

**ORDINANCE NO. 8197**

**AN ORDINANCE ORDERING THE CONDEMNATION AND APPROPRIATION OF INTERESTS IN CERTAIN REAL ESTATE IN DOUGLAS COUNTY, KANSAS, FOR THE PURPOSE AND USE OF THE CITY OF LAWRENCE, KANSAS IN THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A PUBLIC SANITARY SEWER COLLECTION AND MAIN SYSTEM, UNDERGROUND DATA AND COMMUNICATION LINES, AND A PERMANENT GREENSPACE AND PEDESTRIAN AND RECREATIONAL PATH EASEMENT, AND ALL EQUIPMENT AND FACILITIES APPURTENANT THERETO, PURSUANT TO K.S.A. § 26-201 AND THE EMINENT DOMAIN PROCEDURE ACT, K.S.A. § 26-501 ET SEQ., ALONG WITH K.S.A. 12-1306, K.S.A. 12-622, AND K.S.A. 12-623, TOGETHER WITH AN AUTHORIZATION FOR OBTAINING A SURVEY AND DESCRIPTION OF THE LAND OR INTERESTS TO BE CONDEMNED, AND FURTHER PURSUANT TO RESOLUTION 6744 OF THE CITY OF LAWRENCE, KANSAS.**

**WHEREAS**, the Governing Body of the City of Lawrence, Kansas, did, on the 22nd day of October, 2007, adopt Resolution No. 6744 thereby finding and determining it to be necessary and in the public interest to appropriate for public use and purpose, interests in certain real estate in the City of Lawrence, Douglas County, Kansas needed for the use by the City of Lawrence, Kansas, in the construction of a sanitary sewer improvement project beginning generally at a point near West 6th Street & Kansas Highway 10 and extending north and east to the intersection of N 1750 Road and E 1100 Road, generally along a tributary known as Baldwin Creek, all in Douglas County, Kansas;

**WHEREAS**, the Governing Body of the City of Lawrence, Kansas, has heretofore authorized and ordered a survey of the interests in the lands to be condemned to be made by a competent engineer and said survey has been made and filed with the City Clerk for the City of Lawrence.

**NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:**

**Section 1.** That the Governing Body of the City of Lawrence, Kansas, hereby affirms all its prior orders and declarations of the necessity for the appropriation of certain real estate interests for the use of said City for the purpose of the construction and maintenance of a sanitary sewer collection and main system, along with underground data and communication lines, and

all equipment and facilities appurtenant thereto, including temporary construction easements, and for the purpose of constructing and maintaining a permanent green space and a pedestrian and recreational path, and all equipment facilities appurtenant thereto, all in Douglas County, Kansas.

**Section 2.** The interests in real estate to be taken for such public purpose are described in Exhibit A attached hereto and are incorporated as if fully set forth herein.

**Section 3.** The interests in said real estate described in Section 2 and Exhibit A hereof are hereby ordered condemned for the purpose and use set forth in Section 1 hereof.

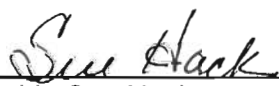
**Section 4.** Attorneys for the City of Lawrence, Kansas, for and on behalf of the Governing Body of the City of Lawrence, Kansas, are hereby authorized and directed to file a verified petition in the District Court of Douglas County, Kansas, for the condemnation and appropriation of the interests in real estate described in Section 2 hereof, pursuant to the Eminent Domain Procedure Act, K.S.A. Chapter 26, as amended, and further pursuant to K.S.A. 26-501, et seq. along with K.S.A. 12-1306, K.S.A. 12-622, and K.S.A. 12-623, and Resolution No. 6744 of the City of Lawrence, Kansas, and to do all things necessary for the condemnation and acquisition of said interests in real estate for said public purpose and improvements.

**Section 5.** This ordinance shall constitute the final order setting forth the condemnation of interests in the real estate described herein and the purpose for which the same shall be used.

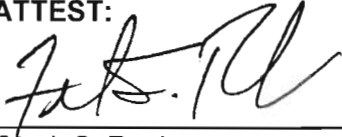
**Section 6.** This ordinance shall be in full force and effect from and after its passage and publication according to law.

