ORDINANCE NO. 18096

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. 28490-01, approximately located along SW 5th Street and SW 6th Street.

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. 28490-01, and for other public purposes, said lands being described as follows:

Parcel No. 1 and 2

Owner of Record: Chalet I Acquisition L.L.C.
104 Armour Road
North Kansas City, MO 64116

Contract Purchaser: NONE

Lienholder of Record: 1.) Fannie Mae (Fannie Mae #1668790784)
3900 Wisconsin Ave. NW, Drawer AM
Washington DC 20016-2892

2.) Credit Lyonnais New York Branch
c/o Credit Lyonnais Real Estate Group
1301 Avenue of the Americus
New York, NY 10019

3.) Eichler, Fayne & Associates
49 Stevenson Street, Ste 1300
San Francisco, CA 94105

Party in Possession: Unknown Chalet Apartment Tenants
Easement Owner: Chalet II Acquisition LLC
104 Armour Road
North Kansas City, MO 64116

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement No. 2:

The north 10 feet of the south 20 feet of Lot 3, Block A, Prospect Garden Subdivision, in the City of Topeka, Shawnee County, Kansas.

The above-described property to be acquired contains 3,462 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 and one half (1 1/2) years 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 No. 1:

The south 10 feet of Lot 3, Block A, Prospect Garden Subdivision, in the City of Topeka, Shawnee County, Kansas.

The above-described property to be acquired contains 3,463 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: Chalet II Acquisition L.L.C.
104 Armour Road
North Kansas City, MO 64116

Contract Purchaser: NONE

Lienholder of Record: 1.) Fannie Mae
3900 Wisconsin Ave. NW, Drawer AM
Washington DC 20016-2892

2.) Eichler, Fayne & Associates
49 Stevenson Street, Ste 1300
San Francisco, CA 94105
Party in Possession:  Unknown Chalet Apartment Tenants

Easement Owner:  Chalet I Acquisition LLC
104 Armour Road
North Kansas City, MO  64116

PROPERTY TO BE ACQUIRED:

Permanent Easement:

The south 10 feet of the west 17 feet of Lot 1, Block A, Prospect Gardens No. 2, a subdivision in the City of Topeka, Shawnee County, Kansas.

The above-described property to be acquired contains 170 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel Nos. 24 and 25

Owner of Record:  Karen S. Kelly
3445 SW Alameda Drive
Topeka, KS  66614

Contract Purchaser:  NONE

Lienholder of Record:  NONE

Party in Possession:  Newcomer Family Funeral Home
4020 SW 6th Avenue
Topeka, KS 66606

Easement Owner:  Southwestern Bell Telephone Company
823 SW Quincy
Topeka, KS  66612

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement No. 25:

The north 10 feet of the south 50 feet of the east 500 feet of the Southeast Quarter of Section 27, Township 11 South, Range 15 East of the Sixth Principal Meridian, Shawnee County, Kansas, except existing road right-of-way.
The above-described property to be acquired contains 4,533 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 and one half (1 1/2) years 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 No. 24:**

The north 10 feet of the south 40 feet of the east 500 feet of the Southeast Quarter of
Section 27, Township 11 South, Range 15 East of the Sixth Principal Meridian,
Shawnee County, Kansas, except existing road right-of-way.

The above-described property to be acquired contains 4,322 square feet, more or
less, and is subject to all rights-of-way, easements, restrictions, and covenants of
record, if any.

**Parcel Nos. 26, 27, 28, and 35**

Owner of Record: Reffco Cemetery Company
P.O. Box 2729
Topeka, KS 66601

Contract Purchaser: NONE

Lienholder of Record: Commerce Bank and Trust
3035 South Kansas Avenue
Topeka, KS 66611

Party in Possession: Owner of Record

**PROPERTY TO BE ACQUIRED:**

**Temporary Construction Easement No. 28:**

Those parts of Lot 1, Block A, Arlington Heights Subdivision No. 2 in the City of
Topeka, Shawnee County, Kansas described as follows:

Commencing at the southeast corner of said Lot 1; thence along the south line of said
Lot 1 on an assumed bearing of South 88 degrees 09 minutes 19 seconds West, 20.00 feet to the point of beginning; thence continuing along said south line South 88
degrees 09 minutes 19 seconds West, 20.00 feet; thence parallel with the east line of
said Lot 1, North 1 degree 16 minutes 44 seconds West, 335.14 feet; thence North 12
degrees 31 minutes 44 seconds West, 103.23 feet to the north line of said Lot 1; thence along said north line North 88 degrees 14 minutes 23 seconds East, 20.36 feet; thence South 12 degrees 31 minutes 44 seconds East, 101.40 feet; thence parallel with said east line South 1 degree 16 minutes 44 seconds East, 336.91 feet to the point of beginning.

