

ORDINANCE NO. B-367

AN ORDINANCE OF THE CITY OF VICTORIA, KANSAS, AMENDING ORDINANCE NO. B-348 OF THE CITY; AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF THE CITY'S GENERAL OBLIGATION INTERNAL IMPROVEMENT BONDS, SERIES A, 1995, IN THE TOTAL PRINCIPAL AMOUNT OF \$310,820.06, FOR THE PURPOSE OF FINANCING THE OTHERWISE UNPAID COSTS OF MULTIPLE CAPITAL IMPROVEMENTS IN THE CITY; AND PRESCRIBING THE TERMS AND DETAILS OF THE BONDS.

WHEREAS, the Governing Body of the City of Victoria, Kansas (the "City"), under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, has heretofore taken various actions, including the adoption of Resolution No. C-166 on August 30, 1993, which Resolution was published September 2, 1993, to authorize the construction of certain improvements to Monroe Street in the City, which improvements benefitted various real properties; and

WHEREAS, the final total costs of the Monroe Street improvements have been determined by the Governing Body to be in the amount of \$17,759.87, \$2,556.79 of which is chargeable to and will be paid by the City-at-large from the proceeds of general obligation bonds, and the remaining \$15,203.08 of which is chargeable to the properties benefitting therefrom and special assessments have been levied therefor by Ordinance No. 355 of the City against the benefitting properties, the period of time provided for the payment of such special assessments in cash has expired, and \$6,317.06 of the special assessments have been paid in cash; and

WHEREAS, the Governing Body of the City, under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, has further heretofore taken various actions, including the adoption of Resolution No. C-167 on August 30, 1993, which Resolution was published September 2, 1993, to authorize the construction of certain improvements to Sixth Street in the City, which improvements benefitted various real properties; and

WHEREAS, the final total costs of the Sixth Street improvements have been determined by the Governing Body to be in the amount of \$8,951.11, \$1,158.19 of which is chargeable to and will be paid by the City-at-large from the proceeds of general obligation bonds, and the remaining \$7,792.92 of which is chargeable to the properties benefitting therefrom and special assessments have been levied therefor by Ordinance No. 356 of the City against the benefitting properties, the period of time provided for the payment of such special assessments in cash has expired, and \$6,136.91 of the special assessments have been paid in cash; and

WHEREAS, the Governing Body of the City, under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, has further heretofore taken various actions, including the adoption of Resolution No. C-168 on August 30, 1993, which Resolution was published September 2, 1993, to authorize the construction of certain improvements to Iron Street in the City, which improvements benefitted various real properties; and

WHEREAS, the final total costs of the Iron Street improvements have been determined by the Governing Body to be in the amount of \$5,314.24, \$83.45 of which is chargeable to and will be paid by the City-at-large from the proceeds of general obligation bonds, and the remaining \$5,230.79 of which is chargeable to the properties benefitting therefrom and special assessments have been levied therefor by Ordinance No. 357 of the City against the benefitting properties, the period of time provided for the payment of such special assessments in cash has expired, and \$238.70 of the special assessments have been paid in cash; and

WHEREAS, the Governing Body of the City, under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, has further heretofore taken various actions, including the adoption of Resolution No. C-169 on August 30, 1993, which Resolution was published September 2, 1993, to authorize the construction of certain improvements to Hickory Street in the City, which improvements benefitted various real properties; and

WHEREAS, the final total costs of the Hickory Street improvements have been determined by the Governing Body to be in the amount of \$49,667.57, \$1,020.08 of which is chargeable to and will be paid by the City-at-large from the proceeds of general obligation bonds, and the remaining \$48,647.49 of which is chargeable to the properties benefitting therefrom and special assessments have been levied therefor by Ordinance No. 358 of the City against the benefitting properties, the period of time provided for the payment of such special assessments in cash has expired, and \$14,771.88 of the special assessments have been paid in cash; and

WHEREAS, the Governing Body of the City, under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, has further heretofore taken various actions, including the adoption of Resolution No. C-170 on August 30, 1993, which Resolution was published September 2, 1993, as amended by Resolution No. C-184, adopted July 11, 1994 and published July 21, 1994, to authorize the construction of certain improvements to Grant Street in the City, which improvements benefitted various real properties; and

WHEREAS, the final total costs of the Grant Street improvements have been determined by the Governing Body to be in the amount of \$19,044.38, \$4,366.94 of which is chargeable to and will be paid by the City-at-large from the proceeds of general obligation bonds, and the remaining \$14,677.44 of which is chargeable to the properties benefitting therefrom and special assessments have been levied therefor by Ordinance No. 359 of the City against the benefitting properties, the period of time provided for the payment of such special assessments in cash has expired, and \$5,761.80 of the special assessments have been paid in cash; and

