

(Published in The Topeka Metro News on September 6, 2010.)

ORDINANCE NO. 19462

AN ORDINANCE INTRODUCED BY CITY MANAGER NORTON N. BONAPARTE, JR. AUTHORIZING THE ISSUANCE OF \$4,570,000 AGGREGATE PRINCIPAL AMOUNT OF TAXABLE GENERAL OBLIGATION BONDS (BUILD AMERICA BONDS – DIRECT PAYMENT TO ISSUER) SERIES 2010-C OF THE CITY OF TOPEKA, KANSAS, UNDER THE AUTHORITY OF K.S.A. 10-101 to 125, INCLUSIVE, K.S.A. 12-110c, 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. 12-110c, 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) Bridge Improvement Project No. 12064-00
- (b) Fire Equipment Improvement Project No. 17034-02;
- (c) Trafficway Improvement Project No. 14128-02;
- (d) Trafficway Improvement Project No. 14133-00;
- (e) Trafficway Improvement Project No. 14136-00;
- (f) Park Improvement Project No. 30287-00;
- (g) Park Improvement Project No. 30288-01;
- (h) Park Improvement Project No. 30291-00;
- (i) Park Improvement Project No. 30295-00;
- (j) Park Improvement Project No. 30297-00;
- (k) Park Improvement Project No. 60653-00;
- (l) Park Improvement Project No. 30300-00;
- (m) Public Building Improvement Project No. 13174-00;
- (n) Street Improvement Project No. 24126-00; and

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 2009-B Temporary Notes dated October 28, 2009, which are due and payable November 1, 2010, and related expenses are at least \$4,745,000 (the “Internal Improvement Costs”), of which

approximately \$175,000 will be paid from other funds lawfully available to the City leaving \$4,570,000 to be paid for by the issuance of general obligation bonds; and

WHEREAS, in accordance with all of the foregoing, the City deems it necessary and advisable to issue and sell its Taxable General Obligation Bonds (Build America Bonds – Direct Payment to Issuer) Series 2010-C in the aggregate principal amount of Four Million Five Hundred Seventy Thousand Dollars (\$4,570,000) for the purpose permanently financing the Internal Improvements.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS:

Section 1. That there is hereby authorized and directed to be issued Taxable General Obligation Bonds (Build America Bonds – Direct Payment to Issuer) Series 2010-C in the aggregate principal amount of Four Million Five Hundred Seventy Thousand Dollars (\$4,570,000) (the “Bonds”) for the purpose of paying Internal Improvement Costs as provided by K.S.A. 12-110c, 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) and Article 1 of Chapter 10, Kansas Statutes 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. The City hereby elects to have Section 54AA of the Code apply to the Series 2010-C Bonds so that they may be “Build America Bonds” under Section 54AA(d) of the Internal Revenue Code of 1986, as amended (the “Code”). The City is further making the irrevocable election to have Section 54AA(g) of the Code apply to the Series 2010-C Bonds so that they may be “qualified bonds” under Code Section 54AA(g) in order to receive the refundable credits allowed to issuers pursuant to Sections 54AA(g)(1) and 6431 of the Code with respect to “qualified bonds.”

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93 **Section 5.** That if any portion or provision of this Ordinance or the Bonds shall for any
94 reason be held to be invalid or unenforceable, the invalidity or unenforceability of such portion
95 or provisions shall not affect any of the remaining provisions of this Ordinance or the Bonds but
96 this Ordinance and said Bonds shall be construed and enforced as if such illegal or invalid
97 provision had not been contained herein.
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99 **Section 6.** That the Bonds shall be issued and sold to the purchaser thereof in accordance
100 with both their bid for the purchase thereof and the terms and conditions of this Ordinance.
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102 **Section 7.** That this Ordinance shall take effect and be in force from and after its passage
103 and publication in the official City newspaper.

104 Passed and approved by the governing body of the City of Topeka, Kansas, this 31st day
105 of August, 2010.

106
107 CITY OF TOPEKA, KANSAS
108

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111 _____
112 William W. Bunten, Mayor

113 ATTEST:
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115 _____
116 Brenda Younger, City Clerk

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118 (SEAL)
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124 **I, BRENDA YOUNGER**, City Clerk of the City of Topeka, Shawnee County, Kansas,
125 do hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 19462
126 adopted and approved by the governing body of the City on August 31, 2010.

127
128 (SEAL)
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130 _____
Brenda Younger, City Clerk