

(Published in The Topeka Metro News on September 29, 2006.)

**ORDINANCE NO. 18717**

**AN ORDINANCE INTRODUCED BY CITY MANAGER NORTON N. BONAPARTE, JR. AUTHORIZING THE ISSUANCE OF \$32,375,000 AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY REFUNDING REVENUE BONDS, SERIES 2006-A AND \$22,600,000 COMBINED UTILITY REFUNDING REVENUE BONDS, SERIES 2006-B, OF THE CITY OF TOPEKA, KANSAS, UNDER THE AUTHORITY OF K.S.A. 10-116a AND K.S.A. 10-1201 ET SEQ., AND ALL AMENDMENTS THERETO.**

**WHEREAS**, the City has heretofore duly authorized, issued and delivered its \$31,440,000 principal amount of Water and Water Pollution Control Utility Revenue Bonds, Series 1998B, dated June 1, 1998, (the "Series 1998B Bonds") pursuant to its Ordinance and Resolution adopted June 16, 1998, in accordance with the requirements of K.S.A. 10-1201 et seq., as amended (the "Series 1998B Bond Ordinance"); and

**WHEREAS**, as of September 1, 2006, there remains outstanding of the Series 1998B Bonds the principal amount of \$31,440,000 bearing interest payable semiannually on February 1 and August 1 each year and maturing on August 1, as follows:

<u>(YEAR)</u> <u>(AUGUST 1)</u>	<u>AMOUNT</u>	<u>INTEREST</u> <u>RATE</u>
SERIAL BONDS		
2012	\$ 945,000	4.80%
2013	1,260,000	4.85
2014	1,325,000	4.90
2015	1,395,000	4.90
TERM BONDS		
2018	\$4,635,000	5.05%
2023	9,525,000	5.10
2028	12,355,000	5.10

**WHEREAS**, pursuant to Section 301 of the Series 1998B Bond Ordinance, the Series 1998B Bonds maturing on August 1, 2012, and thereafter are subject to redemption and payment at the option of the City on August 1, 2006, and thereafter in whole or in part on any date at the

45 redemption price equal to the principal amount thereof with a premium of one percent of the  
 46 principal amount redeemed, such premium to decline one-half of one percent (1/2 of 1%) each  
 47 Interest Payment Date thereafter, plus accrued interest to the date of redemption; and  
 48

49 **WHEREAS**, the City has heretofore duly authorized, issued and delivered its  
 50 \$25,365,000 principal amount of Water and Water Pollution Control Utility Revenue Bonds,  
 51 Series 2001-A, dated December 1, 2001, (the "Series 2001-A Bonds") pursuant to its Ordinance  
 52 and Resolution adopted December 11, 2001, in accordance with the requirements of K.S.A. 10-  
 53 1201 et seq., as amended (the "Series 2001-A Bond Ordinance"); and  
 54

55 **WHEREAS**, as of September 1, 2006, there remains outstanding of the Series 2001-A  
 56 Bonds the principal amount of \$23,085,000 bearing interest payable semiannually on February 1  
 57 and August 1 each year and maturing on August 1, as follows:

58	MATURITY	PRINCIPAL	INTEREST
59	<u>(August 1)</u>	<u>AMOUNT</u>	<u>RATE</u>
60	SERIAL BONDS		
61			
62	2007	\$ 500,000	6.25%
63	2008	520,000	5.25
64	2009	540,000	5.00
65	2010	565,000	5.50
66	2011	585,000	5.50
67	2012	615,000	5.50
68	2013	640,000	4.80
69	2014	670,000	4.90
70	2015	700,000	5.00
71	2016	735,000	5.10
72	2017	770,000	5.15
73	2018	810,000	5.25
74	2019	855,000	5.30
75			
76	TERM BONDS		
77			
78	2022	\$ 2,840,000	5.35%
79	2031	11,740,000	5.40

80

81 **WHEREAS**, pursuant to Section 301 of the Series 2001-A Bond Ordinance, the Series  
 82 2001-A Bonds maturing on August 1, 2009, and thereafter are subject to redemption and  
 83 payment at the option of the City on August 1, 2008, and thereafter in whole or in part on any  
 84 date at the redemption price equal to the principal amount thereof with a premium of one percent  
 85 of the principal amount redeemed, such premium to decline one-quarter of one percent (1/4 of  
 86 1%) each Interest Payment Date thereafter, plus accrued interest to the date of redemption; and  
 87

88           **WHEREAS**, pursuant to Section 203 of both the Series 1998B Bond Ordinance and the  
89 Series 2001-A Bond Ordinance, the State Treasurer of the State of Kansas, Topeka, Kansas, was  
90 designated as the City's Paying Agent and Bond Registrar for the payment of the principal of and  
91 interest on the Refunded Bonds hereinafter defined; and  
92

