

1 (Published in the Topeka Metro News January 24, 2007)

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3 **ORDINANCE NO. 18790**

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5 AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing
6 initiation of condemnation proceedings to acquire property for
7 Improvement Project No. 70196-02 which provides for the
8 construction of SW MacVicar Avenue from SW 6th Street to the
9 eastbound I-70 exit ramp.

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11 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

12 Section 1. That it is hereby declared necessary to condemn and appropriate
13 for the use of the City of Topeka certain lands within the City of Topeka for Improvement
14 Project No. 70196-02, and for other public purposes, said lands being described as
15 follows:

16 **Parcel No. 2**

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18 Owner of Record: MRV, Inc.
19 c/o Nancy Seitz
20 3501 SW Fairlawn Road, Ste 200
21 Topeka, KS 66614
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23 Contract Purchaser: NONE

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25 Lienholder of Record: Fidelity State Bank and Trust Company
26 600 S Kansas Avenue
27 Topeka, KS 66603
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29 Potential Lienholder: 1. Lindemuth Inc.
30 125 SW Gage Blvd
31 Topeka, KS 66606
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33 and to:

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35 Benoit Swinnen
36 RALSTON, POPE & DIEHL, L.L.C.
37 Case No. 06-C-1037
38 2913 SW Maupin Ln
39 Topeka, KS 66614
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2. Pearl Coffman
1310 Baez Way
Lady Lake, FL 32162-0108

and to:

Kevin L. Diehl
RALSTON, POPE & DIEHL, L.L.C.
Case No. 05-C-919
2913 SW Maupin Ln
Topeka, KS 66614

Party in Possession: Vacant land

PROPERTY TO BE ACQUIRED:

Permanent Drainage and Storm Sewer Easement:

A tract in Lot 3, Block 'A' in Alliance Subdivision in the City of Topeka, Shawnee County, Kansas, described as: Commencing at the Northeast corner of Lot 3; thence on an assumed bearing of South 1°26'06" East on the East line of Lot 3, 161.51 feet to the point of beginning; thence continuing on South 1°26'06" East on the East lines of Lot 3, 225.86 feet to the Southeast corner of said lot; thence South 88°09'36" West, 30.00 feet; thence North 1°26'06" West, 136.40 feet; thence North 30°34'46" West, 48.82 feet; thence North 47°23'43" East, 71.44 feet to the point of beginning.

The above-described property to be acquired contains 7,139 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This drainage easement provides for the unobstructed overland flow of surface water and/or the construction and maintenance of pipe, flume, ditch or any improvements for the drainage of said water. The property owner(s) shall not place any permanent or semi-permanent obstruction in said easement. All maintenance within the drainage easement, other than to improvements constructed for drainage of water, shall be the responsibility of the property owner(s). If maintenance by the property owner(s) is neglected or subject to other unusual circumstances, and is determined to be a hazard or threat to public safety by the Director of Public Works of the City of Topeka, corrective maintenance may be performed by the governing jurisdiction with costs assessed to said property owner(s).

86 **Parcel No. 7**

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88 Owner of Record: Barbara J. Ables and Brent L. Ables
89 744 Silver Leaf St #F
90 Leavenworth, KS 66048

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92 Contract Purchaser: NONE

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94 Lienholder of Record: 1. Shawnee County Treasurer (Real Estate Taxes)
95 Shawnee County Courthouse
96 200 SE 7th Street
97 Topeka, KS 66603

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99 2. Commerce Bank and Trust
100 3035 S Topeka Boulevard
101 Topeka, KS 66611

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103 3. Old Republic Insurance Company
104 307 N Michigan Ave
105 Chicago, IL 60601

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107 4. City of Topeka (Code Compliance violations)
108 215 SE 7th Street
109 Topeka, KS 66603

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111 Party in Possession: Vacant residence

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113 **PROPERTY TO BE ACQUIRED:**

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115 **Temporary Easement:**

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117 A portion of Lot 59 on Story Street in Sam Cross Addition to the City of Topeka,
118 Shawnee County, Kansas, described as: Commencing at the Northwest corner of
119 the Southwest Quarter of Section 25, Township 11 South, Range 15 east of the
120 6th P.M., in the City of Topeka, Shawnee County, Kansas; thence on an assumed
121 bearing of South 1°26'06" East on the West line of said Southwest Quarter, 38.89
122 feet; thence North 88°40'01" East on the South line of Lot 59, 35.00 feet to the
123 point of beginning; thence continuing on North 88°40'01" East on the South line
124 of Lot 59, 106.01 feet; thence North 73°33'28" West, 22.86 feet; thence South
125 88°40'01" West, 84.25 feet; thence South 1°26'06" East parallel with the West
126 line of said Southwest Quarter, 6.98 feet to the point of beginning.

