ORDINANCE NO. 18097

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. 28493-00, approximately located on Wanamaker Road, from 10th Street to 17th 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. 28493-00, and for other public purposes, said lands being described as follows:

Parcel No. 1

Owner of Record: J & J Developments, Inc.
1320 SW Topeka Blvd.
Topeka, KS 66612

Contract Purchaser: NONE

Lienholder of Record: Commerce Bank and Trust
3035 S. Topeka Blvd.
Topeka, KS 66611

Party in Possession: Owner of Record

Easement Owner: Scotch Industries, Inc.
1029 New Hampshire
Lawrence, KS 66044

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A portion of Lot 1, Block "A" Conservation Gardens Subdivision No. 4 to the City of Topeka Shawnee County, Kansas, described as follows:
Commencing at the Northwest corner of said Lot 1; thence southerly, coincident with the westerly line of said Lot 1, also being the easterly right of way line of S.W. Wanamaker Road, on Az. 178 degrees 26 minutes 21 seconds, (bearing bases assumed), a distance of 56.81 feet to the point of beginning; thence northeasterly, on Az. 42 degrees 56 minutes 59 seconds, a distance of 45.80 feet; thence southerly, on Az. 178 degrees 26 minutes 23 seconds, a distance of 14.26 feet; thence southwesterly, on Az. 222 degrees 56 minutes 59 seconds, a distance of 45.80 feet to the intersection with the westerly line of said Lot 1; thence Northerly coincident with the westerly line of said Lot 1, on Az. 358 degrees 26 minutes 21 seconds, a distance of 14.26 feet to the point of beginning.

The above-described property to be acquired contains 457 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:**

A portion of Lot 1, Block "A" Conservation Gardens Subdivision No. 4 to the City of Topeka, Shawnee County, Kansas, described as follows:

Commencing at the northwest corner of said Lot 1; thence Southerly, coincident with the westerly line of said Lot 1, also being the easterly right of way line of S.W. Wanamaker Road, on Az. 178 degrees 26 minutes 21 seconds, (bearing bases assumed), a distance of 10.00 feet to the southerly line of an existing 30 foot wide platted water line easement and the point of beginning; thence easterly, coincident with the southerly line of said water line easement, on Az. 87 degrees 44 minutes 54 seconds, a distance of 32.11 feet; thence southerly, on Az. 178 degrees 26 minutes 23 seconds, a distance of 14.54 feet; thence southwesterly, on Az. 222 degrees 56 minutes 59 seconds, a distance of 45.80 feet to the intersection with the westerly line of said Lot 1; thence northerly, coincident with the westerly line of said Lot 1, on Az. 358 degrees 26 minutes 21 seconds, a distance of 46.81 feet to the point of beginning.

The above-described property to be acquired contains 984 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: Jere Noe and Karen S. Kelly, Co-Trustees of the Charles Kelly Wanamaker Trust u/a dated August 9, 1995
P.O. Box 67594
Topeka, KS 66667

Contract Purchaser: NONE

Lienholder of Record: Kaw Valley State Bank and Trust Company
1110 North Kansas Avenue
Topeka, KS 66608

Party in Possession:
1.) Kelly Development, L.L.C.
   1001 SW Wanamaker Road
   Topeka, KS 66604

2.) Kelly Express
   1001 SW Wanamaker Road
   Topeka, KS 66604

3.) Kaw Valley State Bank
   1001 SW Wanamaker Road
   Topeka, KS 66604

4.) B & C Liquor
   1001 SW Wanamaker Road
   Topeka, KS 66604

5.) Quizno's Classic Subs
   1001 SW Wanamaker Road
   Topeka, KS 66604

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A portion of Lot 1, Block "A" Kelly Subdivision No. 2 to the City of Topeka, Shawnee County, Kansas, described as follows:

Commencing at the Southeast corner of said Lot 1; thence on Az. 267 degrees 58 minutes, 13 seconds, coincident with the south line of said Lot 1, a distance of 22.50 feet; thence on Az. 358 degrees, 26 minutes 21 seconds, parallel with the east line of
said Lot 1, a distance of 16.00 feet to the north line of a 16.00 foot wide utility
easement, being the point of beginning; thence on Az. 267 degrees, 58 minutes, 13
seconds, coincident with the north line of said 16.00 foot wide utility easement, a
distance of 50.00 feet; thence on Az. 358 degrees, 26 minutes, 21 seconds, parallel
with the east line of said Lot 1, a distance of 54.00 feet; thence on Az. 87 degrees, 58
minutes, 13 seconds parallel with the south line of said Lot 1, a distance of 65.00 feet
to the west line of a 7.50 foot wide utility easement; thence on Az. 178 degrees, 26
minutes, 21 seconds, coincident with the west line of said 7.50 foot wide utility
easement, a distance of 45.00 feet; thence on Az. 267 degrees, 58 minutes, 13
seconds, parallel with the south line of said Lot 1, a distance of 15.00 feet; thence on
Az. 178 degrees 26 minutes, 21 seconds, parallel with the east line of said Lot 1, a
distance of 9.00 feet to the point of beginning.