93           **WHEREAS**, the City has determined and hereby determines that it is in the best interest  
94 of the City and the patrons and taxpayers thereof (i) that the Series 1998B Bonds maturing on  
95 and after August 1, 2012, (i.e., \$31,440,000) (the "Series 1998B Refunded Bonds") be paid and  
96 redeemed as the same mature and otherwise become subject to redemption and payment on  
97 October 19, 2006, and (ii) that the Series 2001-A Bond maturing on and after August 1, 2009,  
98 (i.e., \$22,065,000) (the "Series 2001-A Refunded Bonds) (the Series 1998B Refunded Bonds and  
99 Series 2001-A Refunded Bonds are collectively referred to as the "Refunded Bonds") be paid  
100 and redeemed as the same mature and otherwise become subject to redemption and payment on  
101 August 1, 2008, and that two separate series of refunding revenue bonds of the City payable from  
102 the revenues derived from the operation of the System of the City be issued in the aggregate  
103 principal amount of \$54,975,000 to be utilized together with other legally available and  
104 unencumbered funds of the City for such purpose; and  
105

106           **WHEREAS**, such redemption and refunding would help the City achieve interest cost  
107 savings on its bonded indebtedness, provide a more orderly plan of financing for the City and  
108 result in a general restructuring of the debt service obligation of the City with respect to its  
109 combined utility, as hereinafter defined; and  
110

111           **WHEREAS**, it is necessary at this time that the City proceed forthwith to sell and deliver  
112 (1) its Combined Utility Refunding Revenue Bonds, Series 2006-A, in the principal sum of  
113 \$32,375,000 (the "Series 2006-A Bonds"), for the purpose of providing funds to currently refund  
114 the Series 1998B Refunded Bonds and pay the costs of issuing the Series 2006-A Bonds and (2)  
115 its Combined Utility Refunding Revenue Bonds, Series 2006-B in the principal sum of  
116 \$22,600,000 (the "Series 2006-B Bonds") (the Series 2006-A Bonds and Series 2006-B Bonds  
117 are collectively the "Bonds"), for the purpose of providing funds to advance refund the Series  
118 2001-A Refunded Bonds and pay the costs of issuing the Series 2006-B Bonds, all under the  
119 authority of K.S.A. 10-1201 et seq., K.S.A. 10-116a and Article 1 of Chapter 10, Kansas Statutes  
120 Annotated, all as amended; and  
121

122           **WHEREAS**, a portion of the proceeds derived from the sale of the Combined Utility  
123 Refunding Revenue Bonds, Series 2006-B, herein authorized shall, subject to the provisions of  
124 an escrow trust agreement authorized herein, be placed in an escrow trust account to be  
125 established as herein authorized for the purpose of paying and redeeming the Series 2001-A  
126 Refunded Bonds as to both principal and interest as the same mature and otherwise become due,  
127 all as more particularly described herein; and  
128

129           **WHEREAS**, as previously herein recited, the City on January 8, 2002, issued its Water  
130 and Water Pollution Control Utility Revenue Bonds, Series 2001-A in the amount of  
131 \$25,365,000 (the "Series 2001-A Bonds"); and  
132

133           **WHEREAS**, on March 25, 2003, the City combined its stormwater utility with the water  
134 and water pollution control utility creating a water, water pollution control and stormwater utility  
135 system (the “Combined Utility”); and  
136

137           **WHEREAS**, the City on February 19, 2004, issued its Combined Utility Improvement  
138 and Refunding Revenue Bonds, Series 2004-A in the amount of \$46,180,000 (the “Series 2004-  
139 A Bonds”) which, in part, currently refunded the City’s outstanding Series 1998A Water and  
140 Water Pollution Control Utility Refunding Revenue Bonds dated June 1, 1998; and  
141

142           **WHEREAS**, the City on December 8, 2005, issued its Combined Utility Improvement  
143 Revenue Bonds, Series 2005-A in the amount of \$14,875,000 (the “Series 2005-A Bonds”); and  
144

145           **WHEREAS**, the Bonds are parity obligations of the City’s System and, as such shall  
146 have equal lien status with the outstanding Series 2001-A Bonds not defeased in accordance with  
147 Section 701 of Resolution No. 7209 passed and approved by the governing body of the City  
148 December 11, 2001, which resolution prescribed, among other things, the details of the Series  
149 2001-A Bonds; the Series 2004-A Bonds; and the Series 2005-A Bonds; and  
150

