ORDINANCE NO. 2162

AN ORDINANCE OF THE CITY OF BELOIT, KANSAS, ORDERING THROUGH THE EXERCISE OF EMINENT DOMAIN THE CONDEMNATION AND APPROPRIATION OF CERTAIN INTERESTS IN CERTAIN REAL ESTATE IN MITCHELL COUNTY, KANSAS, FOR THE IMPROVEMENT OF THE DRAINAGE, GRADING, AND HIGHWAY SURFACE OF A PORTION OF KANSAS HIGHWAY 14, ALSO KNOWN AS NORTH INDEPENDENCE AVENUE, AND FOR THE LOCATION, CONSTRUCTION, OPERATION, AND MAINTENANCE OF UTILITIES ALONG SUCH HIGHWAY, ALL PURSUANT TO K.S.A. 26-201.

WHEREAS, the Governing Body of the City of Beloit, Kansas, did on April 7, 2015, adopt Resolution No. 2015-12, thereby finding, determining, and resolving it to be necessary and in the public interest to exercise its power of eminent domain to appropriate for public use and purpose certain interests in certain real estate in Mitchell County, Kansas, needed by the City for K-14 Highway Improvements and Utility System Improvements along K-14 Highway, and all equipment and facilities appurtenant thereto, said project commonly known as the K14 Geometric Improvement Project.

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

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

SECTION 1: The above-stated recitals are incorporated herein by reference and shall be as effective as if set forth in full.

SECTION 2: The Governing Body hereby affirms all of its prior orders and declarations regarding the necessity for the appropriation through the exercise of eminent domain of certain real estate interests for the use of said City for the purpose of improvement of the drainage, grading, and highway surface of a portion of Kansas Highway 14, also known as North Independence Avenue, and for the location, construction, operation, and maintenance of utilities along such highway, and all equipment and facilities appurtenant thereto, in conjunction with the K-14 Geometric Improvement Project.

SECTION 3: The certain interests in certain real estate to be taken by eminent domain for such public purposes are described in detail in Exhibit A, which is affixed hereto and incorporated herein by reference as if set forth in full.

SECTION 4: The certain interests in the certain real estate described in Section 3, *supra*, are hereby ordered condemned for the purposes and for the use described in Section 2, *supra*.

Exhibit A
Legal Descriptions
K-14 Geometric Improvement Project

INTERESTS TO BE ACQUIRED

Tract 1 - One Permanent Right of Way Easement and One Temporary Construction Easement:

Shirley A. Boucek
401 E. Court, Apt. A
Beloit, KS 67420

Permanent Right of Way Easement

A strip of land in the South Half of the Northeast Quarter (S1/2, NE1/4) of Section Five (5), Township Seven (7) South, Range Seven (7) West of the 6th P.M., Mitchell County, Kansas described as follows:

BEGINNING at a point on the South line of the said Northeast Quarter that is South 88°14'22" West, 33.00 feet from the Southeast corner of said Northeast Quarter (NE1/4), said point being on the West right of way line of Kansas Highway K-14; thence continuing along said South line of the Northeast Quarter, South 88°14'22" West, 41.00 feet; thence parallel to the East line of said Northeast Quarter (NE1/4), North 01°45'55" West, 67.11 feet; thence North 88°14'05" East, 16.00 feet; thence North 01°45'55" West, 114.98 feet; thence North 88°14'05" East, 25.00 feet to a point on the said West line of Kansas Highway K-14; thence along said West line, South 01°45'55" East, 182.09 feet to the Point of Beginning.

Said tract contains 5626 square feet (0.13 acres) more or less.

Temporary Construction Easement

A strip of land in the South Half of the Northeast Quarter (S1/2, NE1/4) of Section Five (5), Township Seven (7) South, Range Seven (7) West of the 6th P.M., Mitchell County, Kansas described as follows:

BEGINNING at a point that is North 01°45'55" West, 182.09 feet and South 88°14'05" West, 58.00 feet from the Southeast corner of said Northeast Quarter; thence parallel to the East line of said Northeast Quarter, South 01°45'55" East, 114.98 feet; thence South 88°14'05" West, 16.00 feet; thence North 01°45'55" West, 114.99 feet; thence North 88°14'05" East, 16.00 feet to the Point of Beginning.