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128 The above-described property to be acquired contains 664 square feet, more or
129 less, and is subject to all rights-of-way, easements, restrictions, and covenants of
130 record, if any.

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132 This easement expires two (2) years after legal possession through
133 condemnation or ninety (90) days after completion of the construction for which
134 this easement is acquired or whichever comes first.

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136 **Parcel No. 20**

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138 Owner of Record: Lacey D. Upton
139 3030 SE Wisconsin
140 Topeka, KS 66605

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142 Contract Purchaser: NONE

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144 Lienholder of Record: 1. Mortgage Electronic Registration Systems, Inc.
145 solely as nominee for Lender
146 GMAC Mortgage Corporation
147 PO Box 2026
148 Flint, MI 48501-2026
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150 2. GMAC Bank
151 100 Witmer Road
152 Horsham, PA 19044-0936

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154 Party in Possession: Vacant residence

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156 **PROPERTY TO BE ACQUIRED:**

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158 **Temporary Easement:**

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160 A tract in the West Half of the Southwest Quarter of Section 25, Township 11
161 South, Range 15 east of the 6th P.M., in the City of Topeka, Shawnee County,
162 Kansas, described as: Commencing at the Southwest corner of said Southwest
163 Quarter; thence on an assumed bearing of North 1°26'06" West on the West line
164 of said Southwest Quarter, 1448.00 feet; thence North 89°14'58" East, 29.44 feet
165 to the point of beginning; thence continuing on North 89°14'58" East, 19.78 feet;
166 thence South 62°00'00" West, 22.33 feet; thence South 1°26'06" East, 30.20
167 feet; thence North 17°21'11" West, 31.20 feet; thence North 38°33'19" East,
168 13.60 feet to the point of beginning.

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170 The above-described property to be acquired contains 274 square feet, more or
171 less, and is subject to all rights-of-way, easements, restrictions, and covenants of
172 record, if any.

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174 This easement expires two (2) years after legal possession through
175 condemnation or ninety (90) days after completion of the construction for which
176 this easement is acquired or whichever comes first.

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Permanent Storm Sewer and Drainage Easement:

A tract in the West Half of the Southwest Quarter of Section 25, Township 11 South, Range 15 east of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as: Commencing at the Southwest corner of said Southwest Quarter; thence on an assumed bearing of North 1°26'06" West on the West line of said Southwest Quarter, 1395 feet and 4 inches; thence North 88°33'54" East, 16 1/2 feet to the point of beginning; thence North 1°26'06" West 36.90 feet; thence North 38°33'19" East, 6.53 feet; thence South 17°21'11" East, 31.20 feet; thence South 1°26'06" East, 11.90 feet; thence South 88°33'54" West, 12.75 feet to the point of beginning.

The above-described property to be acquired contains 395 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This drainage easement provides for the unobstructed overland flow of surface water and/or the construction and maintenance of pipe, flume, ditch or any improvements for the drainage of said water. The property owner(s) shall not place any permanent or semi-permanent obstruction in said easement. All maintenance within the drainage easement, other than to improvements constructed for drainage of water, shall be the responsibility of the property owner(s). If maintenance by the property owner(s) is neglected or subject to other unusual circumstances, and is determined to be a hazard or threat to public safety by the Director of Public Works of the City of Topeka, corrective maintenance may be performed by the governing jurisdiction with costs assessed to said property owner(s).

Permanent Right-of-Way Easement:

A tract in the West Half of the Southwest Quarter of Section 25, Township 11 South, Range 15 east of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as: Commencing at the Southwest corner of said Southwest Quarter; thence on an assumed bearing of North 1°26'06" West on the West line of said Southwest Quarter, 1395 feet and 4 inches; thence North 88°33'54" East, 16 1/2 feet; thence North 1°26'06" West 36.90 feet to the point of beginning; thence continuing on North 1°26'06" West, 15.57 feet; thence North 89°14'58" East, 12.94 feet; thence South 38°33'19" West, 20.13 feet to the point of beginning.

The above-described property to be acquired contains 101 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

224 Section 2. That the City Attorney of the City of Topeka, Kansas, on behalf of
225 the Council of the City of Topeka, Kansas shall present a written application to the
226 District Court of Shawnee County, Kansas, for the appointment of appraisers to make
227 the appraisal and assessment required by law when land is taken for public
228 purposes, and said City Attorney shall do all things necessary for the condemnation of
229 said land completing the appropriation of the same for public purposes.

230 Section 3. This Ordinance shall take effect and be in force from and after its
231 passage, approval and publication in the official city newspaper.

232 PASSED and APPROVED by the City Council January 16, 2007.

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William W. Bunten, Mayor

ATTEST:

Brenda Younger, Interim City Clerk