Together with a tract described as commencing at the southeast corner of said Lot 1; thence along the east line of said Lot 1 on an assumed bearing of North 1 degree 16 minutes 44 seconds West, 338.68 feet to the point of beginning; thence North 12 degrees 31 minutes 44 seconds West, 99.56 feet to the north line of said Lot 1; thence along said north line North 88 degrees 14 minutes 23 seconds East, 10.18 feet; thence South 12 degrees 31 minutes 44 seconds East, 47.39 feet to said east line; thence along said east line South 1 degree 16 minutes 44 seconds East, 51.26 feet to the point of beginning. Except an existing utility easement over the north 15 feet of said Lot 1.

The above-described property to be acquired contains 9,013 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 and one half (1 1/2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

**Temporary Construction Easement No. 35:**

That part of Memorial Park Cemetery, being in the Southwest Quarter of Section 26, Township 11 South, Range 15 East of the Sixth Principal Meridian in the City of Topeka, Shawnee County, Kansas, described as follows:

Beginning at a point on the east line of said Memorial Park Cemetery, 52.50 feet north of the south line of said Southwest Quarter, said point also being the southwest corner of Lot 1, Block A, Arlington Heights Subdivision No. 2 in the City of Topeka, Shawnee County, Kansas; thence north along said east line 100 feet; thence west, parallel with the south line of said Southwest Quarter, 140 feet; thence south parallel with said east line, 100 feet; thence east parallel with said south line 140 feet to the point of beginning.

Together with the west 60 feet of the south 100 feet of Lot 1, Block A, Arlington Heights Subdivision No. 2 in the City of Topeka, Shawnee County, Kansas, except an existing utility easement over the west 15 feet of said Lot 1.
The above-described property to be acquired contains 18,500 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 and one half (1 1/2) years 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 No. 27:**

That part of Lot 1, Block A, Arlington Heights Subdivision No. 2 in the City of Topeka, Shawnee County, Kansas described as follows: Beginning at the southeast corner of said Lot 1; thence along the south line of said Lot 1 on an assumed bearing of South 88 degrees 09 minutes 19 seconds West, 20.00 feet; thence parallel with the east line of said Lot 1 North 1 degree 16 minutes 44 seconds West, 336.91 feet; thence North 12 degrees 31 minutes 44 seconds West, 101.40 feet to the north line of said Lot 1; thence along said north line North 88 degrees 14 minutes 23 seconds East, 20.36 feet; thence South 12 degrees 31 minutes 44 seconds East, 99.56 feet to the east line of said Lot 1; thence along said east line South 1 degree 16 minutes 44 seconds East, 338.68 feet to the point of beginning, except an existing utility easement over the north 15 feet of said Lot 1.

The above-described property to be acquired contains 8,440 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

**Permanent Right-of-Way Easement No. 26:**

That part of Garden of Serenity, an addition to Memorial Park Cemetery, as recorded in Plat Book 33, Page 138, being in the Southwest Quarter of Section 26, Township 11 South, Range 15 East of the Sixth Principal Meridian in the City of Topeka, Shawnee County, Kansas, described as follows: Commencing at the southwest corner of said Southwest Quarter; thence along the south line of said Southwest Quarter on an assumed bearing of North 88 degrees 09 minutes 19 seconds East, 56.66 feet; thence at right angles North 01 degrees 50 minutes 41 seconds West, 40.00 feet to the north right-of-way line of S.W. 6th Street, and being the point of beginning; thence along said north right-of-way line North 46 degrees 02 minutes 40 seconds West, 17.44 feet to a point being a perpendicular distance of 52.50 feet north of the south line of said Southwest Quarter; thence parallel with the south line of said Southwest Quarter North 88 degrees 09 minutes 19 seconds East, 984.20 feet to the east line of Memorial Park Cemetery; thence along the east line of Memorial Park Cemetery South 01 degree 15 minutes 05 seconds East, 12.50 feet to the north right-of-way line of S.W. 6th Street; thence along said right-of-way line South 88 degrees 09 minutes 19 seconds West, 971.91 feet to the point of beginning.
The above-described property to be acquired contains 12,226 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

**Parcel Nos. 30 and 30B**

**Owner of Record:** The Menninger Foundation  
P.O. Box 829  
Topeka, KS 66606

**Contract Purchaser:** NONE

**Lienholder of Record:** NONE

**Party in Possession:** Vacant land

**Easement Owner:**  
1.) Family Service & Guidance Center  
325 SW Frazier  
Topeka, KS 66606

2.) F P B LLC  
3550 SW 5th Street  
Topeka, KS 66606

3.) Kansas Manufactured Housing Association  
214 SW 6th Street  
Topeka, KS 66603