Said tract contains 1840 square feet (0.04 acres) more or less.

Tract 2 - One Permanent Right of Way Easement and One Temporary Construction Easement:

Fred and Betty Chapman
1507 N. Independence
Beloit, KS 67420

Permanent Right of Way Easement

A strip of land in the North Half of the Southeast Quarter (N1/2, SE1/4) of Section Five (5), Township Seven (7) South, Range Seven (7) West of the 6th P.M., Mitchell County, Kansas described as follows:

BEGINNING at a point on the West right of way line of Kansas Highway K-14 that is South 88°14'22" West, 33.00 feet from the Northeast corner of said Southeast Quarter (SE1/4); thence along said West right of way line, South 01°45'38" East, 330.00 feet; thence South 88°14'22" West, 25.00 feet; thence parallel to the East line of said Southeast Quarter (SE1/4), North 01°45'38" West, 272.11 feet; thence South 88°14'22" West, 16.00 feet; thence North 01°45'38" West, 57.89 feet to a point on the North line of said Southeast Quarter (SE1/4); thence along said North line, North 88°14'22" East, 41.00 feet to the Point of Beginning.

Said tract contains 9176 square feet (0.21 acres), more or less.

Temporary Construction Easement

A strip of land in the North Half of the Southeast Quarter (N1/2, SE1/4) of Section Five (5), Township Seven (7) South, Range Seven (7) West of the 6th P.M., Mitchell County, Kansas described as follows:

BEGINNING at a point on the North line of the said Southeast Quarter that is South 88°14'22" West, 74.00 feet from the Northeast corner of said Southeast Quarter (SE1/4); thence South 01°45'38" East, 57.89 feet; thence parallel to the East line of said Southeast Quarter, South 88°14'22" West, 20.00 feet; thence parallel to the East line of said Southeast Quarter (SE1/4), North 01°45'38" West, 57.89 feet to a point on the North line of said Southeast Quarter (SE1/4); thence along said North line, North 88°14'22" East, 20.00 feet to the Point of Beginning.

Said tract contains 1158 square feet (0.027 acres) more or less.

Tract 3 - One Permanent Right of Way Easement and One Temporary Construction Easement:

Fred L. Chapman
1507 N. Independence
Beloit, KS 67420

Permanent Right of Way Easement

A strip of land in the Northeast Quarter (NE1/4) of Section Five (5), Township Seven (7) South, Range Seven (7) West of the 6th P.M., Mitchell County, Kansas described as follows:

BEGINNING at a point on the West right of way line of Kansas Highway K-14 that is North 01°45'55" West, 182.09 feet and South 88°14'05" West, 33.00 feet from the Southeast corner of said Northeast Quarter; thence continuing South 88°14'05" West, 20.00 feet; thence parallel to the East line of said Northeast Quarter (NE1/4), North 01°45'55" West, 580.02 feet; thence North 88°14'05" East, 20.00 feet to the said West right of way line of Kansas Highway K-14; thence along said West line, South 01°45'55" East, 580.02 feet to the Point of Beginning.

Said tract contains 11, 600 square feet (0.27 acres) more or less.

Temporary Construction Easement

A strip of land in the Northeast Quarter (NE1/4) of Section Five (5), Township Seven (7) South, Range Seven (7) West of the 6th P.M., Mitchell County, Kansas described as follows:

BEGINNING at a point that is North 01°45'55" West, 332.11 feet and South 88°14'05" West, 53.00 feet from the Southeast corner of said Northeast Quarter; thence continuing South 88°14'05" West, 10.00 feet; thence parallel to the East line of said Northeast Quarter (NE1/4), North 01°45'55" West, 40.00 feet; thence North 88°14'05" East, 10.00 feet; thence South 01°45'55" East, 40.00 feet to the Point of Beginning.

Said tract contains 400 square feet (0.01 acres) more or less.