The above-described property to be acquired contains 3,375 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:

A portion of Lot 1, Block “A” Kelly Subdivision No. 2 to the City of Topeka, Shawnee
County, Kansas, described as follows:

Commencing at the Southeast corner of said Lot 1; thence on Az. 267 degrees, 58
minutes 13 seconds, coincident with the south line of said Lot 1, a distance of 22.50
feet; thence on Az. 358 degrees, 26 minutes, 21 seconds, parallel with the east line of
said Lot 1, a distance of 16.00 feet to the north line of a 16.00 foot wide utility
easement, being the point of beginning; thence continuing on Az. 358 degrees, 26
minutes, 21 seconds, a distance of 9.00 feet; thence on Az. 87 degrees, 58 minutes,
13 seconds, parallel with the south line of said Lot 1, a distance of 15.00 feet to the
west line of a 7.50 foot wide utility easement, thence on Az. 178 degrees, 26 minutes,
21 seconds, coincident with the west line of said 7.50 foot wide utility easement, a
distance of 9.00 feet to the north line of said 16.00 foot wide utility easement; thence
an Az. 267 degrees, 58 minutes, 13 seconds, coincident with the south line of said
16.00 foot wide utility easement, a distance of 15.00 feet to the point of beginning.

The above-described property to be acquired contains 135.00 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: C & R Land Company, L.L.C.
823 W. 10th Street
Topeka, KS 66612

Contract Purchaser: NONE

Lienholder of Record: Commerce Bank and Trust
3035 S. Topeka Blvd.
Topeka, KS 66611

Party in Possession: Roy Brown, Tenant
1109 SW Wanamaker Road
Topeka, KS 66604

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A portion of Lot 3, Vitt Acres, a subdivision to the City of Topeka, Shawnee County, Kansas, also being a portion of that certain parcel of land described in Book 3103, Page 464 Official Records of Shawnee County, Kansas, described as follows:

Beginning at a point on the north line of said Lot 3, 35.00 feet westerly of the northeast corner of said lot; thence southerly, 25.00 feet westerly of, normally distant from and parallel with the westerly right of way line of S.W. Wanamaker Road, on Az. 178 degrees 26 minutes 21 seconds, (bearing base assumed), a distance of 99.89 feet, measured, 100.00 feet, record to the southerly line of said Lot 3; thence westerly, coincident with the southerly line of said Lot 3, on Az. 267 degrees 58 minutes 13 seconds, a distance of 10.00 feet; thence northerly, 35.00 feet westerly of, normally distant from and parallel with said westerly right of way line, on Az. 358 degrees 26 minutes 21 seconds, a distance of 99.89 feet, measured, 100.00 feet, record to the northerly line of said Lot 3; thence easterly, coincident with the northerly line of said Lot 3 on Az. 87 degrees 58 minutes 13 seconds, a distance of 10.00 feet to the point of beginning.

The above-described property to be acquired contains 998 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:

A portion of Lot 3, Vitt Acres, a subdivision to the City of Topeka, Shawnee County, Kansas, also being a portion of that certain parcel of land described in Book 3103, Page 464 Official Records of Shawnee County, Kansas, described as follows:

Beginning at a point on the north line of said Lot 3, 10.00 feet westerly of the northeast corner of said Lot, being a point on the westerly right of way line of S.W. Wanamaker Road and the point of beginning; thence southerly, coincident with said westerly right of way line, on Az. 178 degrees 26 minutes 21 seconds, (bearing base assumed), a distance of 99.89 feet, measured, 100.00 feet, record to the southerly line of said Lot 3; thence westerly, coincident with the southerly line of said Lot 3, on Az. 267 degrees 58 minutes 13 seconds, a distance of 25.00 feet; thence northerly, 25.00 feet westerly of, normally distant from and parallel with said westerly right of way line, on Az. 358 degrees 26 minutes 21 seconds, a distance of 99.89 feet, measured, 100.00 feet, record to the northerly line of said Lot 3; thence easterly, coincident with the northerly line of said Lot 3, on Az. 87 degrees 58 minutes 13 seconds, a distance of 25.00 feet to the point of beginning.