151           **WHEREAS**, the City has authorized certain loans in the maximum authorized amount of  
152 \$135,827,633 from the Kansas Department of Health and Environment revolving fund loan  
153 program (the “Permitted Loans”) and pledged the revenues from the System to the payment of  
154 such Permitted Loans and any additional loans which would constitute Permitted Loans under  
155 the Resolution hereinafter provided for; and  
156

157           **WHEREAS**, the lien of the Permitted Loans upon the revenues of the System is superior  
158 to the lien of the City’s outstanding Series 1998B Bonds, Series 2001-A Bonds, and Series 2004-  
159 A Bonds, Series 2005-A Bonds and the Bonds hereby authorized and directed to be issued.  
160

161           **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**  
162 **TOPEKA, SHAWNEE COUNTY, KANSAS:**  
163

164           **Section 1.** That there is hereby authorized and directed to be issued (1) Combined Utility  
165 Refunding Revenue Bonds, Series 2006-A, of the City in the aggregate principal amount of  
166 \$32,375,000 for the purposes of providing funds to currently refund the Series 1998B Refunded  
167 Bonds and pay the costs of issuing the Series 2006-A Bonds and (2) Combined Utility Refunding  
168 Revenue Bonds, Series 2006-B, of the City in the aggregate principal amount of \$22,600,000 for  
169 the purposes of providing funds to advance refund the Series 2001-A Refunded Bonds and pay  
170 the costs of issuing the Series 2006-B Bonds, as provided by Article 1 of Chapter 10, Kansas  
171 Statutes Annotated, K.S.A. 10-116a, and Article 12 of Chapter 10 of the Kansas Statutes  
172 Annotated, all as amended. The Bonds shall be dated and bear interest, shall mature and be  
173 payable at such times, shall be in such form, shall be subject to redemption and payment prior to  
174 the maturity thereof and shall be issued in the manner prescribed and subject to the provisions,  
175 covenants and agreements set forth in a resolution of the Governing Body of the City adopted the  
176 same date as the date of the passage and approval of this Ordinance (the "Resolution").  
177

178           **Section 2.** That the Mayor and City Clerk are hereby authorized to prepare and execute  
179 the Bonds and when so executed, the Bonds shall be registered as required by law and the  
180 Governing Body shall annually make provisions for the payment of the principal of, redemption  
181 premium, if any, and interest on the Bonds as the same shall become due from the revenues  
182 derived by the City from the rates, fees or charges collected by the City from the operation of the  
183 System, including all improvements, extensions and enlargements thereto hereafter constructed  
184 or acquired by the City and not from any other fund or source. The Bonds shall constitute a lien  
185 upon the revenues produced from the System of the City.

186  
187           **Section 3.** That the City shall, and the officers, agents and employees of the City are  
188 hereby authorized and directed to, take such action and execute such other documents,  
189 certificates and instruments as may be necessary or desirable to carry out and comply with the  
190 provisions of this Ordinance and to carry out, comply with and perform the duties of the City  
191 with respect to the Bonds and the Resolution all as necessary to carry out and give effect to the  
192 transaction contemplated hereby and thereby.

193  
194           **Section 4.** That if any portion or provision of this Ordinance or the Bonds shall for any  
195 reason be held to be invalid or unenforceable, the invalidity or unenforceability of such portion  
196 or provisions shall not effect any of the remaining provisions of this Ordinance or the Bonds, but  
197 this Ordinance and said Bonds shall be construed and enforced as if such illegal or invalid  
198 provision had not been contained herein.

199  
200           **Section 5.** That the Bonds shall be issued and sold to the purchaser thereof in accordance  
201 with both its bid for the purchase thereof and the terms and conditions of this Ordinance.

202  
203           **Section 6.** That this Ordinance shall take effect and be in force from and after its passage  
204 and publication in the official City newspaper.

205  
206                           (REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK)  
207

208 Passed by the Governing Body and approved by the Council of the City of Topeka,  
209 Kansas, this 26th day of September, 2006.

210  
211 **CITY OF TOPEKA, KANSAS**  
212

213  
214 **ATTEST:**

215 \_\_\_\_\_  
216 **William W. Bunten, Mayor**

217 \_\_\_\_\_  
218 **Iris E. Walker, City Clerk**

219  
220 **(SEAL)**  
221

222  
223  
224  
225 **I, IRIS E. WALKER**, City Clerk of the City of Topeka, Shawnee County, Kansas, do  
226 hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 18717  
227 adopted and approved by the City Council on September 26, 2006.  
228

229  
230  
231 \_\_\_\_\_  
232 **Iris E. Walker, City Clerk**