**PROPERTY TO BE ACQUIRED:**

**Temporary Construction Easement No. 30:**

That part of Lot 5, Block A, Arlington Heights Subdivision No. 3 in the City of Topeka, Shawnee County, Kansas described as follows: Commencing at the southeast corner of said Lot 5; thence along the south line of said Lot 5 on an assumed bearing of South 88 degrees 14 minutes 23 seconds West, 14.76 feet to the point of beginning; thence continuing along said south line South 88 degrees 14 minutes 23 seconds West, 20.36 feet; thence North 12 degrees 31 minutes 44 seconds West, 24.91 feet; thence parallel with the east line of said Lot 5 North 1 degree 13 minutes 10 seconds West, 140.49 feet to the north line of said Lot 5; thence along said north line 23.22 feet being along a curve concave to the north having a radius of 60.00 feet, a chord bearing of South 61 degrees 18 minutes 40 seconds East and a chord length of 23.07 feet; thence parallel with the east line of
said Lot 5 South 1 degree 13 minutes 10 seconds East, 127.00 feet to said south line; thence along said south line South 12 degrees 31 minutes 44 seconds West 26.74 feet to the point of beginning.

The above-described property to be acquired contains 3,174 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 and one half (1 1/2) years 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 No. 30B:**

That part of Lot 5, Block A, Arlington Heights Subdivision No. 3 in the City of Topeka, Shawnee County, Kansas described as follows: Beginning at the southeast corner of said Lot 5; thence along the south line of said Lot 5 on an assumed bearing of South 88 degrees 14 minutes 23 seconds West, 14.76 feet; thence North 12 degrees 31 minutes 44 seconds West, 26.74 feet; thence parallel with the east line of said Lot 5 North 1 degree 13 minutes 10 seconds West, 127.00 feet to the north line of said Lot 5; thence along said north line 20.35 feet being along a curve concave to the north having a radius of 60.00 feet, a chord bearing of South 82 degrees 06 minutes 52 seconds East and a chord length of 20.26 feet to the northeast corner of said Lot 5; thence along the east line of said Lot 5 South 1 degree 13 minutes 10 seconds East, 149.87 feet to the point of beginning, except an existing utility easement over the east 8 feet of said Lot 5.

The above-described property to be acquired contains 1,751 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

**Parcel No. 31 and 32**

- **Owner of Record:** Kansas Manufactured Housing Association
  
  214 SW 6th Street, Ste 206
  
  Topeka, KS 66603

- **Contract Purchaser:** NONE

- **Lienholder of Record:** NONE

- **Party in Possession:** Owner of Record
Easement Owner: 1.) Family Service & Guidance Center
                        325 SW Frazier
                        Topeka, KS 66606

                        2.) F P B LLC
                        3550 SW 5th Street
                        Topeka, KS 66606

                        3.) The Menninger Foundation
                        P.O. Box 829
                        Topeka, KS 66606

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement No. 31:

The part of Lot 6, Block A, Arlington Heights Subdivision No. 3 in the City of Topeka, Shawnee County, Kansas described as follows: Commencing at the southwest corner of said Lot 6; thence along the south line of said Lot 6 on an assumed bearing of North 88 degrees 14 minutes 23 seconds East, 5.60 feet to the point of beginning; thence North 12 degrees 31 minutes 44 seconds West, 28.56 feet to the west line of said Lot 6; thence along said west line North 1 degree 13 minutes 10 seconds West, 91.81 feet to a point 30 feet south of the northwest corner of said Lot 6; thence parallel with the north line of said Lot 6 North 88 degrees 10 minutes 05 seconds East, 239.80 feet to the east line of said Lot 6; thence along said east line South 1 degree 14 minutes 50 seconds East, 10.00 feet; thence parallel with said north line South 88 degrees 10 minutes 05 seconds West, 229.81 feet to a point 10 feet east of said west line; thence parallel with said west line South 1 degree 13 minutes 10 seconds East, 80.93 feet; thence South 12 degrees 31 minutes 44 seconds East, 29.47 feet to said south line; thence along said south line South 88 degrees 14 minutes 23 seconds West, 10.18 feet to the point of beginning; except an existing utility easement over the west 8 feet of said Lot 6 and except an existing utility easement over the east 15 feet of said Lot 6.

The above-described property to be acquired contains 2,471 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 and one half (1 1/2) years 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 No. 32:

The north 30.00 feet of Lot 6, Block A, Arlington Heights Subdivision No. 3 in the City of Topeka, Shawnee County, Kansas, except an existing easement over the west 8 feet of said Lot 6 and except an existing easement over the east 15 feet of said Lot 6.

The above-described property to be acquired contains 6,582 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 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 OCT 07 2003

SEAL OF TOPEKA
CAPITAL CITY INCORPORATED

Harry Felker, Mayor

ATTEST:

Iris Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY
DATE 9/19/03 BY 35C
TO BE CODIFIED
NOT TO BE CODIFIED X