

(Published in The Topeka Metro News on October 10, 2008.)

ORDINANCE NO. 19169

AN ORDINANCE INTRODUCED BY CITY MANAGER NORTON N. BONAPARTE, JR. AUTHORIZING THE ISSUANCE OF \$24,570,000 AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION IMPROVEMENT AND REFUNDING BONDS, SERIES 2008-A, OF THE CITY OF TOPEKA, KANSAS, UNDER THE AUTHORITY OF K.S.A. 10-101 to 125, INCLUSIVE, K.S.A. 10-427 ET SEQ., K.S.A. 12-6a01 ET SEQ., THE HOME RULE AUTHORITY GRANTED TO THE CITIES OF THE STATE OF KANSAS BY SECTION 5 OF ARTICLE 12 OF THE KANSAS CONSTITUTION, AND CHARTER ORDINANCE NO. 89 OF THE CITY, ALL AS AMENDED.

WHEREAS, pursuant to K.S.A. 12-6a01 et seq., all as amended, the home rule authority granted to the cities of the State of Kansas by Section 5 of Article 12 of the Kansas Constitution and Charter Ordinance No. 89 of the City of Topeka, Kansas, (the “City”) and other provisions of the laws of the State of Kansas applicable thereto, by proceedings duly had, the City has caused the following improvements (the “Internal Improvements”) to be made in the City, to-wit:

- (a) Sanitary Sewer Improvement Project No. 40659-02;
- (b) Sanitary Sewer Improvement Project No. 40832-01;
- (c) Sanitary Sewer Improvement Project No. 40858-03;
- (d) Sanitary Sewer Improvement Project No. 40906-00;
- (e) Sanitary Sewer Improvement Project No. 40915-02;
- (f) Sanitary Sewer Improvement Project No. 40917-02;
- (g) Sanitary Sewer Improvement Project No. 40926-01;
- (h) Sanitary Sewer Improvement Project No. 40928-00;
- (i) Sanitary Sewer Improvement Project No. 40941-00;
- (j) Sanitary Sewer Improvement Project No. 40942-00;
- (k) Sanitary Sewer Improvement Project No. 40943-01;
- (l) Sanitary Sewer Improvement Project No. 40948-00;
- (m) Street Improvement Project No. 60364-02;
- (n) Street Improvement Project No. 60500-02;
- (o) Street Improvement Project No. 60581-01;
- (p) Street Improvement Project No. 60599-02;
- (q) Street Improvement Project No. 60604-01;
- (r) Street Improvement Project No. 60605-00;
- (s) Street Improvement Project No. 60623-01;
- (t) Street Improvement Project No. 24119-00;
- (u) Street Improvement Project No. 70114-03;
- (v) Street Improvement Project No. 70123-01;

- (w) Street Improvement Project No. 70190-01;
- (x) Street Improvement Project No. 84344-00;
- (y) Street Improvement Project No. 84347-00;
- (z) Street Improvement Project No. 84349-00;
- (aa) Street Improvement Project No. 84352-00;
- (bb) Street Improvement Project No. 84353-00;
- (cc) Street Improvement Project No. 86260-00;
- (dd) Bridge Improvement Project No. 12052-00;
- (ee) Trafficway Improvement Project No. 14115-00;
- (ff) Trafficway Improvement Project No. 14118-00;
- (gg) Trafficway Improvement Project No. 14119-00;
- (hh) Trafficway Improvement Project No. 14121-00;
- (ii) Trafficway Improvement Project No. 14122-00;
- (jj) Trafficway Improvement Project No. 14123-00;
- (kk) Trafficway Improvement Project No. 14124-00;
- (ll) Trafficway Improvement Project No. 14126-00;
- (mm) Trafficway Improvement Project No. 14128-00;
- (nn) Trafficway Improvement Project No. 70142-03
- (oo) Park Improvement Project No. 30127-09;
- (pp) Park Improvement Project No. 30268-00;
- (qq) Park Improvement Project No. 30280-00;
- (rr) Park Improvement Project No. 30281-00;
- (ss) Park Improvement Project No. 30245-00;
- (tt) Park Improvement Project No. 30283-00;
- (uu) Neighborhood Improvement Project No. 60627-00;
- (vv) Neighborhood Improvement Project No. 60633-00; and
- (ww) Neighborhood Improvement Project No. 60642-00.