WHEREAS, the Governing Body of the City, under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, has further heretofore taken various actions, including the adoption of Resolution No. C-171 on August 30, 1993, which Resolution was published September 2, 1993, to authorize the construction of certain improvements to Cedar Street in the City, which improvements benefitted various real properties; and

WHEREAS, the final total costs of the Cedar Street improvements have been determined by the Governing Body to be in the amount of \$23,498.42, \$2,084.56 of which is chargeable to and will be paid by the City-at-large from the proceeds of general obligation bonds, and the remaining \$21,413.86 of which is chargeable to the properties benefitting therefrom and special assessments have been levied therefor by Ordinance No. 360 of the City against the benefitting properties, the period of time provided for the payment of such special assessments in cash has expired, and none of the special assessments have been paid in cash; and

WHEREAS, the Governing Body of the City, under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, has further heretofore taken various actions, including the adoption of Resolution No. C-172 on August 30, 1993, which Resolution was published September 2, 1993, to authorize the construction of certain improvements to Fourth Street in the City, which improvements benefitted various real properties; and

WHEREAS, the final total costs of the Fourth Street improvements have been determined by the Governing Body to be in the amount of \$42,555.64, \$9,974.24 of which is chargeable to and will be paid by the City-at-large from the proceeds of general obligation bonds, and the remaining \$32,581.40 of which is chargeable to the properties benefitting therefrom and special assessments have been levied therefor by Ordinance No. 361 of the City against the benefitting properties, the period of time provided for the payment of such special assessments in cash has expired, and \$16,845.72 of the special assessments have been paid in cash; and

WHEREAS, the Governing Body of the City, under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, has further heretofore taken various actions, including the adoption of Resolution No. C-173 on August 30, 1993, which Resolution was published September 2, 1993, to authorize the construction of certain improvements to Thirteenth Street in the City, which improvements benefitted various real properties; and

WHEREAS, the final total costs of the Thirteenth Street improvements have been determined by the Governing Body to be in the amount of \$21,131.56, \$8,664.36 of which is chargeable to and will be paid by the City-at-large from the proceeds of general obligation bonds, and the remaining \$12,467.20 of which is chargeable to the properties benefitting therefrom and special assessments have been levied therefor by Ordinance No. 362 of the City against the benefitting properties, the period of time provided for the payment of such special assessments in cash has expired, and \$1,659.51 of the special assessments have been paid in cash; and

WHEREAS, the Governing Body of the City, under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, has further heretofore taken various actions, including the adoption of Resolution No. C-175 on January 10, 1994, which Resolution was published January 13, 1994, to authorize the construction of certain improvements to Birch Street in the City, which improvements benefitted various real properties; and

WHEREAS, the final total costs of the Birch Street improvements have been determined by the Governing Body to be in the amount of \$11,896.90, \$115.95 of which is chargeable to and will be paid by the City-at-large from the proceeds of general obligation bonds, and the remaining \$11,780.95 of which is chargeable to the properties benefitting therefrom and special assessments have been levied therefor by Ordinance No. 363 of the City against the benefitting properties, the period of time provided for the payment of such special assessments in cash has expired, and \$1,313.51 of the special assessments have been paid in cash; and

WHEREAS, the Governing Body of the City, under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, has further heretofore taken various actions, including the adoption of Resolution No. C-177 on January 31, 1994, which Resolution was published February 24, 1994, to authorize the construction of certain improvements to Ash Street in the City, which improvements benefitted various real properties; and

WHEREAS, the final total costs of the Ash Street improvements have been determined by the Governing Body to be in the amount of \$12,081.72, \$18.47 of which is chargeable to and will be paid by the City-at-large from the proceeds of general obligation bonds, and the remaining \$12,063.25 of which is chargeable to the properties benefitting therefrom and special assessments have been levied therefor by Ordinance No. 364 of the City against the benefitting properties, the period of time provided for the payment of such special assessments in cash has expired, and \$3,015.81 of the special assessments have been paid in cash; and

WHEREAS, the Governing Body of the City, under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, has further heretofore taken various actions, including the adoption of Resolution No. C-178 on January 31, 1994, which Resolution was published February 24, 1994, to authorize the construction of certain improvements to Eleventh Street (from Cathedral Avenue to Dolorosa Street) in the City, which improvements benefitted various real properties; and

