

(Published in The Topeka Metro News on June 22, 2007.)

ORDINANCE NO. 18906

AN ORDINANCE INTRODUCED BY CITY MANAGER NORTON N. BONAPARTE, JR. AUTHORIZING THE ISSUANCE OF \$5,210,000 AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY IMPROVEMENT AND REFUNDING REVENUE BONDS, SERIES 2007-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, pursuant to K.S.A. 10-1201 et seq., as amended (the "Act"), the governing body of the **City of Topeka, Shawnee County, Kansas**, (the "City") by its Ordinances Nos. 18805 and 18819 adopted by two-thirds vote of the members thereof, and published as required by law, expressed its intent to improve the City's stormwater, wastewater and water supply systems (collectively, the "System") by making certain stormwater collection, sanitary sewer and water distribution improvements together with all things necessary and incidental thereto (the "Improvements") and authorizing that notice of the City's intention to make the Improvements and finance the costs thereof be given in accordance with the requirements of the Act; and

WHEREAS, pursuant to the Act, the City did cause to be published in its official newspaper, a paper of general circulation in the City, its Notice(s) of Intention to complete the Improvements and finance the cost thereof by issuing revenue bonds of the City, in the maximum principal amount of \$3,139,937.36, to pay all or part of the cost of the Improvements incurred or to be incurred by the City in connection with the Improvements; and

WHEREAS, a sufficient protest against the making of the Improvements and the issuance of revenue bonds of the City in the maximum principal amount of \$3,139,937.36 to pay the cost thereof was not received by the City Clerk within fifteen (15) days of the date of the publication of the City's Notice of Intention; and

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

WHEREAS, as of June 1, 2007, there remains outstanding of the Series 2001-A Bonds the principal amount of \$1,020,000 bearing interest payable semiannually on February 1 and August 1 each year and maturing on August 1, as follows:

44 MATURITY PRINCIPAL INTEREST
 45 (August 1) AMOUNT RATE

46 SERIAL BONDS

47
 48 2007 \$ 500,000 6.25%
 49 2008 520,000 5.25

50
 51 **WHEREAS**, the City has heretofore duly authorized, issued and delivered its
 52 \$46,180,000 principal amount of Combined Utility Improvement and Refunding Revenue
 53 Bonds, Series 2004-A, dated February 19, 2004, (the "Series 2004-A Bonds") pursuant to its
 54 Ordinance and Resolution adopted January 20, 2004, in accordance with the requirements of
 55 K.S.A. 10-116a, and K.S.A. 10-1201 et seq., all as amended; and

56
 57 **WHEREAS**, as of June 1, 2007, there remains outstanding of the Series 2004-A Bonds
 58 the principal amount of \$43,410,000 bearing interest payable semiannually on February 1 and
 59 August 1 each year and maturing on August 1, as follows:

60 MATURITY PRINCIPAL INTEREST
 61 (August 1) AMOUNT RATE

62 SERIAL BONDS

63
 64 2007 \$ 960,000 6.000%
 65 2008 980,000 6.000
 66 2009 1,005,000 6.000
 67 2010 1,035,000 6.000
 68 2011 1,065,000 6.000
 69 2012 1,100,000 3.100
 70 2013 1,135,000 3.300
 71 2014 1,175,000 3.450
 72 2015 1,220,000 3.650
 73 2016 1,265,000 3.800
 74 2017 1,315,000 4.000
 75 2018 1,370,000 4.000
 76 2019 1,425,000 4.125
 77 2020 1,490,000 4.250
 78 2021 1,555,000 4.250

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 80 (maturity schedule continued on the following page)

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(maturity schedule continued from previous page)

<u>MATURITY</u> <u>(August 1)</u>	<u>PRINCIPAL</u> <u>AMOUNT</u>	<u>INTEREST</u> <u>RATE</u>
TERM BONDS		
2020	\$1,200,000	6.00%
2023	1,430,000	6.00
2025	1,100,000	6.00
2027	1,235,000	6.00
2035	6,490,000	5.25

WHEREAS, the City has heretofore duly authorized, issued and delivered its \$22,600,000 principal amount of Combined Utility Refunding Revenue Bonds, Series 2006-B, dated October 18, 2006, (the "Series 2006-B Bonds") pursuant to its Ordinance and Resolution adopted September 26, 2006, in accordance with the requirements of K.S.A. 10-116a and K.S.A. 10-1201 et seq., all as amended; and

WHEREAS, as of June 1, 2007, there remains outstanding of the Series 2006-B Bonds the principal amount of \$22,600,000 bearing interest payable semiannually on February 1 and August 1 each year and maturing on August 1, as follows:

<u>MATURITY</u> <u>(August 1)</u>	<u>PRINCIPAL</u> <u>AMOUNT</u>	<u>INTEREST</u> <u>RATE</u>
SERIAL BONDS		
2007	\$ 345,000	4.00%
2008	160,000	4.00
2009	705,000	4.00
2010	735,000	4.00
2011	750,000	4.00
2012	770,000	4.00
2013	815,000	5.00
2014	1,875,000	5.00
2015	2,365,000	5.00
2016	2,485,000	4.00
2017	2,595,000	4.00
2018	2,695,000	4.00
2019	2,810,000	4.00
2020	2,935,000	4.00
2021	560,000	4.25

158 **WHEREAS**, pursuant to Section 203 of the Series 2001-A, 2004-A, 2005-A and 2006-B
159 Bond Ordinances, the State Treasurer of the State of Kansas, Topeka, Kansas, was designated as
160 the City's Paying Agent and Bond Registrar for the payment of the principal of and interest on
161 the Refunded Bonds hereinafter defined; and
162

163 **WHEREAS**, the City has determined and hereby determines that it is in the best interest
164 of the City and the patrons and taxpayers thereof that (i) the Series 2001-A Bonds maturing on
165 August 1, 2007, (i.e., \$500,000) (the "Series 2001-A Refunded Bonds") the Series 2004-A
166 Bonds maturing on August 1, 2007, (i.e., \$960,000) (the "Series 2004-A Refunded Bonds") the
167 Series 2005-A Bonds maturing on August 1, 2007, (i.e., \$205,000) (the "Series 2005-A
168 Refunded Bonds") and the Series 2006-B Bonds maturing on August 1, 2007, (i.e., \$345,000)
169 (the "Series 2006-B Refunded Bonds") (the Series 2001-A Refunded Bonds, Series 2004-A
170 Refunded Bonds, Series 2005-A Refunded Bonds and Series 2006-B Refunded Bonds are
171 collectively referred to as the "Refunded Bonds") be paid and redeemed as the same mature on
172 August 1, 2007, and that refunding revenue bonds of the City payable from the revenues derived
173 from the operation of the System of the City be issued in the aggregate principal amount of
174 \$2,175,000 to be utilized for such purpose; and
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176 **WHEREAS**, such refunding would provide a more orderly plan of financing for the City
177 and result in a general restructuring of the debt service obligation of the City with respect to its
178 combined utility, as hereinafter defined; and
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180 **WHEREAS**, it is necessary at this time that the City proceed forthwith to sell and deliver
181 its Combined Utility Improvement and Refunding Revenue Bonds, Series 2007-B, in the
182 principal sum of \$5,210,000 (the "Bonds"), for the purpose of providing funds to (1) pay a
183 portion of the costs of making the Improvements (i.e., \$2,858,622.02), (2) currently refund the
184 City's Refunded Bonds, (3) fund a debt service reserve fund for the Bonds and (4) pay the costs
185 of issuing the Bonds, under the authority of K.S.A. 10-1201 et seq., K.S.A. 10-116a and Article
186 1 of Chapter 10, Kansas Statutes Annotated, all as amended; and
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188 **WHEREAS**, as previously herein recited, the City on January 8, 2002, issued its Series
189 2001-A Bonds in the amount of \$25,365,000; and
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191 **WHEREAS**, on March 25, 2003, the City combined its stormwater utility with the water
192 and water pollution control utility creating a water, water pollution control and stormwater utility
193 system (the "Combined Utility"); and
194

195 **WHEREAS**, as previously herein recited, the City on February 19, 2004, issued its
196 Series 2004-A Bonds in the amount of \$46,180,000 which, in part, currently refunded the City's
197 outstanding Series 1998A Water and Water Pollution Control Utility Refunding Revenue Bonds
198 dated June 1, 1998; and
199

200 **WHEREAS**, as previously herein recited, the City on December 8, 2005, issued its
201 Series 2005-A Bonds in the amount of \$14,875,000; and
202

203 **WHEREAS**, the City on October 18, 2006, issued its Combined Utility Refunding
204 Revenue Bonds, Series 2006-A in the amount of \$32,375,000 (the “Series 2006-A Bonds”)
205 which currently refunded all of the City’s outstanding Series 1998B Water and Water Pollution
206 Control Utility Revenue Bonds dated October 18, 2006; and

207
208 **WHEREAS**, as previously herein recited, the City on October 18, 2006, issued its Series
209 2006-B Bonds in the amount of \$22,600,000 which advanced refunded the City’s outstanding
210 Series 2001-A Water and Water Pollution Control Utility Revenue Bonds maturing in the years
211 2009 through and including 2031; and

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213 **WHEREAS**, the City is issuing simultaneously with the Bonds, a series of Taxable
214 Combined Utility Improvement Revenue Bonds, Series 2007-C in the amount of \$2,140,000 (the
215 “Series 2007-C Bonds”); and