The above-described property to be acquired contains 2,497 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel No. 8

Owner of Record: WIN, L.L.C.
1900 SW Wanamaker Road
Topeka, KS  66604

Contract Purchaser: NONE

Lienholder of Record: Kaw Valley State Bank and Trust Company
1110 North Kansas Avenue
Topeka, KS  66608

Party in Possession: 1.) Orscheln Farm & Home
1139 SW Wanamaker Road
Topeka, KS  66604

2.) Factory Direct Appliance
1145 SW Wanamaker Road
Topeka, KS  66604
3.) G &G Electric Company
1189 SW Wanamaker Road
Topeka, KS  66604

4.) Name Brand Clothing
1191 SW Wanamaker Road
Topeka, KS  66604

5.) Room Makers
1155 SW Wanamaker Road
Topeka, KS  66604

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A portion of Lot 1, Block “A”, M.D.R. Subdivision, City of Topeka, Shawnee County, Kansas, described as follows:

The West 15.00 feet of the East 50.00 feet, except the North 12.00 feet thereof; also excepting the South 130 feet of said Lot 1 replatted as M.D.R. Subdivision No. 2, Recorded in Book 30, Page 39, Official Records of Shawnee County, Kansas.

The above-described property to be acquired contains 5,691 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:

A portion of Lot 1, Block “A”, M.D.R. Subdivision, City of Topeka, Shawnee County, Kansas, described as follows:

The East 35.00 feet, except the North 12.00 feet thereof; also excepting the South 130 feet of said Lot 1 Replatted as M.D.R. Subdivision No. 2, recorded in Book 30, Page 39, Official Records of Shawnee County, Kansas.

The above-described property to be acquired contains 13,277 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

VYCOND/ORDINANCE28493-00
09/09/03
Parcel No. 10

Owner of Record: Sam's Real Estate Business Trust
Realty Management Dept. #44-9384
2001 SE 10th Street
Bentonville, AR 72716

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: Owner of Record

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

Three tracts of land, being portions of Lot 3, Block "A", Wanamaker Square Subdivision, (Book 31, Page 98 Official Records), a subdivision to the City of Topeka, Shawnee County, Kansas, described as follows:

Tract No. 1

Commencing at a point on the easterly line of said Lot 3, being the southwest corner of the dedicated right of way for the easterly end of S.W. Winding Road; thence westerly, coincident with the westerly prolongation of the southerly right of way line of said S.W. Winding Road, on Az. 270 degrees 12 minutes 56 seconds, (bearing base assumed), a distance of 34.08 feet; thence Northerly, on Az. 000 degrees 12 minutes 56 seconds, a distance of 64.94 feet to the point of beginning; thence westerly, 128.50 feet northerly of, normally distant from and parallel with the southerly line of said Lot 3, on Az. 270 degrees 12 minutes 53 seconds, a distance of 30.00 feet; thence northerly, on Az. 000 degrees 12 minutes 53 seconds, a distance of 290.31 feet to the northeasterly line of said Lot 3, also being the southwesterly right of way line of said S.W. Winding Road; thence southeasterly, coincident with the northeasterly line of said Lot 3, being a curve to the right, having a radius of 145.00 feet, a central angle of 15 degrees 58 minutes 53 seconds, (whose chord bears Az. 132 degrees 07 minutes 37 seconds, 40.31 feet), an arc distance of 40.44 feet; thence southerly, on Az 180 degrees 12 minutes 53 seconds, a distance of 263.38 feet to the point of beginning.

The above-described property to be acquired contains 8,343 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.
Tract No. 2

Beginning at a point on the easterly line of aid Lot 3, being the southwest corner of the dedicated right of way for the easterly end of S.W. Winding Road; thence easterly, coincident with the southerly right of way line of said S.W. Winding Road, on Az. 90 degrees 12 minutes 56 seconds, (bearing base assumed), a distance of 5.92 feet; thence southerly, on Az. 180 degrees 12 minutes 53 seconds, a distance of 63.56 feet to the southerly line of said Lot 3; thence westerly, coincident with the southerly line of said Lot 3, on Az. 270 degrees 12 minutes 46 seconds, a distance of 20.00 feet; thence northerly, on Az. 000 degrees 12 minutes 53 seconds, a distance of 63.56 feet to the intersection with the westerly prolongation of the southerly right of way line of said S.W. Winding Road; thence Easterly, coincident with the westerly prolongation of said southerly right of way line, on Az. 90 degrees 12 minutes 53 seconds, a distance of 14.08 feet to the point of beginning.