**ADOPTED** by the Governing Body of the City of Lawrence, Kansas, on the 4<sup>th</sup> day of March 2008.

**APPROVED**

  
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Honorable Sue Hack  
Mayor

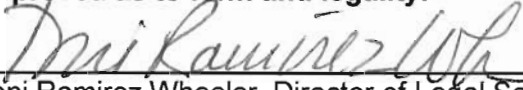
**ATTEST:**



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Frank S. Reeb  
City Clerk

**Approved as to form and legality:**



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Toni Ramirez Wheeler, Director of Legal Services

## EXHIBIT A

### Tract # 11

**Fee Simple Owners:**            **Turner-Douglas, LLC**

#### **Interests to be acquired:**

A **Temporary Construction Easement** expiring on July 1, 2009 over, across, upon and under the surface of a tract of land described as follows:

A strip of land 100 feet wide in the South Half of the Northeast Quarter of Section 29, Township 12 South, Range 19 East of the Sixth Principal Meridian, Douglas County, Kansas, said strip lying 50 feet on each side of the following described centerline:

Commencing at the Northwest Corner of said South Half; thence along the north line of said South Half on an assumed bearing of N88°06'09"E, 835.44 feet to the Point of Beginning of said centerline; thence S18°06'07"E, 133.96 feet; thence S06°40'41"W, 315.00 feet; thence S08°45'36"E, 395.00 feet; thence S30°39'44"W, 300.00 feet; thence S01°08'38"E, 238.46 feet to a point on the south line of said South Half 705.78 feet east of the Southwest Corner of said South Half and being the point of termination of said centerline; the sidelines of said strip being extended or shortened to terminate at the north and south lines of said South Half, less the below-described Permanent Sanitary Sewer Easement.

The above strip contains 1.899 acres, more or less;

allowing the City of Lawrence and its agents, employees, contractors and assigns to enter upon and make use of the above-described area as may be required to locate, lay-out, and carry out the construction and installation of a public sanitary sewer collection and main system, the laying of sanitary main lines and other sanitary collection lines and underground data and communication lines, and all necessary above and below ground ancillary fixtures and equipment as may be necessary for the operation and maintenance of such system, including but not limited to grading, filling, and repairing the grounds within the area of the easement; removal of dirt, soils or other borrow material; removal of any improvements, personal property or growing things located thereon; and the movement and storage of vehicles, machines, materials, supplies and equipment; and the rights of ingress and egress for such purposes; at the conclusion of construction, the City shall grade the area disturbed by such activity to match the existing grade of the real property immediately abutting such area, with grass areas reseeded and cultivated established lawns re-sodded, without the obligation of subsequent maintenance.

A **Permanent Sanitary Sewer Easement** over, across, upon and under the surface of a tract of land described as follows:

A strip of land 40 feet wide in the South Half of the Northeast Quarter of Section 29, Township 12 South, Range 19 East of the Sixth Principal Meridian, Douglas County, Kansas, said strip lying 20 feet on each side of the centerline of a sanitary sewer pipeline as laid, said centerline described as follows:

Commencing at the Northwest Corner of said South Half; thence along the north line of said South Half on an assumed bearing of N88°06'09"E, 838.03 feet to the Point of Beginning of said centerline; thence S17°01'56"E, 133.26 feet; thence S04°48'04"W, 316.00 feet; thence S10°01'33"E, 378.00 feet; thence S31°37'18"W, 322.00 feet; thence S03°45'22"W, 239.62 feet to a point on the south line of said South Half 685.31 feet east of the Southwest Corner of said South Half and being the point of termination of said centerline; the sidelines of said strip being extended or shortened to terminate at the north and south lines of said South Half.

The above strip contains 1.275 acres, more or less;

for the location, laying-out, construction, installation, expansion, repair, maintenance, operation and use of a public sanitary sewer collection main system, and underground data and communication lines and all necessary above and below ground ancillary fixtures and equipment as may be necessary for the operation and maintenance of such system; reserving, however, to the Owner(s) the right use and enjoy the lands within the easement, provided that such use shall not interfere with or jeopardize City's continued use, maintenance, repair and operation of such main, and further provided that no permanent above-ground or subterranean structures, materials, stockpiling, or building shall be erected, constructed or stored on the easement, except that roads, drives, parking lots, drainage facilities, whether paved or otherwise surfaced, curbs, walks, overhead utility wires, fence crossing at approximately right angles and underground utility conduit, pipes and sewers which are non-conflicting may be preserved, operated, constructed, maintained, repaired and utilized by the Owner(s), but notwithstanding such reservation, in the event the City is required to, in exercising any right whatsoever acquired herein, temporarily excavate or cut through any road, drive, surface, fence, curb, walk or other structure permitted herein, the City shall repair and restore said structure to a condition fully equal to that existing before construction operations were commenced, without the obligation of subsequent maintenance, and grass areas shall be reseeded and cultivated established lawns re-sodded, without the obligation of subsequent maintenance.