WHEREAS, the final total costs of the Eleventh Street (from Cathedral Avenue to Dolorosa Street) improvements have been determined by the Governing Body to be in the amount of \$17,976.08, \$2,670.71 of which is chargeable to and will be paid by the City-at-large from the proceeds of general obligation bonds, and the remaining \$15,305.37 of which is chargeable to the properties benefitting therefrom and special assessments have been levied therefor by Ordinance No. 365 of the City against the benefitting properties, the period of time provided for the payment of such special assessments in cash has expired, and \$7,357.51 of the special assessments have been paid in cash; and

WHEREAS, the Governing Body of the City, under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, has further heretofore taken various actions, including the adoption of Resolution No. C-179 on January 31, 1994, which Resolution was published February 24, 1994, to authorize the construction of certain improvements to Eleventh Street (from Elm Street to Hickory Street) in the City, which improvements benefitted various real properties; and

WHEREAS, the final total costs of the Eleventh Street (from Elm Street to Hickory Street) improvements have been determined by the Governing Body to be in the amount of \$59,326.65, \$12,417.37 of which is chargeable to and will be paid by the City-at-large from the proceeds of general obligation bonds, and the remaining \$46,909.28 of which is chargeable to the properties benefitting therefrom and special assessments have been levied therefor by Ordinance No. 366 of the City against the benefitting properties, the period of time provided for the payment of such special assessments in cash has expired, and \$5,761.53 of the special assessments have been paid in cash; and

WHEREAS, the Governing Body of the City, under the authority of K.S.A. 12-614 *et seq.*, has heretofore taken various actions, including the adoption of Resolution No. C-176 on January 10, 1994, which Resolution was published January 13 and 20, 1994, declaring it necessary to resurface a portion of Sixth Street in the City at an estimated cost of \$25,900 which would be chargeable to the City-at-large and paid by the issuance of general obligation bonds of the City, and a sufficient protest to such resurfacing improvements was not filed within the time permitted by law; and thereafter the Governing Body adopted Ordinance No. B-345, on May 9, 1994, which Ordinance was published May 12, 1994, authorizing the construction of the Sixth Street resurfacing improvements; and

WHEREAS, the final total costs of the Sixth Street resurfacing improvements have been determined by the Governing Body to be in the amount of \$16,874.33, which is chargeable to and will be paid by the City-at-large from the proceeds of general obligation bonds as provided by said Ordinance No. B-345; and

WHEREAS, the Governing Body of the City, under the authority of K.S.A. 12-685 *et seq.*, as amended and supplemented, has heretofore taken various actions, including the adoption of Ordinance No. B-348 on November 14, 1994, which Ordinance was published November 17, 1994, authorizing the construction of improvements to a portion of Main Street, a main trafficway in the City, at an estimated cost of \$57,120 which would be chargeable to the City-at-large and paid by the issuance of general obligation bonds of the City; and

WHEREAS, the final total costs of the Main Street main trafficway improvements have been determined by the Governing Body to be in the amount of \$73,921.53, which is chargeable to and will be paid by the City-at-large from the proceeds of general obligation bonds as provided by said Ordinance No. B-348; and

WHEREAS, the City is empowered by the provisions of K.S.A. 10-101 *et seq.*, as amended and supplemented, to issue, sell and deliver its general obligation bonds, and is required, by K.S.A. 10-106, as amended and supplemented, to sell such general obligation bonds at public sale if the principal amount thereof exceeds \$100,000; and

WHEREAS, the Governing Body has heretofore by Resolution No. C-201, duly adopted April 10, 1995, authorized the public sale of general obligation bonds of the City for the purpose of providing financing for the combined otherwise unpaid costs of the aforesaid capital improvements; and

WHEREAS, pursuant to and in compliance with said Resolution No. C-201 and the laws of the State of Kansas, notice of such public sale was duly published, the public sale was duly held, and the general obligation bonds have been awarded to the best bidder thereon; and

WHEREAS, said Governing Body hereby finds and determines it to be necessary, desirable and appropriate to authorize and provide for the amendment of Ordinance No. B-348 of the City in order to increase the amount of the Main Street main trafficway improvements authorized thereby; to authorize and provide for the issuance of the aforesaid general obligation bonds for the purpose of providing the necessary funds for the aforesaid purposes; and to provide for and specify the terms, details, form and conditions of the general obligation bonds;

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF VICTORIA, KANSAS:

SECTION 1. Amendment of Ordinance No. B-348. The Governing Body of the City has determined that the costs of the improvements to Main Street, a main trafficway in the City, authorized by Ordinance No. B-348, adopted November 14, 1994 and published November 17, 1994, exceed the amount estimated therefor as set forth in said Ordinance; and that it is therefore, hereby authorized, ordered and directed that, in order to increase the amount of general obligation bonds which may issued for said main trafficway improvements, Section 1 of said Ordinance No. B-348 shall be amended to read as follows:

