

ORDINANCE NO. 120574

Authorizing condemnation, taking private property for public use along N. Indiana Avenue between NE Vivion Road and NE 54th Street, all in Kansas City, Clay County, Missouri; providing for the payment of just compensation therefore; authorizing continued negotiations and purchase by the Public Works Department; authorizing the filing of the petition for condemnation by the City Attorney on behalf of the City; and directing the City Clerk to record this ordinance in the office of the Recorder of Deeds for Clay County.

WHEREAS, the Council finds that private property must be condemned for public use for permanent and temporary easements required for the construction and maintenance of N. Indiana Avenue and necessary appurtenances in Kansas City, Clay County, Missouri; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That the private properties are hereby authorized condemned and taken for public use in and upon the land hereinafter described for Project No. 89008180, N. Indiana Avenue improvements, including any necessary appurtenances, in Kansas City, Clay County, Missouri.

Section 2. Said improvements shall be of the nature described and specified in, and shall be done in accordance with, the plans and specifications certified under the supervision of the Director of Public Works, the same being on file in the Office of the Director of Public Works and being incorporated herein by reference.

Section 3. The permanent easements shall be used by Kansas City as the location of water and sewer improvements to be constructed therein including any necessary appurtenances to it; and Kansas City shall have the right to enter in or authorize the entry in and upon such permanent easements for the purpose of constructing, reconstructing, maintaining, operating and repairing said improvements or making connections thereto.

Section 4. The temporary easements shall be for grading and sloping, construction of any pertinent driveway and sidewalk pavements, removal and

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replacement of fencing, removal of trees and shrubbery, utility construction work, the storage of materials, the operation of equipment, and the movement of a working force.

There shall be reserved to the owners of the land in which such Permanent Easements are taken and condemned the right to use the land in any way which will not add or remove additional depth of overburden to the land, or place buildings, or any other structure or obstruction on the land that may interfere with the proper, safe and continuous use and maintenance of the facilities to be constructed in and upon such easements.

Kansas City shall cause the surface of lands lying within said temporary easements to be restored to substantially to the same physical condition that existed at the time Kansas City or its agents entered upon it, and said temporary easements shall terminate upon completion of the project and acceptance of the improvements by the Director of Public Works, or for three (3) year duration, whichever is the first to occur.

Section 5. That the Permanent and Temporary Easements are hereby authorized condemned and taken for public use and hereby described as follows:

Tract 3 – 5234 N. Indiana Ave - Permanent water main easement

A tract of land situated in the Northwest Quarter of Section 31, Township 51 North, Range 32, also being a part of Tract 26, Green Haven, a subdivision in the City of Kansas City, Clay County, Missouri; beginning at a point on the west right of way line of Indiana Avenue, as now established; said point being 64.05 feet north of the southeast corner of Tract 26; thence northerly along said west right of way line, a distance of 100.0 feet; thence westerly and parallel with south line of said Tract 26, a distance of 10.0 feet to a point; thence southerly and parallel with said west right of way line, a distance of 100.0 feet; thence easterly and parallel with said south line, a distance of 10.0 feet to the point of beginning. Easement area is approximately 1000.0 square feet.

Tract 19 – 5421 N. Indiana Ave - Temporary construction easement-3 year duration.

A tract of land located in the Northeast Quarter of Section 31, Township 51 North, Range 32, also being a part of Lot 28, Country Club Annex, a subdivision in the City of Kansas City, Clay County, Missouri which is the west 15.0 feet of the north 57.0 feet of the south 65.0 feet of said Lot 28. Easement area contains approximately 855.0 square feet.

Section 6. That just compensation for the property taken shall be assessed and paid according to law; and the proceedings to determine compensation shall be prosecuted in one or more suits in the Circuit Court of Clay County, Missouri, pursuant to the provisions of Chapter 523 of the Revised Statutes of Missouri, as supplemented or

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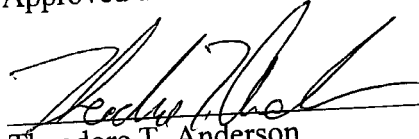
amended by Section 86.01 to 86.10 of the Rules of Civil Procedure. Payment of compensation shall be made by Kansas City from funds appropriated for such purposes.

Section 7. That pending the acquisition of said lands by condemnation, the Director of the Department of Public Works is hereby authorized to negotiate the purchase of said land and pay for them out of funds appropriated or to be appropriated as aforesaid, and if any tracts be so acquired by negotiation and purchase, the City Attorney is authorized to withdraw same from condemnation proceedings.

Section 8. That said tracts be condemned and conveyed to Kansas City, Missouri, in fee simple.

Section 9. That upon the effective date of this ordinance, the City Clerk is hereby directed to record this ordinance in the office of the Recorder of Deeds for Clay County, Missouri.

Approved as to form and legality:



Theodore T. Anderson
Assistant City Attorney



Authenticated as Passed


Sly James, Mayor
Marilyn Sanders, Acting City Clerk

7-19-2012
Date Passed