216
217 **WHEREAS**, the Bonds are parity obligations of the City’s System and, as such shall
218 have equal lien status with the outstanding Series 2001-A Bonds not defeased in accordance with
219 Section 701 of Resolution No. 7209 passed and approved by the governing body of the City
220 December 11, 2001, which resolution prescribed, among other things, the details of the Series
221 2001-A Bonds; the Series 2004-A Bonds; the Series 2005-A Bonds, the Series 2006-A Bonds,
222 the Series 2006-B Bonds and the Series 2007-C Bonds; and

223
224 **WHEREAS**, the City has authorized certain loans in the maximum authorized amount of
225 \$145,144,633 from the Kansas Department of Health and Environment revolving fund loan
226 program (the “Permitted Loans”) and pledged the revenues from the System to the payment of
227 such Permitted Loans and any additional loans which would constitute Permitted Loans under
228 the Resolution hereinafter provided for; and

229
230 **WHEREAS**, the lien of the Permitted Loans upon the revenues of the System is superior
231 to the lien of the City’s outstanding Series 2001-A Bonds, and Series 2004-A Bonds, Series
232 2005-A Bonds, Series 2006-A Bonds, Series 2006-B Bonds, Series 2007-C Bonds and the Bonds
233 hereby authorized and directed to be issued.

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235 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
236 **TOPEKA, SHAWNEE COUNTY, KANSAS:**

237
238 **Section 1.** That there is hereby authorized and directed to be issued Combined Utility
239 Improvement and Refunding Revenue Bonds, Series 2007-B, of the City in the aggregate
240 principal amount of \$5,210,000 for the purposes of providing funds to (1) pay the costs of
241 making the Improvements, (2) currently refund the City’s Refunded Bonds, (3) fund a debt
242 service reserve fund for the Bonds and (4) pay the costs of issuing the Bonds, as provided by
243 Article 1 of Chapter 10, Kansas Statutes Annotated, K.S.A. 10-116a, and Article 12 of Chapter
244 10 of the Kansas Statutes Annotated, all as amended. The Bonds shall be dated and bear interest,
245 shall mature and be payable at such times, shall be in such form, shall be subject to redemption
246 and payment prior to the maturity thereof and shall be issued in the manner prescribed and
247 subject to the provisions, covenants and agreements set forth in a resolution of the Governing

248 Body of the City adopted the same date as the date of the passage and approval of this Ordinance
249 (the "Resolution").

250
251 **Section 2.** That the Mayor and City Clerk are hereby authorized to prepare and execute
252 the Bonds and when so executed, the Bonds shall be registered as required by law and the
253 Governing Body shall annually make provisions for the payment of the principal of, redemption
254 premium, if any, and interest on the Bonds as the same shall become due from the revenues
255 derived by the City from the rates, fees or charges collected by the City from the operation of the
256 System, including all improvements, extensions and enlargements thereto hereafter constructed
257 or acquired by the City and not from any other fund or source. The Bonds shall constitute a lien
258 upon the revenues produced from the System of the City.

259
260 **Section 3.** That the City shall, and the officers, agents and employees of the City are
261 hereby authorized and directed to, take such action and execute such other documents,
262 certificates and instruments as may be necessary or desirable to carry out and comply with the
263 provisions of this Ordinance and to carry out, comply with and perform the duties of the City
264 with respect to the Bonds and the Resolution all as necessary to carry out and give effect to the
265 transaction contemplated hereby and thereby.

266
267 **Section 4.** That if any portion or provision of this Ordinance or the Bonds shall for any
268 reason be held to be invalid or unenforceable, the invalidity or unenforceability of such portion
269 or provisions shall not affect any of the remaining provisions of this Ordinance or the Bonds, but
270 this Ordinance and said Bonds shall be construed and enforced as if such illegal or invalid
271 provision had not been contained herein.

272
273 **Section 5.** That the Bonds shall be issued and sold to the purchaser thereof in accordance
274 with both its bid for the purchase thereof and the terms and conditions of this Ordinance.

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

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279 (REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK)

280 Passed by the Governing Body and approved by the Council of the City of Topeka,
281 Kansas, this 19th day of June, 2007.

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283 **CITY OF TOPEKA, KANSAS**

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286 **ATTEST:**

/s/ William W. Bunten
William W. Bunten, Mayor

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288
289 /s/ Brenda Younger
290 **Brenda Younger, City Clerk**

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292 **(SEAL)**

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297 **I, BRENDA YOUNGER**, City Clerk of the City of Topeka, Shawnee County, Kansas,
298 do hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 18906
299 adopted and approved by the City Council on June 19, 2007.

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303 /s/Brenda Younger
304 **Brenda Younger, City Clerk**