The above-described property to be acquired contains 1,271 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Tract No. 3

Commencing at a point on the easterly line of said Lot 3, being the southwest corner of the dedicated right of way for the easterly end of S.W. Winding Road; thence westerly, coincident with the westerly prolongation of the southerly right of way line of said S.W. Winding Road; on Az. 270 degrees 12 minutes 56 seconds, (bearing base assumed), a distance of 34.08 feet to the point of beginning; thence southerly, on Az. 180 degrees 12 minutes 53 seconds, a distance of 63.56 feet to the southerly line of said Lot 3; thence westerly, coincident with the southerly line of said Lot 3, on Az. 270 degrees 12 minutes 46 seconds, a distance of 20.00 feet; thence northerly, on Az. 000 degrees 12 minutes 53 seconds, a distance of 63.57 feet to the intersection with the westerly prolongation of southerly right of way line of said S.W. Winding Road; thence easterly, coincident with the westerly prolongation of said southerly right of way line, on Az. 90 degrees 12 minutes 56 seconds, a distance of 20.00 feet to the point of beginning.

The above-described property to be acquired contains 1,271 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

The above-described three tracts of land contains the total area of 10,885 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:

A portion of Lot 3, Block “A”, Wanamaker Square Subdivision, (Book 31, Page 98 Official Records), a subdivision to the City of Topeka, Shawnee County, Kansas, described as follows:

Beginning at a point on the easterly line of said Lot 3, being the southwest corner of the dedicated right of way for the easterly end of S.W. Winding Road; thence westerly, coincident with the westerly prolongation of the southerly right of way line of said S.W. Winding Road; on Az. 270 degrees 12 minutes 56 seconds, (bearing base assumed), a distance of 14.08 feet; thence southerly, on Az. 180 degrees 12 minutes 56 seconds, a distance of 63.56 feet to the line common to Lot 2 and said Lot 3; thence westerly, coincident with the said common line, on Az. 270 degrees 12 minutes 46 seconds, a distance of 20.00 feet; thence northerly, on Az. 000 degrees 12 minutes 53 seconds, a distance of 391.88 feet to the intersection with the northeasterly line of said Lot 3, also being the southwesterly right of way line of said S.W. Winding Road; thence Southeasterly, coincident with the northeasterly line of said Lot 3, being a curve to the right, having a radius of 145.00 feet, a central angle of 40 degrees 05 minutes 53 seconds, (whose chord bears Az. 160 degrees 09 minutes 59 seconds, 99.42 feet), an arc distance of 101.48 feet; thence southerly, coincident with the easterly line of said Lot 3, on Az. 180 degrees 12 minutes 53 seconds, a distance of 234.92 feet to the point of beginning.

The above-described property to be acquired contains 11,455 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel No. 11

Owner of Record: Wal-Mart Real Estate Business Trust
Realty Management Dept. #44-9384
2001 SE 10th Street
Bentonville, AR 72716

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: Owner of Record
Easement Owner: 1.) Wanamaker Steaks LLC
9323 E. 37th
Wichita, KS 67226

2.) Weingarten Realty Investors
P.O. Box 924133
Houston, TX 77292-4133

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

Three tracts of land, being portions of Lot 2, Block “A”, Wanamaker Square Subdivision, (Book 31, Page 98 Official Records), a subdivision to the City of Topeka, Shawnee County, Kansas, described as follows:

Tract No. 1

Commencing at the most northerly corner of said Lot 2; thence westerly, coincident with the northerly line of said Lot 2; on Az. 270 degrees 12 minutes 46 seconds, (bearing base assumed), a distance of 54.08 feet to the point of beginning; thence southerly, on Az. 180 degrees 12 minutes 53 seconds, a distance of 739.43 feet; thence easterly, on Az. 90 degrees 12 minutes 54 seconds, a distance of 236.99 feet to the easterly line of said Lot 2, also being a point on the westerly right of way of S.W. Wanamaker Road; thence southerly, coincident with the easterly line of said Lot 2, on Az. 180 degrees 12 minutes 56 seconds, a distance of 10.00 feet; thence westerly, on Az. 270 degrees 12 minutes 54 seconds, a distance of 256.99 feet; thence northerly, on Az. 000 degrees 12 minutes 53 seconds, a distance of 749.43 feet to the northerly line of said Lot 2; thence easterly, coincident with the northerly line of said Lot 2, on Az. 90 degrees 12 minutes 46 seconds, a distance of 20.00 feet to the point of beginning. Excepting therefrom an existing 16.00 foot wide utility easement, the center line of said utility easement lying 188.9 feet, more or less, southerly of, normally distant from and parallel with the north line of said Lot 2.