Tract 4 - One Permanent Right of Way Easement, One Permanent Utility Easement, and Two Temporary Construction Easements:

Ronald H. Tice
2419 O Road
Beloit, KS 67420

Permanent Right of Way Easement

A strip of land in the Northwest Quarter (NW1/4) of Section Four (4), Township Seven (7) South, Range Seven (7) West of the 6th P.M., Mitchell County, Kansas described as follows:

BEGINNING at a point on the South line of the said Northwest Quarter that is South 87°33'26" East, 33.09 feet from the Southwest corner of said Northwest Quarter said point being on the East right of way line of Kansas Highway K-14; thence along said East line of Kansas Highway K-14, North 01°45'55" West, 764.54 feet; thence North 88°14'05" East, 32.00 feet; thence South 01°45'55" East, 766.89 feet to a point on the South line of said Northwest Quarter; thence along said South line of the Northwest Quarter, North 87°33'26" West, 32.09 feet to the Point of Beginning.

Said tract contains 24,503 square feet (0.56 acres) more or less.

Permanent Utility Easement

A strip of land in the Northwest Quarter (NW1/4) of Section Four (4), Township Seven (7) South, Range Seven (7) West of the 6th P.M., Mitchell County, Kansas described as follows:

BEGINNING at a point on the South line of the said Northwest Quarter that is South 87°33'26" East, 65.18 feet from the Southwest corner of said Northwest Quarter, said point being on the proposed East right of way line of Kansas Highway K-18; thence along the proposed East right of way line of Kansas Highway K-14, North 01°45'55" West, 456.89 feet; thence North 88°14'05" East, 10.00 feet; thence South 01°45'55" East, 457.63 feet to a point on the South line of said Northwest Quarter; thence along said South line of the Northwest Quarter, North 87°33'26" West, 10.03 feet to the Point of Beginning.

Said tract contains 4572.64 square feet (0.105 acres) more or less.

Temporary Construction Easement

A strip of land in the Northwest Quarter (NW1/4) of Section Four (4), Township Seven (7) South, Range Seven (7) West of the 6th P.M., Mitchell County, Kansas described as follows:

BEGINNING at a point on the South line of the said Northwest Quarter that is South 87°33'26" East, 75.20 feet from the Southwest corner of said Northwest Quarter, said point being on the East line of a proposed permanent easement; thence along the East line of said proposed permanent easement, North 01°45'55" West, 47.63 feet; thence North 88°14'05" East, 10.00 feet; thence South 01°45'55" East, 48.36 feet to a point on the South line of said Northwest Quarter; thence along said South line of the Northwest Quarter, North 87°33'26" West, 10.03 feet to the Point of Beginning.

Said tract contains 480 square feet (0.011 acres) more or less.

Temporary Construction Easement

A strip of land in the Northwest Quarter (NW1/4) of Section Four (4), Township Seven (7) South, Range Seven (7) West of the 6th P.M., Mitchell County, Kansas described as follows:

BEGINNING at a point that is North 01°45'55" West, 122.11 feet and North 88°14'05" East, 75.00 feet from the Southwest corner of said Northwest Quarter, said point being on the East line of a proposed permanent easement; thence along the said East line of a proposed permanent easement, North 01°45'55" West, 330.00 feet; thence North 88°14'05" East, 15.00 feet; thence South 01°45'55" East, 330.00; thence South 88°14'05" West, 15.00 feet to the Point of Beginning.

Said tract contains 4950.33 square feet (0.114 acres) more or less.

SECTION 5: The City Attorney, for and on behalf of the Governing Body, is hereby authorized and directed to file, under the Eminent Domain Procedures Act, K.S.A. 26-501 *et seq.* a verified petition in the District Court of Mitchell County, Kansas, Twelfth Judicial District, for the condemnation and appropriation of the certain interests in certain real estate described in Section 3, *supra*, together with Resolution No. 2015-12 of the City of Beloit, Kansas, and to do all things necessary for the condemnation and acquisition of said interests in real estate for the K-14 Geometric Improvement Project.

SECTION 6: This ordinance shall constitute the final order exercising eminent domain and setting forth the condemnation of the interests in the real estate described herein and the purpose for which the same shall be used.

SECTION 7: This ordinance shall be in full force and effect from and after its passage and publication according to law.

PASSED and **ADOPTED** by the Governing Body and signed by the Mayor this 5th day of May, 2015.

Tom Naasz

Tom Naasz, Mayor

ATTEST:

Amanda J. Lomax

Amanda J. Lomax, City Clerk

APPROVED AS TO FORM AND LEGALITY:

Katie J. Schroeder

Katie J. Schroeder, City Attorney