### **Tract # 23**

**Fee Simple Owner: Katherine L. Kirk**

#### **Interests to be acquired:**

**A Temporary Construction Easement** expiring on July 1, 2009 over, across, upon and under the surface of a tract of land described as follows:

A strip of land 30 feet wide in the Southeast Quarter of the Southeast Quarter of Section 20, Township 12 South, Range 19 East of the Sixth Principal Meridian, Douglas County, Kansas, said strip lying 15 feet on both sides of the following described centerline:

Commencing at the Northeast Corner of the Southeast Quarter of said Southeast Quarter; thence along the north line of the Southeast Quarter of said Southeast Quarter on an assumed bearing of S88°37'29"W, 708.95 feet to the Point of Beginning of said centerline; thence S48°42'49"W, 179.12 feet; thence S86°39'41"W, 359.12 feet; thence S46°09'24"W, 152.68 feet to a point on the west line of the Southeast Quarter of said Southeast Quarter 230.32 feet south of the Northwest Corner of the Southeast Quarter of said Southeast Quarter and being the point of termination of said centerline; the sidelines of said strip being extended or shortened to terminate at the north and west lines of the Southeast Quarter of said Southeast Quarter.

The above described strip contains 20,727 square feet, more or less;

allowing the City of Lawrence and its agents, employees, contractors and assigns to enter upon and make use of the above-described area as may be required to locate, lay-out, and carry out the construction and installation of a public sanitary sewer collection and main system, the laying of sanitary main lines and other sanitary collection lines and underground data and communication lines, and all necessary above and below ground ancillary fixtures and equipment as may be necessary for the operation and maintenance of such system, including but not limited to grading, filling, and repairing the grounds within the area of the easement; removal of dirt, soils or other borrow material; removal of any improvements, personal property or growing things located thereon; and the movement and storage of vehicles, machines, materials, supplies and equipment; and the rights of ingress and egress for such purposes; at the conclusion of construction, the City shall grade the area disturbed by such activity to match the existing grade of the real property immediately abutting such area, with grass areas reseeded and cultivated established lawns re-sodded, without the obligation of subsequent maintenance.

**A Fee Simple Interest** over, across, upon and under the surface of a tract of land described as follows:

That part of the Southeast Quarter of the Southeast Quarter of Section 20, Township 12 South, Range 19 East of the Sixth Principal Meridian, Douglas County, Kansas, described as follows:

Commencing at the Northeast Corner of the Southeast Quarter of said Southeast Quarter; thence along the north line of the Southeast Quarter of said Southeast Quarter on an assumed bearing of S88°37'29"W, 732.32 feet to the Point of Beginning; thence S48°42'49"W, 156.03 feet; thence S86°39'41"W, 359.50 feet; thence S46°09'24"W, 144.76 feet to the west line of the Southeast Quarter of said Southeast Quarter; thence along said west line N01°57'59"W, 210.17 feet to the Northeast Corner of the Southeast Quarter of said Southeast Quarter; thence along the north line of the Southeast Quarter of said Southeast Quarter N88°37'29"E, 587.92 feet to the point of beginning.

The above described contains 1.415 acres, more or less.

**Tract # 37**

**Fee Simple Owners:**                    **Andrew A. Knox**

**Interests to be acquired:**

**A Temporary Construction Easement** expiring on July 1, 2009 over, across, upon and under the surface of a tract of land described as follows:

A strip of land 100 feet wide in the Southwest Quarter of Section 21, Township 12 South, Range 19 East of the Sixth Principal Meridian, Douglas County, Kansas, said strip lying 50 feet on each side of the following described centerline:

Commencing at the Northwest Corner of said Southwest Quarter; thence along the west line of said Southwest Quarter on an assumed bearing of S01°45'02"E, 685.59 feet to the Point of

Beginning of said centerline; thence N63°11'24"E, 123.92 feet; thence N57°03'59"E, 500.68 feet; thence N70°55'56"E, 280.32 feet to the east line of a tract of land described and recorded in Book 564, Page 342 in the Office of the Register of Deeds in said County, said point being a perpendicular distance of 291.17 feet south of the north line of said Northwest Quarter and being the point of termination of said centerline; the sidelines of said strip being extended or shortened to terminate at the west and east lines of said tract; except existing East 1000 Road right-of-way from said strip and less the below-described Permanent Sanitary Sewer Easement.