SECTION 1. It is hereby found and determined to be necessary, and it is here authorized, ordered and directed that, Main Street, which has heretofore by Ordinance No. B-288 of the City been designated as a main trafficway as provided by K.S.A. 12-685, shall be improved by reconstructing same at the railroad crossing as provided by K.S.A. 12-687, in accordance with specifications which have been approved by the Governing Body and which are on file in the Office of the City Clerk for public inspection, at a total cost of \$73,921.53, which includes fees and expenses of financing the improvements, and that the costs thereof shall be charged to the City-at-large and be financed through the issuance of general obligation bonds of the City, as provided by K.S.A. 12-687.

It is hereby further authorized, ordered and directed that the original Section 1 of Ordinance No. B-348 shall be and hereby is repealed and of no further force and effect; and further, that all the rest and remainder of said Ordinance No. B-348 shall be and hereby is confirmed and ratified in its entirety.

SECTION 2. Authority for Bonds; Security. It has been found and determined to be necessary, desirable and appropriate, and it is, therefore, hereby authorized, ordered and directed that, in order to provide the necessary funds to pay the otherwise unpaid costs of certain heretofore authorized capital improvements in the City, there shall be issued general obligation bonds of the City (the "Bonds"). In all matters relating to the issuance, registration and delivery of the Bonds, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The full faith, credit and resources of the City are hereby pledged to secure the payment of the principal of and the interest on the Bonds as the same severally becomes due and payable. The Governing Body of the City hereby covenants that it shall annually make provision for the payment of the principal of and the interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary special assessment taxes upon the properties liable therefor, and/or by levying and collecting the necessary ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City, in such amounts as are necessary to provide for such annual payment.

When received, the proceeds derived from the aforesaid taxes shall be deposited into the Principal and Interest Account hereinafter in this Ordinance created; provided, that if at any time the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Bonds when required because of an untimely collection and/or receipt of said taxes, the City Clerk is authorized to transfer from the City's general funds to the Principal and Interest Account hereinafter created, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said taxes.

SECTION 3. Details of Bonds; Payment of Principal and Interest. It is hereby authorized, ordered and directed that the Bonds shall be issued in the total principal amount of Three Hundred Ten Thousand Eight Hundred Twenty and 06/100 Dollars (\$310,820.06); shall be designated "City of Victoria, Kansas General Obligation Internal Improvement Bonds, Series A, 1995"; and shall be dated as of May 1, 1995 (the "Dated Date"). The Bonds shall mature serially on November 1 (the "Principal Payment Date") in each of the years and in the principal amounts, and shall bear interest at the respective rates per annum (computed on the basis of a 360-day year of twelve 30-day months), as follows:

Maturity Schedule

<u>Principal Maturity Date</u>	<u>Amount of Principal Maturity</u>	<u>Interest Rate</u>
November 1, 1996	\$ 15,820.06	6.50 %
November 1, 1997	25,000.00	6.50 %
November 1, 1998	25,000.00	5.75 %
November 1, 1999	30,000.00	4.80 %
November 1, 2000	30,000.00	4.90 %
November 1, 2001	35,000.00	5.00 %
November 1, 2002	35,000.00	5.10 %
November 1, 2003	35,000.00	5.20 %
November 1, 2004	40,000.00	5.25 %
November 1, 2005	40,000.00	5.30 %

The Bonds shall be issued as fully registered certificated bonds without coupons in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount of Bonds maturing on the respective Principal Payment Dates, except that one Bond maturing November 1, 1996 shall be in the denomination of \$5,820.06; and the Bonds shall be numbered in such manner as the Bond Registrar shall determine.

The principal amount of the Bonds shall be payable in lawful money of the United States of America by check or draft of the Paying Agent upon the presentation of the Bonds for payment and cancellation at the Paying Agent's principal office in the City of Topeka, Kansas. The interest on the Bonds shall be payable in lawful money of the United States of America to the Owners as of the Record Date, by check or draft of the Paying Agent mailed to the Owners at their addresses as shown on the Registration Books, or at such other address as an Owner has furnished in writing to the Bond Registrar.

The interest on the Bonds shall be payable semiannually on May 1 and November 1 of each year (the "Interest Payment Dates"), commencing May 1, 1996, to the Owners of the Bonds as shown on the Registration Books as of the Fifteenth (15th) day of the month prior to the Interest Payment Date (the "Record Date"). The Bonds shall bear interest from the Interest Payment Date immediately preceding their effective authentication date unless such effective authentication date shall be prior to the first Interest Payment Date in which case the Bonds shall bear interest from the Dated Date. The effective date of authentication shall be set forth on each Bond, such date to be the date of authentication by the Bond Registrar.

