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ORDINANCE NO. 19486

AN ORDINANCE INTRODUCED BY CITY MANAGER NORTON N. BONAPARTE, JR. AUTHORIZING THE ISSUANCE OF FULL FAITH AND CREDIT TAX INCREMENT REFUNDING BONDS, SERIES 2010 (COLLEGE HILL REDEVELOPMENT) IN THE MAXIMUM PRINCIPAL AMOUNT OF \$5,805,000 OF THE CITY OF TOPEKA, KANSAS, FOR THE PURPOSE OF ADVANCE REFUNDING CERTAIN OUTSTANDING FULL FAITH AND CREDIT TAX INCREMENT BONDS; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

WHEREAS, the City of Topeka, Kansas, (the “City”) is a municipal corporation duly organized and existing under the laws of the State of Kansas with full and lawful power and authority under K.S.A. 12-1770 et seq., as amended, (the “Act”) to issue full faith and credit tax increment bonds to finance the undertaking of certain redevelopment projects under the authority of the Act and to issue bonds to refund all or part of such full faith and credit tax increment bonds pursuant to the provisions of K.S.A. 10-427 et seq. and amendments thereto; and

WHEREAS, pursuant to the Act, Ordinance No. 18671 of the City passed and approved July 11, 2006, and published as required by law, (the “Series 2006-A Ordinance”), and a Bond Trust Indenture dated as of July 1, 2006, (the “Series 2006-A Indenture”) between the City and U. S. Bank National Association, St. Louis, Missouri (the “Trustee”), the City issued it Full Faith and Credit Tax Increment Bonds, Series 2006-A (College Hill Redevelopment), dated July 27, 2006, in the aggregate principal amount of \$5,840,000 (the “Series 2006-A Bonds”) of which \$5,455,000 principal amount is currently outstanding as follows:

SERIAL BONDS

Stated Maturity*	Principal Amount	Annual Rate of Interest	Stated Maturity	Principal Amount	Annual Rate of Interest
August 15, 2011	\$220,000	5.750%	August 15, 2018	\$355,000	4.400%
August 15, 2012	240,000	5.500%	August 15, 2019	375,000	4.400%
August 15, 2013	255,000	5.500%	August 15, 2020	400,000	4.500%
August 15, 2014	275,000	5.500%	August 15, 2021	425,000	4.500%
August 15, 2015	295,000	4.125%	August 15, 2022	450,000	4.500%
August 15, 2016	315,000	4.250%	August 15, 2023	475,000	4.500%
August 15, 2017	335,000	4.300%			

TERM BONDS

Stated Maturity	Principal Amount	Annual Rate of Interest
August 15, 2025	\$1,040,000	4.50%

; and

1 **WHEREAS**, pursuant to Section 702 of the Series 2006-A Indenture, the City from time
2 to time may issue bonds secured by the Series 2006-A Indenture to refund any portion of the
3 Series 2006-A Bonds, and the refunding bonds so issued shall enjoy complete equality of pledge
4 with any of the Series 2006-A Bonds that are not refunded upon the funds and accounts pledged
5 under the Series 2006-A Indenture; and
6

7 **WHEREAS**, pursuant to Section 1011 of the Series 2006-A Indenture, the U. S. Bank
8 National Association, St. Louis, Missouri, was designated to act as Co-Paying Agent with U.S.
9 Bank National Association, Topeka, Kansas, as the City's principal Paying Agent and Bond
10 Registrar for the payment of the principal of and interest on the Series 2006-A Bonds; and
11

12 **WHEREAS**, the Series 2006-A Bonds maturing on or after August 15, 2012, may be
13 called for redemption and payment prior to maturity on August 15, 2011 or thereafter in whole or
14 in part on any dated (selection or maturities and the amount of Bonds of each maturity to be
15 redeemed to be determined by the Trustee in such equitable manner as it may determine) at the
16 Redemption Price of 100% (expressed as a percentage of the principal amount), plus accrued
17 interest thereon to the Redemption Date; and
18

19 **WHEREAS**, the City has determined and hereby determines that it is in the best interest
20 of the City and the patrons and taxpayers thereof that the Series 2006-A Bonds maturing on and
21 after August 15, 2011, be paid and redeemed as the same mature and otherwise become subject
22 to redemption and payment on August 15, 2012, and that full faith and credit tax increment
23 refunding bonds be issued in the principal amount of \$5,805,000 to be utilized together with
24 other legally available and unencumbered funds of the City for such purpose; and
25