The above-described property to be acquired contains 17,037 square feet (0.38 acres), 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 most northerly corner of said Lot 2; thence westerly, coincident with the northerly line of said Lot 2, Az. 270 degrees 12 minutes 46 seconds, (bearing base assumed), a distance of 94.08 feet to the point of beginning; thence southerly, on Az. 180 degrees 12 minutes 53 seconds, a distance of 859.11 feet; thence
southwesterly, on Az. 225 degrees 12 minutes 53 seconds, a distance of 155.55 feet; thence southerly, on Az. 180 degrees 12 minutes 55 seconds, a distance of 99.33 feet to the southerly line of said Lot 2; thence westerly, coincident with the southerly line of said Lot 2, on Az. 270 degrees 09 minutes 12 seconds, a distance of 20.00 feet; thence northerly, on Az. 000 degrees 12 minutes 55 seconds, a distance of 107.63 feet; thence northeasterly, on Az. 45 degrees 12 minutes 53 seconds, a distance of 155.55 feet; thence northerly, on Az. 000 degrees 12 minutes, a distance of 850.83 feet to the northerly line of said Lot 2; thence easterly, coincident with the northerly line of said Lot 2, on Az. 90 degrees 12 minutes 46 seconds, a distance of 20.00 feet to the point of beginning. Excepting therefrom two existing 16 foot wide utility easements, the center line of the first utility easement lying 188.9 feet, more or less, southerly of, normally distant from and parallel with the north line of said Lot 2, the center line of the second utility easement lying 8.00 feet northerly of, normally distant from and parallel with the south line of said Lot 2; also excepting therefrom an existing 16.00 foot wide water line easement, the center line of said easement lying 24.00 feet northerly of normally distant from and parallel with the south line of said Lot 2.

The above-described property to be acquired contains 21,310 square feet (0.48 acres), more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Tract No. 3

Beginning at the Northwest corner of Lot 4, Block “A” Wanamaker Square Subdivision, being a common corner of an easterly line of said Lot 2; thence westerly, coincident with the westerly prolongation of the northerly line of said Lot 4, on Az. 270 degrees 12 minutes 56 seconds, a distance of 61.86 feet; thence southerly, on Az. 180 degrees 12 minutes 53 seconds, a distance of 91.25 feet; thence southwesterly, on Az. 225 degrees 12 minutes 53 seconds, a distance of 155.55 feet; thence southerly, on Az. 180 degrees 12 minutes 55 seconds, a distance of 82.72 feet to the southerly line of said Lot 2; thence westerly, coincident with the southerly line of said Lot 2, on Az. 270 degrees 09 minutes 12 seconds, a distance of 20.00 feet; thence northerly, on Az. 000 degrees 12 minutes 55 seconds, a distance of 91.02 feet; thence northerly, on Az. 45 degrees 12 minutes 53 seconds, a distance of 155.55 feet; thence northerly, on Az. 000 degrees 12 minutes 53 seconds, a distance of 97.97 feet; thence easterly, on Az. 90 degrees 12 minutes 54 seconds, a distance of 81.86 feet; thence southerly, on Az. 180 degrees 12 minutes 53 seconds, a distance of 15.00 feet to the point of beginning. Excepting therefrom an existing 16.00 foot wide utility easement, the center line of said utility easement lying 8.00 feet northerly of, normally distant from and parallel with the south line of said Lot 2; also excepting therefrom an existing 16.00 foot wide water line easement, the centerline of said easement lying 24.00 feet northerly of, normally distant from and parallel with the south line of said Lot 2.
The above-described property to be acquired contains 7,178 square feet (0.16 acres), more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

The above-described three tracts of land contains the total area of 45,525 square feet (1.03 acres), 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:

Two tracts of land, being a portion of Lot 2, Block “A”, Wanamaker Square Subdivision, (Book 31, Page 98 Official Records), a subdivision to the City of Topeka, Shawnee County, Kansas, described as follows:

Tract No. 1

A strip of land 20.00 feet wide, 10.00 feet each side of the following described centerline: Commencing at the most northerly corner of said Lot 2; thence westerly, coincident with the northerly line of said Lot 2; on Az. 270 degrees 12 minutes 46 seconds, (bearing base assumed) a distance of 84.08 feet to the point of beginning; thence southerly, on Az. 180 degrees 12 minutes 53 seconds, a distance of 863.25 feet; thence southwesterly, on Az. 225 degrees 12 minutes 53 seconds, a distance of 155.55 feet; thence southerly, on Az. 180 degrees 12 minutes 55 seconds, a distance of 95.17 feet to the intersection with the southerly line of said Lot 2 and the point of termination. Excepting therefrom two existing 16 foot wide utility easements, the center line of the first utility easement lying 188.9 feet, more or less, southerly of, normally distant from and parallel with the north line of said Lot 2, the center line of the second utility easement lying 8.00 feet northerly of, normally distant from and parallel with the south line of said Lot 2; also excepting therefrom an existing 16.00 foot wide water line easement, the center line of said easement lying 24.00 feet northerly of normally distant from and parallel with the south line of said Lot 2. The side lines of the above described strip, being prolonged or shortened to conform to said Lot 2 boundary lines.