SECTION 4. Redemption of Bonds.

(A) Optional Redemption. The Bonds maturing in the years 1996 to 2001, inclusive, shall become due and payable on their respective maturity dates without the option of prior call for

redemption. At the option of the City, the Bonds maturing in the year 2002, and thereafter, may be called for redemption and payment prior to their respective maturities, as a whole or in part, on November 1, 2001, or on any interest payment date thereafter, at a redemption price equal to the principal amount, plus accrued interest to the date of redemption.

(B) Selection of Bonds to be Redeemed. The Bonds shall be redeemed only in face amounts of \$5,000 or integral multiples thereof; and if the City elects to call for redemption less than all of the Bonds at the time Outstanding, the Bonds shall be redeemed in such equitable manner as the City shall determine, with Bonds of less than a full maturity to be selected by lot in units of \$5,000. In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then Outstanding, then, for all purposes in connection with such redemption, each \$5,000 of face value of a Bond shall be treated as though it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Bond has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Bond to the Paying Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the \$5,000 unit or units of face value of the Bond called for redemption, and (ii) for exchange, without charge to the Owner, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any Bond of a denomination greater than \$5,000 of which one or more, but not all, of the \$5,000 units of face value thereof has been selected for redemption shall fail to present such Bond as aforesaid, the \$5,000 units of the face value of such Bond which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unrepresented \$5,000 units of face value from and after the Redemption Date.

(C) Notice of Redemption. The City shall give notice of any call for redemption and payment in writing to the Paying Agent not less than Sixty (60) days prior to the Redemption Date; and the Paying Agent shall give notice of such call for redemption and payment in writing mailed via United States certified mail to the Owners of the Bonds so called not less than Thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice. All notices of redemption given under the provisions of this Section shall be dated at least Thirty (30) days prior to the Redemption Date, and shall state (i) the Redemption Date, (ii) the Redemption Price, (iii) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Bond or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Bonds so selected for redemption are to be surrendered to or at the principal office of the Paying Agent for payment.

(D) Deposit of Moneys for and Payment of Redemption Price. Prior to the Redemption Date, the City shall deposit with the Paying Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Bonds or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Bonds selected for redemption, the Paying Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the \$5,000 units of face value represented by any Bond is selected for redemption and surrendered and paid, then the Paying Agent shall prepare and furnish to the Owner thereof a new Bond or Bonds of the same maturity and in the amount of the unredeemed portion of such Bond as provided by Section 3(B) above. All Bonds selected, called and surrendered for redemption shall be canceled by the Paying Agent and shall not be reissued.

(E) Effect of Call for Redemption. Whenever any Bond, or one or more of the \$5,000 units of face value represented by any Bond, has been selected for redemption and payment as provided in this Section, all interest on such Bond, or such one or more of the \$5,000 units of face value represented by any such Bond, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

SECTION 5. Designation of Paying Agent and Bond Registrar; Agreement. Pursuant to K.S.A. 10-620 *et seq.*, the Governing Body hereby elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds and pursuant thereto, does hereby designate and appoint the Treasurer of the State of Kansas, Topeka, Kansas, as the Bond Registrar and Paying Agent for the Bonds. The terms, conditions and provisions under which the State Treasurer will perform her duties as Bond Registrar and Paying Agent for the Bonds are set forth in an "Agreement Between Issuer and Agent", dated as of May 1, 1995 (the "Agreement"). The form and text of the Agreement is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and City Clerk are hereby authorized to execute and deliver the Agreement for and on behalf of the City. The entire text of the Agreement is by reference hereby incorporated in and made a part of this Ordinance as though fully set forth at this place; provided, however, the inclusion of the Agreement in the publication of this Ordinance shall not be required.

SECTION 6. Ownership; Transfers and Exchanges; Mutilated, Lost, Stolen or Destroyed Bonds. Pursuant to the Agreement, the Bond Registrar shall maintain books for the recording of the initial registration and any subsequent transfers of the ownership of the Bonds (the "Registration Books"); and the person(s) in whose name any Bond is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any such Bond shall be made only to or upon the order of the Owner or his duly authorized agent. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

The provisions, terms, conditions and requirements for the transfer and exchange of the Bonds, and for the replacement of a mutilated, lost, stolen or destroyed Bond are fully set forth in the Agreement. Replacement bonds delivered upon any transfer or exchange made in compliance with the provisions, terms, conditions and requirements set forth in the Agreement shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the pledges made in this Ordinance and shall be entitled to all of the security and benefits hereof to the same extent as the Bonds surrendered.