WHEREAS, all legal requirements pertaining to the Internal Improvements have been complied with, and the governing body of the City now finds and determines that the total cost of the Internal Improvements, including the payment of a portion of the City's outstanding Series 2007-A Temporary Note dated November 28, 2007, which is due and payable November 1, 2008, and related expenses are at least \$23,196,112.91 (the "Internal Improvement Costs"), of which approximately \$2,984,420.02 will be paid from other funds lawfully available to the City, with \$6,516,413.79 of said Internal Improvement Costs to be paid by the owners of the property within the City benefited by the Internal Improvements (\$216,692.89 of which has been paid into the City Treasury on account of the Internal Improvements) leaving \$19,995,000.00 to be paid for by the issuance of general obligation bonds; and

WHEREAS, the City has heretofore duly authorized, issued and delivered its \$29,665,000 principal amount of General Obligation Improvement and Refunding Bonds, Series 2001-B, dated August 1, 2001, (the "Series 2001-B Bonds") pursuant to its Ordinance adopted July 17, 2001, in accordance with the requirements of K.S.A. 10-427 et seq., K.S.A. 12-110c, K.S.A. 12-685 et seq., K.S.A. 12-6a01 et seq., K.S.A. 12-1736 et seq. and Charter Ordinances Nos. 68 and 74 of the City, all as amended (the "Series 2001-B Bond Ordinance"). The terms

and conditions of the Series 2001-B Bonds was set forth in a Resolution adopted on July 17, 2001 (the “Series 2001-B Bond Resolution); and

WHEREAS, as of October 1, 2008, there remains outstanding of the Series 2001-B Bonds the principal amount of \$3,260,000 bearing interest payable semiannually on February 15 and August 15 of each year and maturing serially on August 15, as follows:

SERIAL BONDS

<u>MATURITY</u> <u>(August 15)</u>	<u>PRINCIPAL</u> <u>AMOUNT</u>	<u>INTEREST</u> <u>RATE</u>
2009	\$1,615,000	4.200%
2010	1,645,000	4.300

; and

WHEREAS, the City has heretofore duly authorized, issued and delivered its \$24,905,000 principal amount of General Obligation Refunding Bonds, Series 2003-B, dated August 14, 2003, (the “Series 2003-B Bonds”) pursuant to its Ordinance adopted July 15, 2003, in accordance with the requirements of K.S.A. 10-427 et seq. (the “Series 2003-B Bond Ordinance”). The terms and conditions of the Series 2003-B Bonds were set forth in a Resolution adopted on July 15, 2003 (the “Series 2003-B Bond Resolution); and

WHEREAS, as of October 1, 2008, there remains outstanding of the Series 2003-B Bonds the principal amount of \$12,420,000 bearing interest payable semiannually on February 15 and August 15 of each year and maturing serially on August 15, as follows:

SERIAL BONDS

<u>MATURITY</u> <u>(August 15)</u>	<u>PRINCIPAL</u> <u>AMOUNT</u>	<u>INTEREST</u> <u>RATE</u>
2009	\$2,470,000	2.60%
2010	2,455,000	2.90
2011	2,555,000	3.10
2012	1,315,000	3.25
2013	550,000	3.40
2014	570,000	3.55
2015	590,000	3.65
2016	610,000	3.80
2017	640,000	4.00
2018	665,000	4.00

; and

138 **WHEREAS**, pursuant to Section 203 of the Series 2001-B Bond Resolution and Series
139 2003-B Bond Resolution the State Treasurer of the State of Kansas, Topeka, Kansas, was
140 designated as the City's Paying Agent and Bond Registrar for the payment of the principal of and
141 interest on the Series 2001-B Bonds and Series 2003-B Bonds; and
142

143 **WHEREAS**, pursuant to Section 301 of the Series 2001-B Bond Resolution, the Series
144 2001-B Bonds maturing on August 15, 2007, and thereafter, are subject to redemption and
145 payment at the option of the City on, August 15, 2006, and thereafter in whole or in part on any
146 date, at the redemption price equal to the principal amount thereof with a redemption premium of
147 one percent of the principal amount redeemed, such redemption premium to decline one-quarter
148 of one percent (1/4 of 1%) each Interest Payment Date thereafter, plus accrued interest thereon to
149 the date fixed for redemption and payment; and
150