The above-described property to be acquired contains 21,322 square feet, (0.48 acres), more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.
Tract No. 2

Beginning at the northeast corner of Lot 4, Block “A”, Wanamaker Square Subdivision, being a common corner on an easterly line of said Lot 2, also being a point on the Westerly right of way line of S.W. Wanamaker Road; thence westerly, coincident with the northerly line of said Lot 4, being a common line to said Lot 2, on Az. 270 degrees 12 minutes 56 seconds, (bearing base assumed), a distance of 175.13 feet, measured and recorded, to the northwest corner of said Lot 4; thence northerly, on Az. 000 degrees 12 minutes 53 seconds, a distance of 15.00 feet; thence westerly, on Az. 270 degrees 12 minutes 53 seconds, a distance of 81.86 feet; thence northerly, on Az. 000 degrees 12 minutes 54 seconds, a distance of 20.00 feet; thence easterly, on Az. 90 degrees 12 minutes 54 seconds, a distance of 256.99 feet to the easterly line of said Lot 2; thence southerly, coincident with the easterly line of said Lot 2, also being said westerly right of way line, on Az. 180 degrees 12 minutes 56 seconds, a distance of 35.01 feet to the point of beginning.

The above-described property to be acquired contains 7,767 square feet, (0.17 acres), more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

The above-described three tracts to be acquired contain a total of 29,089 square feet, (0.65 acres), more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel No. 12

Owner of Record: Weingarten Realty Investors a Texas Real Estate Investment Trust
P.O. Box 924133
Houston, TX 77292

Contract Purchaser: NONE

Lienholder of Record: 1.) Central National Bank
800 SE Quincy
Topeka, KS 66612

2.) American Family Life Insurance Company
1300 SW Arrowhead
Topeka, KS 66604

Party in Possession: 1.) Kohl’s Department Store
6130 SW 17th
Topeka, KS 66604
2.) Barnes & Noble Booksellers  
6130 SW 17th  
Topeka, KS 66604

Easement Owners: Western Resources, Inc.  
818 South Kansas Avenue  
Topeka, KS 66612

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

Two tracts of land, being portions of Lot 2, Block “A”, Wanamaker Square Subdivision  
No. 3, (Book 34, Page 142 Official Records), a subdivision to the City of Topeka,  
Shawnee County, Kansas, described as follows:

Tract No. 1

Commencing at the Southwest corner of said Lot 2; thence Easterly, coincident with  
the southerly line of said Lot 2, on Az. 88 degrees 16 minutes 38 seconds, (bearing  
base assumed), a distance of 680.69 feet to the point of beginning; thence northerly,  
on Az. 000 degrees, 12 minutes 55 seconds, a distance of 550.68 feet to the northerly  
line of said Lot 2; thence easterly, coincident with the northerly line of said Lot 2, on  
Az. 90 degrees 09 minutes 12 seconds, a distance of 20.00 feet; thence southerly, on  
Az. 180 degrees 12 minutes 55 seconds, a distance of 550.03 feet to the southerly  
line of said Lot 2; thence westerly, coincident with the southerly line of said Lot 2, on  
Az. 268 degrees 16 minutes 38 seconds, a distance of 20.01 feet to the point of  
beginning. Excepting therefrom an existing 20.0 foot wide drainage and utility  
easement, the center line of said easement lying 10.00 feet southerly of, normally  
distant from and parallel with the north line of said Lot 2.

The above-described property to be acquired contains 10,619 square feet (0.24  
acres), 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 Southwest corner said Lot 2; thence easterly, coincident with the  
southerly line of said Lot 2, Az. 88 degrees 16 minutes 38 seconds, (bearing base  
assumed), a distance of 640.67 feet to the point of beginning; thence northerly, on Az.  
000 degrees 12 minutes 55 seconds, a distance of 551.99 feet to the northerly line of  
said Lot 2; thence easterly, coincident with the northerly line of said Lot 2, on Az. 90  
degrees 09 minutes 12 seconds, a distance of 20.00 feet; thence southerly, on Az.
180 degrees 12 minutes 55 seconds, a distance of 551.34 feet to the southerly line of said Lot 2; thence westerly, coincident with the southerly line of said Lot 2, on Az. 268 degrees 16 minutes 38 seconds, a distance of 20.01 feet to the point of beginning. Excepting therefrom an existing 20.0 foot wide drainage and utility easement, the center line of said easement lying 10.00 feet southerly of, normally distant from and parallel with the north line of said Lot 2.