SECTION 7. Execution and Authentication. The Bonds shall be executed for and on behalf of the City by the facsimile signature of its Mayor, attested by the facsimile signature of its City Clerk, and shall have imprinted thereon a facsimile of the City's official seal. The Bonds shall be registered in the Office of the City Clerk, which registration shall be evidenced by the facsimile signature of the City Clerk on a Certificate of Registration which shall be printed on the reverse of the Bonds, attested by a facsimile of the City's official seal imprinted opposite said signature. The Bonds shall be registered by the State Treasurer in the municipal bond register in her office, which registration shall be evidenced by her facsimile signature on a Certificate of State Treasurer which shall be printed on the reverse of the Bonds, and which shall be attested by a facsimile of her official seal imprinted opposite her signature. In case any officer of the City or of the State whose facsimile signature shall appear on the Bonds shall cease to be such officer before the actual delivery of the Bonds, such facsimile signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Bond shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Bond Registrar, and such duly executed Certificate on any Bond shall be conclusive evidence that it has been authenticated and delivered under this Ordinance. The Bond Registrar's Certificate of Authentication on any Bond shall be deemed to have been duly executed by it when manually signed by an authorized officer or signatory thereof; and it shall not be necessary that the same officer or signatory of the Bond Registrar manually sign such Certificate on all Bonds issued under this Ordinance.

SECTION 8. Payment of Costs. The City shall pay out of the proceeds of the Bonds all costs incurred in connection with the issuance, transfer, exchange, registration, redemption and payment of the Bonds except (a) the reasonable fees and expenses of replacing a Bond or Bonds which have been mutilated, stolen, lost or destroyed, or (b) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds.

SECTION 9. Form of Bonds. The Bonds issued under this Ordinance shall be evidenced by printed certificates in the form required by the laws of the State of Kansas, and shall contain recitals as required by the Constitution and Laws of the State of Kansas, including a recital that the Bonds are issued in the manner prescribed by K.S.A. 10-101 *et seq.*, as amended and supplemented, that \$220,024.20 of the principal amount of the Bonds is issued pursuant to the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, for the purpose of paying the unpaid costs of multiple street

improvements in the City, that \$16,674.33 of the principal amount of the Bonds is issued pursuant to the authority of K.S.A. 12-614 *et seq.*, for the purpose of paying the costs of street resurfacing improvements in the City, and that \$73,921.53 of the principal amount of the Bonds is issued pursuant to the authority of K.S.A. 12-685 *et seq.*, as amended and supplemented, for the purpose of paying the costs of main trafficway improvements in the City.

The Governing Body hereby authorizes, orders and directs Hinkle, Eberhart & Elkouri, L.L.C., the City's Bond Counsel, to prepare the form and text of the certificates for the Bonds, and to cause same to be printed as the definitive bond certificates for the Bonds.

SECTION 10. Creation and Ratification of Accounts. Simultaneously with the issuance and delivery of the Bonds, there shall be created within the Treasury of the City, the following account for the Bonds:

General Obligation Internal Improvement Bonds, Series A, 1995 Principal and Interest Account (the "Principal and Interest Account").

The Principal and Interest Account shall be administered and maintained for the purpose of depositing moneys from the issuance, sale and delivery of the Bonds which represent accrued interest and premium, if any, and for the subsequent payment and retirement of the Bonds, whether upon the respective Interest Payment Dates and Principal Payment Dates or upon the redemption thereof prior to maturity, and for no other purpose. The Principal and Interest Account may be created as a subaccount of the City's Bond and Interest Fund.

The City has previously created and established certain funds and accounts in connection with certain of the capital improvements, namely, Construction Funds, and in connection with interim financing issued for the capital improvements, a Principal and Interest Account for the City of Victoria, Kansas Temporary Improvement Notes, Series A, 1994, and a Principal and Interest Account for the City of Victoria, Kansas Temporary Improvement Notes, Series B, 1994; and said funds and accounts, and each of them, are hereby ratified and confirmed. It is hereby authorized, ordered and directed that upon the completion and final payment of the costs of the capital improvements and the payment and redemption of the aforesaid temporary financing issued for the capital improvements (including any renewals of such temporary financing), that any moneys remaining in said funds and account shall be transferred to and deposited in the Principal and Interest Account for the Bonds created by this Section, and shall be applied to the payment of the next maturing principal on the Bonds.

