(Published in the Topeka Metro News  October 21, 2005)

ORDINANCE NO. 18524

AN ORDINANCE introduced by City Manager Neil Dobler authorizing the initiation of condemnation proceedings to acquire property by eminent domain for the City of Topeka Improvement Project No. 30127-09, along the Shunga Trail between 17th Street and 21st Street, across the Burlington Northern and Santa Fe Railroad.

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 Improvement Project No. 30127-09, and for other public purposes, said lands being described as follows:

Parcel No. 1

Owner of Record: The Burlington Northern and Santa Fe Railway Company, fka The Atchison, Topeka and Santa Fe Railway Company (Subject to any rights of Shunganunga Drainage District regarding condemnation for channel change as set out in Book 450, Page 344)

Corp. Tax Dept A-08
2500 Lou Menk Drive
Fort Worth, TX 76131

Resident Agent: The Corporation Company, Inc.
515 S Kansas Ave
Topeka, KS 66603

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession:
1) Owner of Record

2) Shunganunga Drainage District
Diedre Barnett, President
2746 SW MacVicar
Topeka, KS 66611
PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

Parcel 4A

A tract in the Southeast Quarter of Section 6, Township 12 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as: Commencing at the Southeast corner of said Southeast Quarter; thence on an assumed bearing of South 88°00'33" West, on the South line of said Southeast Quarter, 1277.69 feet; thence North 0°26'42" East, parallel with the East line of said Southeast Quarter, on a line which is described as 1275.24 feet, and measured as 1276.54 feet east of the last said East line, 1447.39 feet to the Northwest corner of a tract described in a Quit Claim Deed in Volume 2132, at page 24; thence continuing on North 00°26'42" East, 33.35 feet, to the point of beginning; thence North 59°37'56" East, 556.96 feet, to an intersection with the Centerline of Shuangunga Creek, also being the West line of Keith's Second Subdivision; thence North 35°51'08" West, on the former Centerline of Shuangunga Creek, 9.73 feet; thence South 59°37'56" West, 550.26 feet; thence South 00°26'42" West, 11.27 feet, to the point of beginning.

The above-described property to be acquired contains 5,359 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (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:

Parcel 4B

Two tracts in Keith’s Second Subdivision in the Southeast Quarter of Section 6, Township 12 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as:

Tract I: Commencing at the Southeast corner of said Southeast Quarter; thence on an assumed bearing of South 88°00'33" West, on the South line of said Southeast Quarter, 990.44 feet, to an intersection with the Centerline of the Burlington Northern Santa Fe Railway Mainline Track; thence North 15°36'42" East, on the centerline of said mainline track; 1760.57 feet, to the point of beginning; thence South 74°25'58" East, 60.18 feet; thence North 71°56'13" East, 32.80 feet, to an
intersection with a line which is 88.00 feet easterly from the centerline of said mainline track; thence North 15°36'42" East, parallel with the centerline of said mainline track, 41.23 feet; thence South 62°11'49" West, 15.22 feet; thence westerly, on a curve concave northerly, having a radius measure of 114.37 feet and an arc length of 74.92 feet, the chord of which bears South 80°57'31" West, 73.58 feet; thence North 80°16'19" West, 112.15 feet; thence westerly, on a curve concave southerly, having a radius measure of 97.25 feet and an arc length of 29.34 feet, and a chord which bears North 88°55'17" West, 29.22 feet; thence South 82°26'39" West, 3.51 feet, to an intersection with the East line of Jefferson Street; thence South 01°38'12" East, on the East line of Jefferson Street, 28.40 feet; thence South 74°22'07" East, 50.27 feet; thence North 84°24'33" East, 80.28 feet, to the point of beginning;

Tract II: Commencing at the Southeast corner of said Southeast Quarter; thence on an assumed bearing of South 88°00'33" West, on the South line of said Southeast Quarter, 990.44 feet, to an intersection with the Centerline of the Burlington Northern Santa Fe Railway Mainline Track; thence North 15°36'42" East, on the centerline of said mainline track, 1810.64 feet, to the point of beginning; thence North 74°28'34" West, 149.59 feet, to an intersection with the East line of Jefferson Street; thence South 01°38'12" East, on the East line of Jefferson Street, 38.09 feet; thence North 82°26'39" East, 1.85 feet; thence easterly, on a curve concave southerly, having a radius measure of 113.25 feet and an arc length of 34.16 feet, the chord of which bears South 88°55'17" East, 34.03 feet; thence South 80°16'19" East, 112.15 feet; thence easterly, on a curve concave northerly, having a radius measure of 98.37 feet and an arc length of 64.44 feet, the chord of which bears North 80°57'31" East, 63.29 feet; thence North 62°11'49" East, 30.35 feet, to an intersection with a line which is 88.00 feet easterly from the centerline of said mainline track; thence North 15°36'42" East, parallel with the centerline of said mainline track, 36.42 feet; thence South 67°49'08" West, 110.70 feet, to the point of beginning.

