

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

ORDINANCE NO. 18907

AN ORDINANCE INTRODUCED BY CITY MANAGER NORTON N. BONAPARTE, JR. AUTHORIZING THE ISSUANCE OF \$2,140,000 AGGREGATE PRINCIPAL AMOUNT OF TAXABLE COMBINED UTILITY IMPROVEMENT REVENUE BONDS, SERIES 2007-C, OF THE CITY OF TOPEKA, KANSAS, UNDER THE AUTHORITY OF 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. 17273, 17428 and 18352 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 \$48,425,000, 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 \$48,425,000 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 previously issued bonds in the amount of \$36,284,506.68 to pay a portion of the costs of the Improvements; and

WHEREAS, it is necessary at this time that the City proceed forthwith to sell and deliver its Taxable Combined Utility Improvement Revenue Bonds, Series 2007-C, in the principal sum of \$2,140,000 (the "Bonds"), for the purpose of providing funds to (1) pay additional of the costs of making the Improvements (i.e., \$2,027,671.92), (2) fund a debt service reserve fund for the Bonds and (3) pay the costs of issuing the Bonds, under the authority of K.S.A. 10-1201 et seq., and Article 1 of Chapter 10, Kansas Statutes Annotated, all as amended; and

45 **WHEREAS**, the City on January 8, 2002, issued its Water and Water Pollution Control
46 Utility Revenue Bonds, Series 2001-A in the amount of \$25,365,000 (the “Series 2001-A
47 Bonds”); and

48
49 **WHEREAS**, on March 25, 2003, the City combined its stormwater utility with the water
50 and water pollution control utility creating a water, water pollution control and stormwater utility
51 system (the “Combined Utility”); and

52
53 **WHEREAS**, the City on February 19, 2004, issued its Combined Utility Improvement
54 and Refunding Revenue Bonds, Series 2004-A in the amount of \$46,180,000 (the “Series 2004-
55 A Bonds”) which, in part, currently refunded the City’s outstanding Series 1998A Water and
56 Water Pollution Control Utility Refunding Revenue Bonds dated June 1, 1998; and

57
58 **WHEREAS**, the City on December 8, 2005, issued its Combined Utility Improvement
59 Revenue Bonds, Series 2005-A in the amount of \$14,875,000 (the “Series 2005-A Bonds”); and

60
61 **WHEREAS**, the City on October 18, 2006, issued its Combined Utility Refunding
62 Revenue Bonds, Series 2006-A in the amount of \$32,375,000 (the “Series 2006-A Bonds”)
63 which currently refunded all of the City’s outstanding Series 1998B Water and Water Pollution
64 Control Utility Revenue Bonds dated October 18, 2006; and

65
66 **WHEREAS**, the City on October 18, 2006, issued its Combined Utility Refunding
67 Revenue Bonds, Series 2006-B in the amount of \$22,600,000 (the “Series 2006-B Bonds”)
68 which advanced refunded the City’s outstanding Series 2001-A Water and Water Pollution
69 Control Utility Revenue Bonds maturing in the years 2009 through and including 2031; and

70
71 **WHEREAS**, the City is issuing simultaneously with the Bonds, a series of Combined
72 Utility Improvement and Refunding Revenue Bonds, Series 2007-B in the amount of \$5,210,000
73 (the “Series 2007-A Bonds”) which will both finance certain stormwater collection, sanitary
74 sewer and water distribution system improvements and currently refund the August 1, 2007,
75 maturities of the Series 2001-A Bonds, Series 2004-A Bonds, Series 2005-A Bonds and Series
76 2006-B Bonds; and

77
78 **WHEREAS**, the Bonds are parity obligations of the City’s System and, as such shall
79 have equal lien status with the outstanding Series 2001-A Bonds not defeased in accordance with
80 Section 701 of Resolution No. 7209 passed and approved by the governing body of the City
81 December 11, 2001, which resolution prescribed, among other things, the details of the Series
82 2001-A Bonds; the Series 2004-A Bonds; the Series 2005-A Bonds, the Series 2006-A Bonds,
83 the Series 2006-B Bonds and the Series 2007-B Bonds; and