The above described strip contains 1.208 acres, more or less;

allowing the City of Lawrence and its agents, employees, contractors and assigns to enter upon and make use of the above-described area as may be required to locate, lay-out, and carry out the construction and installation of a public sanitary sewer collection and main system, the laying of sanitary main lines and other sanitary collection lines and underground data and communication lines, and all necessary above and below ground ancillary fixtures and equipment as may be necessary for the operation and maintenance of such system, including but not limited to grading, filling, and repairing the grounds within the area of the easement; removal of dirt, soils or other borrow material; removal of any improvements, personal property or growing things located thereon; and the movement and storage of vehicles, machines, materials, supplies and equipment; and the rights of ingress and egress for such purposes; at the conclusion of construction, the City shall grade the area disturbed by such activity to match the existing grade of the real property immediately abutting such area, with grass areas reseeded and cultivated established lawns re-sodded, without the obligation of subsequent maintenance.

**A Permanent Sanitary Sewer Easement** over, across, upon and under the surface of a tract of land described as follows:

A strip of land 40 feet wide in the Southwest Quarter of Section 21, Township 12 South, Range 19 East of the Sixth Principal Meridian, Douglas County, Kansas, said strip lying 20 feet on both sides of the centerline of a sanitary sewer pipeline as laid, said centerline described as follows:

Commencing at the Northwest Corner of said Southwest Quarter; thence along the west line of said Southwest Quarter on an assumed bearing of S01°45'02"E, 696.84 feet to the Point of Beginning of said centerline; thence N63°06'22"E, 129.22 feet; thence N57°03'59"E, 500.00 feet; thence N70°55'56"E, 275.98 feet to the east line of a tract of land described and recorded in Book 564, Page 342 in the Office of the Register of Deeds in said County, said point being a perpendicular distance of 301.64 feet south of the north line of said Northwest Quarter and being the point of termination of said centerline; the sidelines of said strip being extended or shortened to terminate at the west and east lines of said tract; except existing East 1000 Road right-of-way from said strip.

The above described strip contains 35,103 square feet, more or less;

for the location, laying-out, construction, installation, expansion, repair, maintenance, operation and use of a public sanitary sewer collection main system, and underground data and communication lines and all necessary above and below ground ancillary fixtures and equipment as may be necessary for the operation and maintenance of such system; reserving, however, to the Owner(s) the right use and enjoy the lands within the easement, provided that such use shall not interfere with or jeopardize City's continued use, maintenance, repair and

operation of such main, and further provided that no permanent above-ground or subterranean structures, materials, stockpiling, or building shall be erected, constructed or stored on the easement, except that roads, drives, parking lots, drainage facilities, whether paved or otherwise surfaced, curbs, walks, overhead utility wires, fence crossing at approximately right angles and underground utility conduit, pipes and sewers which are non-conflicting may be preserved, operated, constructed, maintained, repaired and utilized by the Owner(s), but notwithstanding such reservation, in the event the City is required to, in exercising any right whatsoever acquired herein, temporarily excavate or cut through any road, drive, surface, fence, curb, walk or other structure permitted herein, the City shall repair and restore said structure to a condition fully equal to that existing before construction operations were commenced, without the obligation of subsequent maintenance, and grass areas shall be reseeded and cultivated established lawns re-sodded, without the obligation of subsequent maintenance.

**Tract # 38**

**Fee Simple Owners:**                    **Blaine L. Knox & Flora A. Gonzales-Knox**

**Interests to be acquired:**

**A Temporary Construction Easement** expiring on July 1, 2009 over, across, upon and under the surface of a tract of land described as follows:

That part of the Southwest Quarter of Section 21, Township 12 South, Range 19 East of the Sixth Principal Meridian, Douglas County, Kansas, described as follows:

Commencing at the Northeast Corner of said Southwest Quarter; thence along the north line of said Southwest Quarter on an assumed bearing of S88°11'48"W, 1227.44 feet; thence S00°52'05"E, 20.00 feet to the south right-of-way line of North 1750 Road and being the Point of Beginning; thence along said right-of-way line S88°11'48"W, 584.05 feet; thence S01°48'12"E, 202.63 feet; thence N70°55'56"E, 149.69 feet; thence N68°43'46"E, 467.82 feet; thence N00°52'05"W, 2.30 feet to the point of beginning.