26 **WHEREAS**, pursuant to Section 301 of the Series 2006-A Indenture, the City deems it
27 necessary and advisable to call the Series 2006-A Bonds maturing on and after August 15, 2012,
28 for redemption and payment on August 15, 2011 (the "Redemption Date"); and
29

30 **WHEREAS**, such redemption and refunding would help the City achieve interest cost
31 savings on its bonded indebtedness, provide a more orderly plan of financing for the City and
32 result in a general restructuring of the debt service obligation of the City; and
33

34 **WHEREAS**, the proceeds derived from the sale of the full faith and credit tax increment
35 refunding bonds herein authorized shall, subject to the provisions of an escrow trust agreement
36 authorized herein, be placed in an escrow trust account to be established in the Trust Indenture
37 dated as of December 14, 2010, (the "Indenture") and authorized for the purpose of paying and
38 redeeming the Series 2006-A Bonds as to both principal and interest as the same mature and
39 otherwise become due, all as more particularly described herein; and
40

41 **WHEREAS**, the City has determined that it is necessary and desirable, to adopt this
42 Ordinance in order to issue its Full Faith and Credit Tax Increment Refunding Bonds, Series
43 2010 (College Hill Redevelopment) (the "Bonds"), in the maximum aggregate principal amount
44 of \$5,805,000 to advance refund all of the City's outstanding Series 2006-A Bonds (i.e.,
45 \$5,455,000) and pay the costs of issuing the Bonds.
46
47

1 **NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE**
2 **CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS, AS FOLLOWS:**

3
4 **Section 1. Authorization of the Bonds.** The City is hereby authorized to issue and sell
5 the Bonds in the original aggregate principal amount of not to exceed \$5,805,000, the proceeds
6 of which will be used to advance refund all of the City’s outstanding Series 2006-A Bonds and
7 pay certain issuance costs related to the Bonds. The Bonds shall be issued and secured pursuant
8 to the herein authorized Indenture and shall bear such dates, shall be in such denominations, shall
9 be in such forms, shall mature on the dates and in the principal amounts, shall bear interest at
10 rates not to exceed 6% per annum and shall be subject to redemption on the dates and in the
11 principal amounts as provided in the Indenture, and shall have such other terms and provisions,
12 shall be issued, executed, authenticated and delivered in such manner and shall be subject to such
13 provisions, covenants and agreements, as are set forth in the Indenture.
14

15 **Section 2. Security for the Bonds.** The Bonds and the interest thereon shall be payable
16 (except to the extent paid out of Bond proceeds or the income from the temporary investment
17 thereof and under certain circumstances from insurance proceeds and condemnation awards)
18 first from the Incremental Tax Revenues and other payments derived by the City under the
19 Redevelopment Agreement (except for fees and expenses payable to the City, the City's right to
20 indemnification as set forth in the Redevelopment Agreement and as otherwise expressly set
21 forth therein) and a pledge of the City’s full faith and credit to use its ad valorem taxing authority
22 for the payment thereof in the event the Incremental Tax Revenues are not sufficient. In
23 accordance with the City’s pledge of its full faith and credit to the payment of the Bonds, the
24 City hereby covenants and agrees to levy ad valorem taxes, which may be levied without
25 limitation upon all the taxable property, real and personal, within the territorial limits of the City,
26 as necessary to pay the principal of and interest on the Bonds as the same become due at maturity
27 or upon earlier redemption. The Bonds and interest thereon shall not be deemed to constitute a
28 debt or liability of the State of Kansas within the meaning of any state constitutional provision or
29 statutory limitation and shall not constitute a pledge of the full faith and credit of the State of
30 Kansas but shall be payable solely from the funds provided for in the Indenture. The issuance of
31 the Bonds shall not, directly, indirectly or contingently, obligate the State of Kansas to levy any
32 form of taxation therefor or to make any appropriation for their payment.
33

34 **Section 3. Authorization and Approval of Documents.** The following documents are
35 hereby approved in substantially the forms presented to and reviewed by the City at this meeting
36 (copies of which documents shall be filed in the records of the City), and the City is hereby
37 authorized to execute and deliver each of such documents to which the City is a party (the "City
38 Documents") with such changes therein as shall be approved by the officer or officers of the City
39 executing such documents, such officers' signatures thereon being conclusive evidence of their
40 approval and the City's approval thereof:
41

- 42 (a) Bond Trust Indenture dated as of the date stated therein (the "Indenture"),
43 between the City and U.S. Bank National Association, St. Louis, Missouri, as trustee (the
44 "Trustee");
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46

1 (b) Escrow Trust Agreement dated as of the date stated therein (the “Escrow
2 Trust Agreement”);

3
4 (c) Continuing Disclosure Agreement dated as of the date stated therein (the
5 "Continuing Disclosure Agreement"); and

6
7 (d) Tax Compliance Agreement dated as of the date stated therein (the "Tax
8 Compliance Agreement") between the City and the Trustee.