84
85 **WHEREAS**, the City has authorized certain loans in the maximum authorized amount of
86 \$145,144,633 from the Kansas Department of Health and Environment revolving fund loan
87 program (the “Permitted Loans”) and pledged the revenues from the System to the payment of
88 such Permitted Loans and any additional loans which would constitute Permitted Loans under
89 the Resolution hereinafter provided for; and

91 **WHEREAS**, the lien of the Permitted Loans upon the revenues of the System is superior
92 to the lien of the City's outstanding Series 2001-A Bonds, and Series 2004-A Bonds, Series
93 2005-A Bonds, Series 2006-A Bonds, Series 2006-B Bonds, Series 2007-B Bonds and the Bonds
94 hereby authorized and directed to be issued.

95
96 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
97 **TOPEKA, SHAWNEE COUNTY, KANSAS:**

98
99 **Section 1.** That there is hereby authorized and directed to be issued Taxable Combined
100 Utility Improvement Revenue Bonds, Series 2007-C, of the City in the aggregate principal
101 amount of \$2,140,000 for the purposes of providing funds to (1) pay additional costs of making
102 the Improvements, (2) fund a debt service reserve fund for the Bonds and (3) pay the costs of
103 issuing the Bonds, as provided by Article 1 of Chapter 10, Kansas Statutes Annotated and Article
104 12 of Chapter 10 of the Kansas Statutes Annotated, all as amended. The Bonds shall be dated
105 and bear interest, shall mature and be payable at such times, shall be in such form, shall be
106 subject to redemption and payment prior to the maturity thereof and shall be issued in the manner
107 prescribed and subject to the provisions, covenants and agreements set forth in a resolution of the
108 Governing Body of the City adopted the same date as the date of the passage and approval of this
109 Ordinance (the "Resolution").

110
111 **Section 2.** That the Mayor and City Clerk are hereby authorized to prepare and execute
112 the Bonds and when so executed, the Bonds shall be registered as required by law and the
113 Governing Body shall annually make provisions for the payment of the principal of, redemption
114 premium, if any, and interest on the Bonds as the same shall become due from the revenues
115 derived by the City from the rates, fees or charges collected by the City from the operation of the
116 System, including all improvements, extensions and enlargements thereto hereafter constructed
117 or acquired by the City and not from any other fund or source. The Bonds shall constitute a lien
118 upon the revenues produced from the System of the City.

119
120 **Section 3.** That the City shall, and the officers, agents and employees of the City are
121 hereby authorized and directed to, take such action and execute such other documents,
122 certificates and instruments as may be necessary or desirable to carry out and comply with the
123 provisions of this Ordinance and to carry out, comply with and perform the duties of the City
124 with respect to the Bonds and the Resolution all as necessary to carry out and give effect to the
125 transaction contemplated hereby and thereby.

126
127 **Section 4.** That if any portion or provision of this Ordinance or the Bonds shall for any
128 reason be held to be invalid or unenforceable, the invalidity or unenforceability of such portion
129 or provisions shall not affect any of the remaining provisions of this Ordinance or the Bonds, but
130 this Ordinance and said Bonds shall be construed and enforced as if such illegal or invalid
131 provision had not been contained herein.

132
133 **Section 5.** That the Bonds shall be issued and sold to the purchaser thereof in accordance
134 with both its bid for the purchase thereof and the terms and conditions of this Ordinance.
135

136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163

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

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

CITY OF TOPEKA, KANSAS

ATTEST:

William W. Bunten, Mayor

Brenda Younger, City Clerk

(SEAL)

I, BRENDA YOUNGER, City Clerk of the City of Topeka, Shawnee County, Kansas, do hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 18907 adopted and approved by the City Council on June 19, 2007.

Brenda Younger, City Clerk