



**CITY COMMISSION AGENDA ITEM**

**Department:** City Attorney's Office

**Commission Meeting Date:** January 8, 2019

**Staff Contact:** Maria Garcia, Assistant City Attorney

**Recommendations/Options/Action Requested:**

Adopt Resolution 7276 finding it in the public interest to appropriate, through the exercise of eminent domain, certain interests in real property, including a utility and pedestrian easement and a temporary construction easement, for the use of said City for the purpose of a road and waterline improvement project, including construction of sidewalks and other appurtenances thereto, on property commonly located at 2305 Vermont Street, Lawrence, Douglas County, Kansas.

This memo accompanies the more comprehensive memo submitted regarding 2305 Vermont and lays out the process for an eminent domain proceeding.

K.S.A. 26-201 provides the City with the authority to acquire by condemnation, interests in real property, including fee simple title thereto. The following provides the steps for a condemnation process:

1. The Governing Body adopts a resolution declaring the necessity of use of the City's condemnation powers for such purposes and ordering a survey of the land to be condemned. **Note:** The action recommended at this time addresses this step.
2. Once the survey is filed with the City Clerk, the Governing Body must then adopt an ordinance authorizing the taking and ordering the land condemned and authorize the filing of a petition in Douglas County District Court.

**Executive Summary:**

The additional eminent domain proceedings are governed by a statutory process under Chapter 26, Article 5. The main elements of the process are as follows:

3. The Court approves or disapproves of the use of the City's condemnation authority.
4. If the Court approves, the Court appoints as appraisers three disinterested residents of Douglas County with knowledge of real estate to provide a value of the lands or interests to be condemned.
5. The appraisers must provide notice to the parties of interest which must be published at least 14 days before a hearing.
6. At the hearing of the appraisers, the appraisers view the real property and provide a report on the value of the interests condemned.
7. The Court must approve the report of the appraisers.
8. Either party has 30 days after the filing of the report to appeal.
9. Upon payment of the amount determined as just compensation to the Clerk of the Court, the City obtains title to the property.

**Strategic Plan  
Critical Success  
Factor**

Safe, Healthy, and Welcoming Neighborhoods  
Innovative Infrastructure and Asset Management  
Sound Fiscal Stewardship  
Collaborative Solutions

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**Fiscal Impact  
(Amount/Source):** See accompanying memo

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**Attachments:** None

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Reviewed By:  TM  
(for CMO use only)  DS  
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