

CITY OF LANSING

FORM OF SUMMARY FOR PUBLICATION OF ORDINANCE

Ordinance No. 912: An Ordinance Authorizing and Providing for the Issuance of General Obligation Refunding Bonds, Series 2012-B, of the City of Lansing, Kansas; Providing for the Levy and Collection of an Annual Tax for the Purpose of Paying the Principal of and Interest on Said Bonds as they Become Due; Authorizing Certain Other Documents and Actions in Connection Therewith; and Making Certain Covenants with Respect Thereto.

Pursuant to the general laws of the State, a general summary of the subject matter contained in this ordinance shall be published in the official City newspaper in substantially the following form:

Ordinance No. 912 Summary:

On October 18, 2012, the City of Lansing, Kansas, adopted Ordinance No. 912, Authorizing and Providing for the Issuance of General Obligation Refunding Bonds, Series 2012-B; Providing for the Levy and Collection of an Annual Tax for the Purpose of Paying the Principal of and Interest on Said Bonds as they Become Due; Authorizing Certain Other Documents and Actions in Connection Therewith; and Making Certain Covenants with Respect Thereto. A complete copy of this ordinance is available at www.lansing.ks.us or at City Hall, 800 First Terrace, Lansing, KS 66043. This summary certified by Gregory Robinson, City Attorney.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: October 18, 2012

Gregory Robinson, City Attorney

ORDINANCE NO. 912

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2012-B, OF THE CITY OF LANSING, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

WHEREAS, the City of Lansing, Kansas (the “City” or the “Issuer”) is a city of the second class, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, pursuant to Article 12, § 5 of the Constitution of the State of Kansas (the “Home Rule Amendment”) and the statutes and ordinance and resolutions referenced below (the “Authorizations”) the governing body of the City has authorized the following internal improvements described as follows (the “Improvements”):

<u>Project Description</u>	<u>Ord./Res. No.</u>	<u>Authority</u>	<u>Amount</u>
Sewer System Improvements	Res. B-4-12	Charter Ord. No. 2-2012	\$10,070,000
Centre Drive Street Improvements	Res. B-6-12	K.S.A. 12-685 <i>et seq.</i>	\$1,400,000
K-7/US-73 Frontage Road Street Improvements	Res. B-5-12	K.S.A. 12-685 <i>et seq.</i>	\$740,000
Total:			\$12,210,000

WHEREAS, the Issuer has arranged for financing of a portion of the Improvements by the execution of certain loan agreements described as follows:

<u>Lender</u>	<u>Loan No.</u>	<u>Dated Date</u>	<u>Maturity Date</u>	<u>Original Amount</u>	<u>Outstanding Amount</u>	<u>Redemption n Date*</u>
KDHE	KWPCRF C20 1516 01	12-5-2002	03-1-2024	\$15,881,000.00	\$9,903,215.59	11-1-2012
KDOT	TRF 0012	12-16-2004	08-01-24	\$1,500,000.00	\$984,091.69	11-1-2012
KDOT	TRF 0084	12-2-2008	08-01-28	\$740,000.00	\$634,052.24	11-1-2012

*or as soon thereafter as possible

(the “Loans”); and

WHEREAS, in order to restructure debt payments and to provide an orderly plan of finance for the City, it has become desirable and in the best interest of the City and its inhabitants for the City to issue its general obligation bonds in order to permanently finance the costs of such Water System Improvements and to retire the Loans, and

WHEREAS, the Home Rule Amendment: (a) empowers cities to determine their local affairs and government; and (b) provides that such power and authority granted thereby to cities: (1) shall be liberally construed for the purpose of giving to cities the largest measure of self-government and (2) shall be exercised by ordinance, subject only to: (i) enactments of the Kansas legislature of statewide concern applicable uniformly to all cities, (ii) other enactments of the legislature applicable uniformly to all cities, (iii) enactments of the legislature applicable uniformly to all cities of the same class limiting or prohibiting the levying of any tax, excise, fee, charge or other action and (iv) enactments of the legislature prescribing limits of indebtedness; and

WHEREAS, the Kansas Supreme Court has considered the Home Rule Amendment and determined that: (a) home rule legislation should be permitted to stand unless an actual conflict exists between the home rule legislation and a state legislative enactment, or unless the legislature has clearly preempted the field so as to preclude municipal action; and (b) legislative intent to reserve to the state exclusive jurisdiction to regulate an area must be clearly manifested by statute before it can be held that the state has withdrawn from the cities the power to regulate in the field (*McCarthy v. City of Leawood*, 257 Kan. 566 (1995); *Junction City v. Lee*, 216 Kan. 495 (1975)); and

WHEREAS, the Authorizations authorize the City to issue general obligation bonds to finance the Improvements, but neither authorize nor prohibits the issuance of general obligation bonds to prepay and retire the Loan incurred under such enactments; and