The above described contains 1.405 acres, more or less;

ALSO:

A strip of land 100 feet wide in the Southwest Quarter of Section 21, Township 12 South, Range 19 East of the Sixth Principal Meridian, Douglas County, Kansas, said strip lying 50 feet on each side of the following described centerline:

Commencing at the Northeast Corner of said Southwest Quarter; thence along the north line of said Southwest Quarter on an assumed bearing of S88°11'48"W, 1177.43 feet to the Point of Beginning of said centerline; thence S00°52'05"E, 57.86 feet; thence S68°43'46"W, 503.53 feet; thence S70°55'56"W, 220.70 feet to a point on the east line of a tract of land described and recorded in Book 564, Page 342 in the Office of the Register of Deeds in said County, said point being a perpendicular distance of 291.17 feet south of the north line of said Southwest Quarter and being the point of termination of said centerline; the sidelines of said strip being extended or shortened to terminate and the north line of said Southwest Quarter and at the east line of said tract; except existing North 1750 Road right-of-way from said strip less the below-described Permanent Sanitary Sewer Easement.



The above described strip contains 1.045 acres, more or less;

allowing the City of Lawrence and its agents, employees, contractors and assigns to enter upon and make use of the above-described area as may be required to locate, lay-out, and carry out the construction and installation of a public sanitary sewer collection and main system, the laying of sanitary main lines and other sanitary collection lines and underground data and communication lines, and all necessary above and below ground ancillary fixtures and equipment as may be necessary for the operation and maintenance of such system, including but not limited to grading, filling, and repairing the grounds within the area of the easement; removal of dirt, soils or other borrow material; removal of any improvements, personal property or growing things located thereon; and the movement and storage of vehicles, machines, materials, supplies and equipment; and the rights of ingress and egress for such purposes; at the conclusion of construction, the City shall grade the area disturbed by such activity to match the existing grade of the real property immediately abutting such area, with grass areas reseeded and cultivated established lawns re-sodded, without the obligation of subsequent maintenance.

**A Permanent Sanitary Sewer Easement** over, across, upon and under the surface of a tract of land described as follows:

A strip of land 40 feet wide in the Southwest Quarter of Section 21, Township 12 South, Range 19 East of the Sixth Principal Meridian, Douglas County, Kansas, said strip lying 20 feet on both sides of the centerline of a sanitary sewer pipeline as laid, said centerline described as follows:

Commencing at the Northeast Corner of said Southwest Quarter; thence along the north line of said Southwest Quarter on an assumed bearing of S88°11'48"W, 1177.43 feet to the Point of Beginning of said centerline; thence S00°52'05"E, 68.53 feet; thence S68°43'46"W, 500.00 feet; thence S70°55'56"W, 224.02 feet to a point on the east line of a tract of land described and recorded in Book 564, Page 342 in the Office of the Register of Deeds in said County, said point being a perpendicular distance of 301.64 feet south of the north line of said Southwest Quarter and being the point of termination of said centerline; the sidelines of said strip being extended or shortened to terminate at the north line of said Southwest Quarter and at the east line of said tract; except existing North 1750 Road right-of-way from said strip.

The above described strip contains 31,057 square feet, more or less;

for the location, laying-out, construction, installation, expansion, repair, maintenance, operation and use of a public sanitary sewer collection main system, and underground data and communication lines and all necessary above and below ground ancillary fixtures and equipment as may be necessary for the operation and maintenance of such system; reserving, however, to the Owner(s) the right to use and enjoy the lands within the easement, provided that such use shall not interfere with or jeopardize City's continued use, maintenance, repair and operation of such main, and further provided that no permanent above-ground or subterranean structures, materials, stockpiling, or building shall be erected, constructed or stored on the easement, except that roads, drives, parking lots, drainage facilities, whether paved or otherwise surfaced, curbs, walks, overhead utility wires, fence crossing at approximately right angles and underground utility conduit, pipes and sewers which are non-conflicting may be preserved, operated, constructed, maintained, repaired and utilized by the Owner(s), but notwithstanding such reservation, in the event the City is required to, in exercising any right

whatsoever acquired herein, temporarily excavate or cut through any road, drive, surface, fence, curb, walk or other structure permitted herein, the City shall repair and restore said structure to a condition fully equal to that existing before construction operations were commenced, without the obligation of subsequent maintenance, and grass areas shall be reseeded and cultivated established lawns re-sodded, without the obligation of subsequent maintenance.