees 20 minutes 51 seconds, a distance of 27.39 feet; thence southeasterly, on Az. 145 degrees 35 minutes 51 seconds, a distance of 244.17 feet to the east line of said Lot 1 and the point of termination, being 234.42 feet, as measured coincident with the easterly line of said Lot 1, southerly from the northeast corner of said Lot 1. The side lines of the above described strip, being prolonged or shortened to conform to said Lot 1 boundary lines.

The above-described property to be acquired contains 5,431 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel No. 6

Owner of Record: Summerfield Property Owners Association Inc.
3612 SW Red Hawk Court
Topeka, KS 66614

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: Owner of record
PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A parcel of land situated in Lot 1, Block “A” Summerfield Subdivision No. 2 to the City of Topeka, Shawnee County, Kansas, being described as follows:

Commencing at the northwest corner of said Lot 1; thence easterly, coincident with the north line of said Lot 1, also being the south line of a 16.00 foot wide dedicated park access way and utility easement, on Az. 88 degrees 25 minutes 51 seconds, (assumed), a distance of 36.33 feet to the point of beginning; thence continuing easterly, coincident with the north line of said Lot 1, on Az. 88 degrees 25 minutes 51 seconds, a distance of 10.00 feet; thence southerly, on Az. 178 degrees 28 minutes 18 seconds, a distance of 65.23 feet; thence southwesterly, on Az. 212 degrees 28 minutes 18 seconds, a distance of 106.43 feet to the west line of said Lot 1; thence northerly, coincident with the west line of said Lot 1, on Az. 358 degrees 27 minutes 45 seconds, a distance of 17.88 feet; thence northeasterly, on Az. 32 degrees 28 minutes 18 seconds, a distance of 88.55 feet; thence northerly, on Az. 358 degrees 28 minutes 18 seconds, a distance of 62.16 feet to the point of beginning.

The above-described property to be acquired contains 1,611 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires one (1) year after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Easement:

A parcel of land situated in Lot 1, Block “A” Summerfield Subdivision No. 2 to the City of Topeka, Shawnee County, Kansas, being described as follows:

Beginning at the northwest corner of said Lot 1; thence easterly, coincident with the north line of said Lot 1, also being the south line of a 16.00 foot wide dedicated park access way and utility easement, on Az. 88 degrees 25 minutes 51 seconds, (assumed), a distance of 36.33 feet; thence South, on Az. 178 degrees 28 minutes 18 seconds, a distance of 62.16 feet; thence southwesterly, on Az. 212 degrees 28 minutes 18 seconds, a distance of 88.55 feet to the west line of said Lot 1; thence northerly, coincident with the west line of said Lot 1, on Az. 358 degrees 27 minutes 45 seconds, a distance of 101.19 feet; thence northeasterly, on Az. 19 degrees 29 minutes 44 seconds, a distance of 36.81 feet to the point of beginning.
The above-described property to be acquired contains 4,669 square feet, more or
less, and is subject to all rights-of-way, easements, restrictions, and covenants of
record, if any.

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
appraisal 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__________________________.

AUG 19 2003

Harry Felker, Mayor

ATTEST:

Iris Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY
DATE 7/24/03 BY SBS
TO BE CODIFIED
NOT TO BE CODIFIED X

VYCOND/ORDINANCE 07/24/03 9