9
10 **Section 5. Approval of Use of Official Statement.** The City hereby approves the use of
11 the Preliminary Official Statement, from which a final Official Statement shall be drafted
12 (collectively, the "Official Statement"), in connection with the sale of the Bonds, in substantially
13 the form presented to the City (a copy of which Official Statement shall be filed in the official
14 records of the City) with such changes therein as shall be deemed necessary by Nichols and
15 Wolfe Chartered, bond counsel.

16
17 The Official Statement and the distribution thereof by the Original Purchaser are hereby
18 approved for use in connection with the sales of the Bonds. The City has not participated in the
19 preparation of the Official Statement and has not verified the accuracy of the information therein,
20 other than information respecting the City. Accordingly, the approval of the Official Statement
21 does not constitute approval by the City of all information contained therein or a representation
22 by the City as to the completeness or accuracy of the information contained therein. For the
23 purpose of enabling the Official Statement to comply with the requirements of Rule 15c2-
24 12(b)(1) of the Securities and Exchange Commission (the "Rule"), the City hereby deems the
25 information regarding the City contained in the Official Statement to be "final" as of its date,
26 except for the omission of such information as is permitted by the Rule, and the appropriate
27 officials of the City are hereby authorized, if requested, to provide the Original Purchaser a letter
28 or certification to such effect and to take such other actions or execute such other documents as
29 such officials in their reasonable judgment deem necessary to enable the Original Purchaser to
30 comply with the requirements of such Rule.

31
32 **Section 6. Execution of Bonds and Documents.** The Mayor of the City is hereby
33 authorized and directed to execute the Bonds and to deliver the Bonds to the Trustee for
34 authentication for and on behalf of and as the act and deed of the City in the manner provided in
35 the Indenture. The Mayor of the City is hereby authorized and directed to execute the City
36 Documents and such other documents, certificates and instruments as may be necessary or
37 desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as
38 the act and deed of the City. The Clerk of the City is hereby authorized and directed to attest to
39 and affix the seal of the City to the Bonds, the City Documents and such other documents,
40 certificates and instruments as may be necessary.

41
42 **Section 7. Tax Covenants.** The City covenants and agrees that (a) it will comply with
43 all applicable provisions of the Code, including *Sections 103* and *141* through *150*, necessary to
44 maintain the exclusion from federal gross income of the interest on the Bonds; and (b) it will not
45 use or permit the use of any proceeds of Bonds or any other funds of the City, nor take or permit
46 any other action, or fail to take any action, which would adversely affect the exclusion from

1 federal gross income of the interest on the Bonds. The City will also adopt such other ordinances
2 or resolutions and take such other actions as may be necessary to comply with the Code and with
3 other applicable future law, in order to ensure that the interest on the Bonds will remain excluded
4 from federal gross income, to the extent any such actions can be taken by the City.
5

6 **Section 8. Further Authority.** The City shall, and the officers, employees and agents of
7 the City are hereby authorized and directed to, take such action, expend such funds and execute
8 such other documents, certificates and instruments as may be necessary or desirable to carry out
9 and comply with the intent of this Ordinance, and to carry out, comply with and perform the
10 duties of the City with respect to the Bonds and the City Documents, including, but not limited
11 to, agreements with respect to the investment of funds held under the Indenture.
12

13 **Section 9. Governing Law.** This Ordinance and the Bonds shall be governed by and
14 construed in accordance with the applicable laws of the State.
15

16 **Section 10. Effective Date.** This Ordinance shall take effect and be in full force from
17 and after its passage by the governing body of the City and publication in the official City
18 newspaper.
19

20 (REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK)
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PASSED and approved by the City Council on November 16, 2010.

CITY OF TOPEKA, KANSAS

(SEAL)

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

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. 19486 adopted and approved by the City Council on November 16, 2010.

Brenda Younger, City Clerk