The above-described property to be acquired contains 10,619 square feet (0.24 acres), more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

The above-described two tracts of land contains the total area of 21,238 square feet, (0.48 acres), 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:**

A portion of Lot 2, Block A, Wanamaker Square Subdivision No. 3, (Book 34, page 142 Official Records), a subdivision to the City of Topeka, Shawnee County, Kansas, described as follows:

A strip of land 20.00 feet wide, 10.00 feet each side of the following described centerline: Commencing at the southwest corner of said Lot 2; thence easterly, coincident with the southerly line of said Lot 2, on Az. 88 degrees 16 minutes 38 seconds, (bearing base assumed), a distance of 670.68 feet to the point of beginning; thence northerly, on Az. 000 degrees 12 minutes 55 seconds, a distance of 551.01 feet to the intersection with the northerly line of said Lot 2 and the point of termination. Excepting therefrom an existing 20.0 foot wide drainage and utility easement, the center line of said easement lying 10.0 feet southerly of, normally distant from and parallel with the north line of said Lot 2. The side line of the above described strip, being prolonged or shortened to conform to said Lot 2 boundary lines.

The above-described property to be acquired contains 10,619 square feet, (0.24 acres), more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.
Parcel No. 13 and 14

Owner of Record: Topeka Mall Associates, L.P.
1717 S.W. Wanamaker Road
Topeka, KS 66604

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: Vacant land

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement No. 13a:

A portion of Lot 2, Block “A”, Westridge Mall Subdivision No. 3, (Book 32, Page 92 Official Records), a subdivision to the City of Topeka, Shawnee County Kansas, described as follows:

Commencing at a point on the southerly right of way of S.W. 17th Street, being a point on the southerly line of that certain parcel of land described as “Project 70182 Parcel 1” in deed recorded in Book 2969, Page 257, Official Records, corrected by Affidavit dated September 20, 2002, Recorded in Book 3772, Page 829, from which the Northwest corner of said Lot 2 bears, Az. 42 degrees, 25 minutes, 52 seconds, 22.35 feet; thence westerly, coincident with the southerly line of said parcel recorded in Book 2969, Page 257, on Az. 268 degrees 16 minutes 38 seconds, (bearing base assumed), a distance of 175.92 feet; thence southerly, on Az. 183 degrees 33 minutes 47 seconds, a distance of 14.06 feet to the point of beginning; thence continuing southerly, on Az. 183 degrees 33 minutes 47 seconds, a distance of 10.04 feet; thence westerly, on Az. 268 degrees 16 minutes 38 seconds, a distance of 721.66 feet to the intersection with the easterly line of Lot 2, Block “A” West Ridge Mall Subdivision No. 5 (Book 34, Page 37 Official Records); thence Northerly, coincident with the east line of said Lot 2, Block “A” West Ridge Mall Subdivision No. 5, on Az 358 degrees 16 minutes 38 seconds, a distance of 10.00 feet; thence easterly, on Az 88 degrees 16 minutes 38 seconds, a distance of 722.58 feet to the point of beginning.

The above-described property to be acquired contains 7,221 square feet (0.16 acres), 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. 14a:

A portion of Lot 2, Block “A”, West Ridge Mall Subdivision No. 5, (Book 34, Page 37 Official Records), a subdivision to the City of Topeka, Shawnee County Kansas, described as follows:

The Southerly 10.00 feet of the North 20.00 feet of said Lot 2. Excepting therefrom a 20.00 foot wide existing waterline easement, the centerline of said easement lying 64.00 feet easterly of, normally distant from and parallel with the west line of said Lot 2.

The above-described property to be acquired contains 2,832 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 13:

A portion of Lot 2, Block “A”, West Ridge Mall Subdivision No. 3 (Book 32, Page 92 Official Records), a subdivision to the City of Topeka, Shawnee County, Kansas, described as follows:

Commencing at a point on the southerly right of way of S.W. 17th Street, being a point on the southerly line of that certain parcel of land described as “Project 70182 Parcel 1” in deed recorded in Book 2969 Page 257, Official Records, corrected by Affidavit dated September 20, 2002, recorded in Book 3772, Page 831, from which the Northwest corner of said Lot 2 bears, Az. 42 degrees, 25 minutes, 52 seconds, 22.35 feet; thence westerly, coincident with the southerly line of said parcel recorded in Book 2969, Page 257, on Az. 268 degrees 16 minutes 38 seconds, (bearing base assumed), a distance of 175.92 feet to the point of beginning; thence southerly, on Az. 183 degrees 33 minutes 47 seconds, a distance of 14.06 feet; thence westerly, on Az. 268 degrees 16 minutes 38 seconds, a distance of 722.58 feet to the intersection with the easterly line of Lot 2, Block “A” West Ridge Mall Subdivision No. 5, (Book 34, page 37 Official Records); thence Northerly, coincident with the east line of said Lot 2, Block “A” West Ridge Mall Subdivision No. 5, on Az. 358 degrees 16 minutes 38 seconds, a distance of 20.00 feet to the northerly line of said Lot 2, also being the southerly right of way line of said S.W. 17th Street; thence easterly, coincident with the
northerly line of said Lot 2, on Az. 88 degrees 16 minutes 38 seconds, a distance of
499.47 feet to the most westerly corner of said parcel of land recorded in Book 2969,
Page 257; thence continuing easterly, coincident with the southerly line of said parcel
recorded in Book 2969, Page 257, also being the southerly right of way of said S.W.
17th Street, on Az. 95 degrees 54 minutes 56 seconds, a distance of 45.14 feet,
measured and recorded; thence continuing easterly, coincident with the southerly line
of said parcel of land recorded in Book 2969, page 257, on Az. 88 degrees 16
minutes 38 seconds, a distance of 179.98 feet to the point of beginning.

The above-described property to be acquired contains 13,253 square feet, (0.30
acres), more or less, and is subject to all rights-of-way, easements, restrictions, and
covenants of record, if any.

**Permanent Easement No 14:**

A portion of Lot 2, Block "A", West Ridge Mall Subdivision No. 5, (Book 34, Page 37
Official Records), a subdivision to the City of Topeka, Shawnee County Kansas,
described as follows:

The North 10.00 feet of said Lot 2. Excepting therefrom a 20.00 foot wide existing
water line easement, the centerline of said easement, lying 64.00 feet easterly of,
normally distant from, and parallel with the west line of said Lot 2.

The above-described property to be acquired contains 2,832 square feet, more or
less, and is subject to all rights-of-way, easements, restrictions, and covenants of
record, if any.

**Parcel No. 15**

Owner of Record: Hollywood Theaters, Inc.
Attn: Mr. Tim Reed, Westridge 8 #74
919 SW Taylor #800
Portland, OR 97205

Contract Purchaser: NONE

Lienholder of Record: NONE

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

Temporary Construction Easement:

A portion of Lot 1, Block "A", West Ridge Mall Subdivision No. 5 (Book 34, page 37 Official Records), a subdivision to the City of Topeka, Shawnee County Kansas, described as follows:

The Southerly 10.00 feet of the North 20.00 feet of said Lot 1, EXCEPTING the Westerly 15.00 feet thereof.

The above-described property to be acquired contains 6,915 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:

A portion of Lot 1, Block "A", West Ridge Mall Subdivision No. 5, (Book 34, Page 37 Official Records), a subdivision to the City of Topeka, Shawnee County, Kansas, described as follows:

The North 10.00 feet of said Lot 1, EXCEPTING the westerly 15.00 feet thereof.

The above-described property to be acquired contains 6,911 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel No. 17

Owner of Record: WIN, L.L.C.
1900 SW Wanamaker Road
Topeka, KS 66604

Contract Purchaser: NONE

Lienholder of Record: Kaw Valley State Bank and Trust Company
1110 North Kansas Avenue
Topeka, KS 66608
Party in Possession:

1.) Orscheln Farm & Home
   1139 SW Wanamaker Road
   Topeka, KS  66604

2.) Factory Direct Appliance
   1145 SW Wanamaker Road
   Topeka, KS  66604

3.) G &G Electric Company
   1189 SW Wanamaker Road
   Topeka, KS  66604

4.) Name Brand Clothing
   1191 SW Wanamaker Road
   Topeka, KS  66604

5.) Room Makers
   1155 SW Wanamaker Road
   Topeka, KS  66604

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A portion of Lot 1, Block "A", M.D.R. Subdivision No. 2, a subdivision to the City of Topeka, Shawnee County Kansas, described as follows: The east 25 feet of said Lot 1.

The above-described property to be acquired contains 3,250 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.

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.

Harry Fisk, Mayor

ATTEST:

Iris Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY

DATE 9/1/03 BY BB

TO BE CODIFIED

NOT TO BE CODIFIED x

VYCOND/ORDINANCE28493-00
09/09/03 22