AN ORDINANCE introduced by Mayor James A. McClinton authorizing the initiation of condemnation proceedings to acquire property by eminent domain for the City of Topeka Waterline Improvement Project No. 28537-00, in the area of South Topeka Boulevard from the Kirklawn Tower south to SE 45th 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 Waterline Improvement Project No. 28537-00, and for other public purposes, said lands being described as follows:

Parcel No. 1

Owner of Record: Clinton L. Keeter Jr.
555 SW 39th St
Topeka, KS 66609

Contract Purchaser: NONE

Lienholder of Record: 1) Kaw Valley State Bank & Trust Company
1110 N Kansas Avenue
Topeka, KS 66608

2) Fostoria Glass Company
Resident Agent
The Corporation Company, Inc.
515 Kansas Avenue
Topeka, KS 66603

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

Permanent Utility Easement No. 1:

A tract of land in Lot 1, Block A, Fostoria Subdivision in the Southeast Quarter of Section 24, Township 12 South, Range 15 East of the Sixth Principal Meridian in the City of Topeka, Shawnee County, Kansas, described as follows: Commencing at the Northwest corner of said Lot 1; thence along the north line of said Lot 1 on an assumed bearing of N89°44'06"E, 12.00 feet to the easterly line of an existing utility easement as platted in said Subdivision; thence along the easterly line of said easement S00°06'06"W, 11.40 feet to the point of beginning; thence continuing along the easterly, northerly, and westerly line of said easement the following courses: S00°06'06"W, 10.02 feet; S52°53'21"E, 257.94 feet; N89°44'06"E, 73.03 feet; N79°10'38"E, 24.74 feet; and N00°06'06"E, 3.47 feet; thence departing said easement line S89°44'06"W, 94.67 feet; thence N52°53'21"W, 261.26 feet to the point of beginning.

The above-described property to be acquired contains 2,790 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: United States of America
US Army Eng. Dist. Omaha
PO Box 547
Omaha, NE 68101

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: 1) Owner of Record
2) Operator under Memorandum of Telecommunications Lease Agreement
   Attn: General Attorney and Wayne White
   500 E 8th Street, Room 598
   Kansas City, MO 64106

VYCOND/ORDINANCE28537-00
05/07/04 2
PROPERTY TO BE ACQUIRED:

Temporary Construction Easement No. 4:
The West 10 feet of the East 30 feet, less the North 40 feet thereof, together with the South 8 feet of the North 40 feet of the East 413.16 feet, less the East 20 feet thereof, together with the West 13 feet of the South 20 feet of the North 32 feet of Block A, Replat of Seymour Subdivision in the City of Topeka, Shawnee County, Kansas.

The above-described property to be acquired contains 5,522 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 No. 2:
The east 20 feet less the north 32 feet, together with the south 20 feet of the north 32 feet of the east 400.16 feet of Block A, Replat of Seymour Subdivision in the Southeast Quarter of Section 24, Township 12 South, Range 15 East of the Sixth Principal Meridian in the City of Topeka, Shawnee County, Kansas.

The above-described property to be acquired contains 12,400 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: Frito-Lay, Inc.
3131 S Vaughn Way, Ste 301
Aurora, CO 80014-3509

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: Owner of Record

Easement Owner: Western Resources, Inc.
818 Kansas Avenue
Topeka, KS 66612
PROPERTY TO BE ACQUIRED:

Temporary Construction Easement No. 5:

A tract of land in Block B, Replat of Seymour Subdivision in the Southeast Quarter of Section 24 and the Northeast Quarter of Section 25, Township 12 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 north line of said Block B, 20 feet west of the northeast corner of said Block B; thence on an assumed bearing of S01°26'45"E, parallel with the east line of said Block B, 860.87 feet; thence S02°56'03"W, 662.60 feet; thence S 13°06'50"W, 71.73 feet; thence S76°37'13"E, 15.00 feet to the east line of said Block B; thence along said east line S13°06'50"W, 30.01 feet; thence N76°30'32"W, 45.00 feet; thence N13°06'50"E, 91.12 feet; thence N88°19'20"E, 21.43 feet; thence N02°56'21"E, 664.66 feet; thence N01°28'13"W, 388.65 feet; thence N90°00'00"W, 69.71 feet; thence N01°27'50"W, 460.20 feet to the north line of said Block B; thence easterly 74.82 feet along the north line of said Block B on a curve concave to the south having a radius of 260.00 feet, a chord direction of N80°20'51"E, and a chord distance of 74.57 feet; thence continuing along said north line N88°35'14"E, 6.20 feet to the point of beginning.

The above-described property to be acquired contains 51,304 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.

Temporary Construction Easement No. 6:

That part of Block B, Replat of Seymour Subdivision in the Southeast Quarter of Section 24, Township 12 South, Range 15 East of the Sixth Principal Meridian in the City of Topeka, Shawnee County, Kansas, described as follows: Commencing at the Northeast corner of said Block B; thence along the east line of said Block B on an assumed bearing of S01°26'45"E, 792.15 feet to a point 485.98 feet north of a point of intersection in the east line of said Block B, and being the Point of Beginning; thence departing said east line S02°56'03"W, 729.84 feet to a point on the south line of said Southeast Quarter, said point being 191.09 feet west of the southeast corner of said Southeast Quarter; thence along the south line of said Southeast Quarter, N88°19'20"E, 6.53 feet to the east line of said Block B; thence along said east line, N10°03'43"E, 246.66 feet to a point of intersection in said east
line; thence continuing along said east line, N01°26'45"W, 485.98 feet to the point of beginning.

The above-described property to be acquired contains 14,332 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 No. 3:**

That part of Block B, Replat of Seymour Subdivision in the Southeast Quarter of Section 24 and the Northeast Quarter of Section 25, Township 12 South, Range 15 East of the Sixth Principal Meridian in the City of Topeka, Shawnee County, Kansas, described as follows: Beginning at the Northeast corner of said Block B; thence along the east line of said Block B on an assumed bearing of S01°26'45"E, 796.15 feet to a point 485.98 feet north of a point of intersection in the east line of said Block B; thence departing said east line S02°56'03"W, 792.83 feet to a point on the south line of said Southeast Quarter, said point being 191.09 feet west of the southeast corner of said Southeast Quarter; thence continuing S02°56'03"W, 0.15 feet to the east line of said Block B; thence along said east line S13°06'50"W, 73.14 feet; thence departing said east line N76°37'13"W, 15.00 feet; thence N13°06'50"E, 71.73 feet; thence N02°56'03"E, 662.60 feet; thence N01°26'45"W, parallel with the east line of said Block B, 860.87 feet to the north line of said Block B; thence along said north line N88°35'14"E, 20.00 feet to the point of beginning.

The above-described property to be acquired contains 28,101 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 ____________________________ JUL 06 2004.

[Seal of Topeka]

James A. McClinton, Mayor

ATTEST:

[Signature]

Iris Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY DATE 5/1/04 BY
TO BE CODIFIED
NOT TO BE CODIFIED □