SECTION 11. Sale and Delivery of Bonds; Disposition of Proceeds. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Bonds without unnecessary delay in the form and manner hereinbefore specified, including a reasonable inventory quantity of bond certificates for transfer, exchange and replacement in accordance with the provisions hereof, and when executed the Bonds shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided. The Bonds having been sold

as provided by law, they shall be delivered to Commerce Bank of Kansas City, Kansas City, Missouri (the "Original Purchaser"), upon receipt by the City of the full purchase price therefor, being par, premium, if any, and accrued interest from the Dated Date to the Date of Issuance.

The proceeds from the sale of the Bonds shall be deposited into the Treasury of the City for the credit of and shall be applied as follows:

- (A) The amount of the proceeds representing accrued interest on the Bonds, if any, and the amount of the proceeds representing premium paid on the Bonds, if any, shall be credited to and deposited in the Principal and Interest Account; and any said accrued interest shall be used towards the payment of the first maturing interest on the Bonds, and any said premium shall be used towards the payment of the first maturing principal on the Bonds; and
- (B) \$236,898.53 of the proceeds shall be immediately used, together with all moneys credited to and deposited in the Principal and Interest Account for the City of Victoria, Kansas Temporary Improvement Notes, Series A, 1994, and in the various Construction Funds described in Section 10 hereof from accrued interest received as a part of the purchase price of such temporary financing, unexpended proceeds of the temporary financing and any investment income thereon, and any special assessments paid in cash, to pay and redeem such temporary financing and to pay any remaining unpaid costs of the Monroe Street, Sixth Street, Iron Street, Hickory Street, Grant Street, Cedar Street, Fourth Street, Thirteenth Street, Birch Street, Ash Street, Eleventh Street (from Cathedral Avenue to Dolorosa Street) and Eleventh Street (from Elm Street to Hickory Street) street improvements and the Sixth Street resurfacing improvements; and
- (D) The remaining \$73,921.53 of the proceeds shall be immediately used, together with all moneys credited to and deposited in the Principal and Interest Account for the City of Victoria, Kansas Temporary Improvement Notes, Series B, 1994, and in the Construction Fund described in Section 10 hereof from accrued interest received as a part of the purchase price of such temporary financing, unexpended proceeds of the temporary financing and any investment income thereon, to pay and redeem such temporary financing and to pay any remaining unpaid costs of the Main Street main trafficway improvements.

Administrative costs and expenses of financing were included in the calculations of the total final costs of the capital improvements.

SECTION 12. Ordinance Constitutes Contract; Remedies of Owners. The provisions of this Ordinance, and all of the covenants and agreements herein contained, shall constitute a contract between the City and the Owners, and the Owners of not less than Ten Percent (10%) of the Bonds at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

- (A) By mandamus or other suit, action or proceeding at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of this Ordinance or by the Constitution and laws of the State of Kansas;
- (B) By suit, action or other proceeding in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust, and
- (C) By suit, action or other proceeding in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

SECTION 13. Limitation on Actions by Owners; Remedies Cumulative; Delay or Omission Not Waiver. No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all of the Owners. Nothing in this Ordinance or in the Bonds shall affect or impair the obligations of the City to pay at the date of maturity thereof or on any prepayment date established therefor, the principal of and the interest on the Bonds to the respective Owners thereof or affect or impair the right of action of any Owners to enforce payment of the Bonds held by them, or to reduce to judgment their claim against the City for the payment of the principal amount of and the interest on the Bonds without reference to or consent of any other Owners. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without regard to any other remedy however given. No delay or omission of any Owners to exercise any right or power accruing upon any default occurring and continuing as aforesaid shall impair any such default or be construed as an acquiescence therein, and every right, power and remedy given by this Ordinance to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any proceeding taken by any Owners on account of any default shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owners, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such proceedings had been taken.

SECTION 14. Amendments. The City may, without the consent of the Owners, amend or supplement the provisions of this Ordinance (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security, or (iii) to more precisely identify the capital improvements, or (iv) to conform this Ordinance to the Code (as defined in Section 17 hereof) or future applicable Federal laws concerning tax-exempt obligations. The rights and duties of the City and the Owners and the terms and provisions of this Ordinance may be modified or altered in any respect by an ordinance of the City with the consent of the Owners of not less than Seventy-Five Percent (75%) in principal amount of the Bonds then outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of One Hundred Percent (100%) of the Owners of the then outstanding Bonds:

- (A) Extend the maturity of any payment of principal or interest due upon the Bonds,
or
- (B) Effect a reduction in the amount which the City is required to pay by way of principal or interest on the Bonds,
- (C) Permit a preference or priority of any Bond or Bonds over any other Bond or Bonds, or
- (D) Reduce the percentage of the principal amount of the then outstanding Bonds for which the written consent of the Owners is required for any modification or alteration of the provisions of this Ordinance.

Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the City Clerk a copy of the ordinance of the City authorizing said modifications, as hereinabove provided for, duly certified and published, as well as proof of consent to such modification by the Owners of not less than the percentage of the principal amount of the Bonds then outstanding as hereinabove required therefor. It shall not be necessary to note on any of the outstanding Bonds any reference to such amendment or modification.

SECTION 15. Defeasance. When the principal of and the interest on the Bonds shall have been paid and discharged, then the requirements contained herein and all other rights granted by this Ordinance shall cease and determine. The Bonds shall be deemed to have been paid and discharged within the meaning of this Ordinance if there shall have been deposited with the Paying Agent or with a bank located in the State of Kansas and having full trust powers, at or prior to the maturity or date of redemption, as the case may be, of the Bonds, in trust for and irrevocably appropriated thereto, moneys and/or Government Securities consisting of direct obligations of, or obligations payment of the principal

of and interest on which are guaranteed by, the United States of America, which together with the interest to be earned on such Government Securities, will be sufficient for the payment of the principal amount of and the interest on the Bonds, to the date of maturity or redemption, as the case may be, or if default in such payment shall have accrued on such date, then to the date of the tender of such payments; provided that, if such payment and discharge is to be made on a redemption date that notice of such redemption has been duly and properly given as provided by this Ordinance and that all of the other terms and provisions of this Ordinance relative to the call for and the redemption and payment of the Bonds shall have been complied with. Any moneys which at any time shall be deposited with the Paying Agent or such Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or interest thereon, shall be and are hereby assigned, transferred and set over to the Paying Agent or such Kansas bank in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys so deposited with the Paying Agent or such Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Ordinance.

SECTION 16. Surrender and Cancellation of Bonds. Whenever any outstanding Bond shall be delivered to the Bond Registrar after payment of the principal amount of and the interest represented thereby or for replacement pursuant to this Ordinance, such Bond shall be canceled and destroyed by the Bond Registrar and counterparts of a Certificate of Destruction describing such Bonds so destroyed and evidencing such destruction shall be furnished by the Bond Registrar to the City.

SECTION 17. Tax Covenants. The Governing Body of the City hereby further covenants that so long as any of the Bonds remain outstanding and unpaid, no use will be made of the proceeds thereof which, if such use had been reasonably expected on the Date of Issuance, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 103(b)(2) of the Internal Revenue Code of 1986, as amended (the "Code"); and that it will comply with all applicable requirements of Section 148 of the Code and the Rules and Regulations of the United States Treasury Department thereunder for so long as any of the Bonds remain outstanding and unpaid. The Governing Body hereby further covenants to take all such action in its power as may be required from time to time in order to assure the continued tax-exempt status of the interest on the Bonds, and to comply with all provisions of the Code, as the same be amended, and any applicable Rules and Regulations of the United States Treasury Department thereunder.

SECTION 18. Designation as Qualified Tax-Exempt Obligations. The Governing Body of the City hereby designates the Bonds as "qualified tax-exempt obligations" as defined in Section 265(b)(3) of the Code.

SECTION 19. Authorization of Official Statement. The Governing Body of the City hereby ratifies and confirms its prior approval of the form and content of the "deemed final" Preliminary Official Statement prepared in the initial offering and sale of the Bonds, and hereby approves the form

and content of any addenda, supplement, or amendment thereto. The use of the final Official Statement in the reoffering of the Bonds by the Original Purchaser thereof is hereby approved and authorized; and the Mayor is hereby authorized to execute and the City Clerk to attest the Official Statement on behalf of the City.

SECTION 20. Other Documents. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all without further action by the Governing Body.

SECTION 21. Further Authority. The City shall, and the officers, agents and employees thereof, are hereby authorized and directed to, take such actions, expend such moneys and execute such other documents, certificates and instruments as may be necessary or desirable in order to carry out and comply with the provisions of this Ordinance and to give effect to the transactions contemplated hereby.

SECTION 22. Severability. If any provision of this Ordinance shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatsoever.

SECTION 23. Effective Date. This Ordinance shall be in force and take effect from and after its adoption and approval and the publication hereof one time in the City's official newspaper.

ADOPTED AND APPROVED by the Governing Body of the City of Victoria, Kansas on May 1, 1995.

(Seal)



ALLEN P. DREILING, Mayor



ALICE K. SANDER, City Clerk