151 **WHEREAS**, pursuant to Section 301 of the Series 2003-B Bond Resolution, the Series
152 2003-B Bonds maturing on August 15, 2009, and thereafter, are subject to redemption and
153 payment at the option of the City on, August 15, 2008, and thereafter in whole or in part on any
154 date, at the redemption price equal to the principal amount thereof with a redemption premium of
155 one percent of the principal amount redeemed, such redemption premium to decline one-quarter
156 of one percent (1/4 of 1%) each Interest Payment Date thereafter, plus accrued interest thereon to
157 the date fixed for redemption and payment; and
158

159 **WHEREAS**, the City has determined and hereby determines that it is in the best interest
160 of the City and the patrons and taxpayers thereof that (1) the Series 2001-B Bonds maturing on
161 August 15, 2009, and August 15, 2010 (i.e., \$3,260,000); and (2) \$250,000 of the Series 2003-B
162 Bonds maturing on August 15, 2009, and \$1,000,000 of the Series 2003-B Bonds maturing on
163 August 15, 2011 (i.e. \$1,250,000); (collectively the "Refunded Bonds") be paid and redeemed as
164 the same mature and otherwise become subject to redemption and payment on October 30, 2008,
165 (the "Redemption Date") and that general obligation refunding bonds be issued in the principal
166 amount of \$4,575,000 to be used together with other legally available and unencumbered funds
167 of the City for such purpose; and
168

169 **WHEREAS**, such redemption and refunding would help the City achieve interest cost
170 savings on its bonded indebtedness, provide a more orderly plan of financing for the City and
171 result in a general restructuring of the debt service obligation of the City; and
172

173 **WHEREAS**, in accordance with all of the foregoing, the City deems it necessary and
174 advisable to issue and sell its General Obligation Improvement and Refunding Bonds, Series
175 2008-A in the aggregate principal amount of Twenty-four Million Five Hundred Seventy
176 Thousand Dollars (\$24,570,000) for the purpose of paying the cost of the Internal Improvements
177 and currently refunding the City's Refunded Bonds.
178

179 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
180 **TOPEKA, SHAWNEE COUNTY, KANSAS:**
181

182 **Section 1.** That there is hereby authorized and directed to be issued General Obligation
183 Improvement and Refunding Bonds, Series 2008-A of the City in the aggregate principal amount

of Twenty-four Million Five Hundred Seventy Thousand Dollars (\$24,570,000) (the “Bonds”) for the purpose of paying the Internal Improvement Costs and currently refunding the Refunded Bonds, as provided by the home rule authority granted to the cities of the State of Kansas under Section 5 of Article 12 of the Kansas Constitution, Charter Ordinance No. 89 of the City, (Section A12-1 of the Code of the City) K.S.A. 10-427 et seq., K.S.A. 12-6a01 et seq. and Article 1 of Chapter 10, Kansas States Annotated, all as amended and other provisions of the laws of the State of Kansas applicable thereto. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such form, shall be subject to redemption and payment prior to the maturity thereof and shall be issued in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution of the Governing Body of the City adopted the same date as the date of the passage and approval of this Ordinance (the “Resolution”).

Section 2. That the Mayor or Deputy Mayor and City Clerk or Deputy City Clerk are hereby authorized to prepare and execute the Bonds and when so executed, the Bonds shall be registered as required by law and the Governing Body shall annually make provisions for the payment of the principal of, redemption premium, if any, and interest on the Bonds as the same shall become due by levying a tax upon all the taxable property of the City.

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

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

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

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

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222 Passed and approved by the Council of the City of Topeka, Kansas, this 7th day of
223 October, 2008.

224
225 CITY OF TOPEKA, KANSAS

226
227
228 /s/ William W. Bunten
229 William W. Bunten, Mayor

230 ATTEST:

231
232
233 /s/ Brenda Younger
234 Brenda Younger, City Clerk

235
236 (SEAL)

237
238 **I, BRENDA YOUNGER**, City Clerk of the City of Topeka, Shawnee County, Kansas,
239 do hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 19169
240 adopted and approved by the City Council on October 7, 2008.

241
242 (SEAL)

243 /s/ Brenda Younger
244 Brenda Younger, City Clerk