The above-described property to be acquired contains 13,035 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (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 Multipurpose Trail Easement:

An easement in Keith’s Second Subdivision in the Southeast Quarter of Section 6, Township 12 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as: Commencing at the Southeast corner of said Southeast Quarter; thence on an assumed bearing of South 88°00'33" West, on the South line of said Southeast Quarter, 990.44 feet, to an intersection with the Centerline of the Burlington Northern Santa Fe Railway Mainline Track; thence North 15°36'42" East, on the centerline of said mainline track; 1777.84 feet, to the point of beginning; thence North 80°16'19" West, 102.13 feet; thence westerly on a curve concave southerly, having a radius measure of 97.25 feet and an arc length of 29.34 feet, and a chord which bears North 88°55'17" West, 29.22 feet; thence South 82°26'39" West, 3.51 feet, to an intersection with the East line of Jefferson Street; thence North 01°38'12" West, on the East line of Jefferson Street, 16.09 feet; thence North 82°26'39" East, 1.85 feet; thence easterly, on a curve concave southerly, having a radius measure of 113.25 feet and an arc length of 34.16 feet, the chord of which bears South 88°55'17" East, 34.03 feet; thence South 80°16'19" East, 112.15 feet; thence easterly, on a curve concave northerly, having a radius measure of 98.37 feet and an arc length of 64.44 feet, the chord of which bears North 80°57'31" East, 63.29 feet; thence North 62°11'49" East, 30.35 feet, to an intersection with a line which is 88.00 feet easterly from the centerline of said mainline track; thence South 15°36'42" West, parallel with the centerline of said mainline track, 22.03 feet; thence South 62°11'49" West, 15.22 feet; thence westerly, on a curve concave northerly, having a radius measure of 114.37 feet and an arc length of 74.92 feet, the chord of which bears South 80°57'31" West, 73.58 feet; thence North 80°16'19" West, 10.02 feet, to the point of beginning; AND EXTENDING FROM: a plane on the bottom at elevation 886.5 feet NGVD 1929 as determined from City of Topeka Engineering Department Benchmark 196.1 (information for which is on file in the Office of the City Engineer for said City); TO: a plane on the top which is 16.0 feet above the said bottom plane.

The above-described property to be acquired contains 3,825 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Perpetual Multi-Purpose Trail Maintenance Easement

An easement in Keith’s Second Subdivision in the Southeast Quarter of Section 6, Township 12 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as: Commencing at the Southeast corner of said Southeast Quarter; thence on an assumed bearing of South 88°00'33" West, on the South line of said Southeast Quarter, 990.44 feet, to an intersection with the Centerline of the Burlington Northern Santa Fe Railway Mainline Track; thence
North 15°36'42" East, on the centerline of said mainline track; 1777.84 feet, to the
point of beginning; thence North 80°16'19" West, 102.13 feet; thence westerly, on a
curve concave southerly, having a radius measure of 97.25 feet and an arc length of
29.34 feet, and a chord which bears North 88°55'17" West, 29.22 feet; thence
South 82°26'39" West, 3.51 feet, to an intersection with the East line of Jefferson
Street; thence North 01°38'12" West, on the East line of Jefferson Street, 16.09
feet; thence North 82°26'39" East, 1.85 feet; thence easterly, on a curve concave
southerly, having a radius measure of 113.25 feet and an arc length of 34.16 feet,
the chord of which bears South 88°55'17" East, 34.03 feet; thence South 80°16'19"
East, 112.15 feet; thence easterly, on a curve concave northerly, having a radius
measure of 98.37 feet and an arc length of 64.44 feet, the chord of which bears
North 80°57'31" East, 63.29 feet; thence North 62°11'49" East, 30.35 feet, to an
intersection with a line which is 88.00 feet easterly from the centerline of said
mainline track; thence South 15°36'42" West, parallel with the centerline of said
mainline track, 22.03 feet; thence South 62°11'49" West, 15.22 feet; thence
westerly, on a curve concave northerly, having a radius measure of 114.37 feet and
an arc length of 74.92 feet, the chord of which bears South 80°57'31" West, 73.58
feet; thence North 80°16'19" West, 10.02 feet, to the point of beginning; AND
EXTENDING FROM: a plane on the bottom at elevation 886.5 feet NGVD 1929 as
determined from City of Topeka Engineering Department Benchmark 196.1
(information for which is on file in the Office of the City Engineer for said City); TO: a
surface on the top which is 18.5 feet above the normal walking surface of the Multi-
Purpose Trail.

Fee Simple:

A tract in the Southeast Quarter of Section 6, Township 12 South, Range 16 east of
the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as:
Commencing at the Southeast corner of said Southeast Quarter; thence on an
assumed bearing of South 88°00'33" West, on the South line of said Southeast
Quarter, 1277.69 feet; thence North 0°26'42" East, parallel with the East line of said
Southeast Quarter, on a line which is described as 1275.24 feet, and measured as
1276.54 feet east of the last said East line, 1447.39 feet to the Northwest corner of
a tract described in a Quit Claim Deed in Volume 2132, at page 24, being the point
of beginning; thence on the North boundary of the tract described in Volume 2132
at page 24, as follows: North 70°48'20" East, 17.17 feet; thence easterly on a curve
concave northerly, having a radius measure of 778.70 feet and an arc length of
269.33 feet, the chord of which bears North 60°53'49" East, 267.99 feet; thence
North 50°59'18" East, 17.78 feet; thence easterly on a curve concave southerly,
having a radius measure of 677.74 feet and an arc length of 292.88 feet, the chord
of which bears North 63°22'06" East, 290.61 feet, to an intersection with the former
Centerline of Shunganunga Creek, also being the West line of Keith's Second
Subdivision; thence departing from the tract described in Volume 2132 at page 24,
North 55°08'49" West, on the former Centerline of Shunganunga Creek, 6.92 feet; thence North 51°49'51" West, on the former Centerline of Shunganunga Creek, 39.05 feet; thence North 35°51'08" West, on the former Centerline of Shunganunga Creek, 11.57 feet; thence South 59°37'56" West, 556.96 feet; thence South 0°26'42" West, 33.35 feet, to the point of beginning.

The above-described property to be acquired contains 21,660 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 October 11, 2005

[Signature]
William W. Bunten, Mayor

ATTEST:

[Signature]
Iris Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY DATE 08/24/05 BY RKL
TO BE CODIFIED NOT TO BE CODIFIED x

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