WHEREAS, the governing body of the City now further finds and determines that: (a) there are no enactments of the Kansas legislature of statewide concern applicable uniformly to all cities or applicable to the City relating to the issuance of general obligation bonds to prepay and retire loans incurred under the Authorizations; (b) no conflict would exist between a City ordinance authorizing the issuance of general obligation bonds to prepay and retire the Loans; and (c) the legislature has not clearly preempted, or clearly manifested its intent to preempt, the field of municipal finance so as to preclude a City ordinance authorizing the issuance of general obligation bonds to prepay and retire the Loans; and

WHEREAS, the City is a city within the meaning of the Home Rule Amendment; and

WHEREAS, the City proposes to issue \$9,515,000 of its General Obligation Refunding Bonds, Series 2012-B to pay a portion of the costs of the Improvements and to retire a portion of the Loans; and

WHEREAS, the Issuer desires to issue its general obligation bonds in order to refund the following general obligation bonds of the Issuer (the “Refunded Bonds”)

<u>Series</u>	<u>Dated Date</u>	<u>Maturity Date</u>	<u>Original Amount</u>	<u>Outstanding Amount</u>	<u>Redemption Amount</u>	<u>Redemption Date</u>
2001-A	11-15-2001	9-1-2021	\$4,040,000	\$75,000	\$75,762.61	11-15-2012

and is authorized by K.S.A. 10-427 *et seq.* to issue general obligation refunding bonds of the City for the purpose of refunding the Refunded Bonds; and

WHEREAS, in order to achieve interest cost savings through early redemption of the Refunded Bonds, and provide an orderly plan of finance for the City, it has become desirable and in the best interest of the City and its inhabitants to refund the Refunded Bonds; and

WHEREAS, the City proposes to issue \$60,000 of its General Obligation Refunding Bonds, Series 2012-B to refund a portion of the Refunded Bonds.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LANSING, KANSAS, AS FOLLOWS:

Section 1. Definitions of Words and Terms. In addition to words and terms defined elsewhere herein, the following words and terms in this Ordinance shall have the meanings hereinafter set forth. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

“Act” means the Constitution and statutes of the State including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-427 *et seq.*, K.S.A. 10-620 *et seq.*, K.S.A. 12-685 *et seq.*, Charter Ordinance No. 2-2012 of the Issuer and Article 12, Section 5 of the Constitution of the State of Kansas, all as amended and supplemented from time to time.

“Bond and Interest Fund” means the Bond and Interest Fund of the City for its general obligation bonds.

“Bond Resolution” means the resolution to be adopted by the governing body of the City prescribing the terms and details of the Bonds and making covenants with respect thereto.

“Bonds” means the City’s General Obligation Refunding Bonds, Series 2012-B, dated November 1, 2012, authorized by this Ordinance.

“City” means the City of Lansing, Kansas.

“Clerk” means the duly appointed and acting Clerk of the City or, in the Clerk’s absence, the duly appointed Deputy, Assistant or Acting Clerk.

“KDHE” means the Kansas Department of Health and Environment.

“KDOT” means the Kansas Department of Transportation.

“Improvements” means the improvements referred to in the preamble to this Ordinance.

“Loans” means collectively a portion of : (a) KDHE Loan KWPCRF C20 1516 01 between the City and KDHE dated December 5, 2002, maturing March 1, 2024 in the aggregate outstanding

principal amount of \$9,903,215.59 (b) KDOT Loan TRF 0012 between the City and KDOT dated December 16, 2004, maturing August 1, 2024 in the aggregate outstanding principal amount of \$984,091.69 and (c) KDOT Loan TRF 0084 dated December 2, 2008, maturing August 1, 2028 in the aggregate outstanding principal amount of \$634,052.24.

“Mayor” means the duly elected and acting Mayor of the City or, in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Ordinance” means this Ordinance authorizing the issuance of the Bonds.

“Refunded Bonds” means a portion of the Issuer’s General Obligation Refunding and Improvement Bonds, Series 2001-A, dated November 15, 2001, maturing in the years 2013 to 2021 in the aggregate outstanding principal amount of \$75,000.00.

“State” means the State of Kansas.

Section 2. Authorization of the Bonds. There shall be issued and hereby are authorized and directed to be issued the General Obligation Refunding Bonds, Series 2012-B, of the City in the principal amount of \$9,575,000 for the purpose of providing funds to: (a) pay a portion of the costs of the Improvements and prepay and retire a portion of the Loans, (b) refund a portion of the Refunded Bonds and (c) pay costs of issuance of the Bonds.

Section 3. Security for the Bonds. The Bonds shall be general obligations of the City payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Section 4. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Bond Resolution hereafter adopted by the governing body of the City.

Section 5. Levy and Collection of Annual Tax. The governing body of the City shall annually make provision for the payment of principal of, premium, if any, and interest on the Bonds as the same become due by levying and collecting the necessary taxes upon all of the taxable tangible property within the City in the manner provided by law.

The taxes above referred to shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the general ad valorem taxes of the City are levied and collected, shall be used solely for the payment of the principal of and interest on the Bonds as and when the same become due and the fees and expenses of the Paying Agent. The proceeds derived from said taxes shall be deposited in the Bond and Interest Fund.

If at any time said taxes are not collected in time to pay the principal of or interest on the Bonds when due, the Treasurer is hereby authorized and directed to pay said principal or interest out of the general funds of the City and to reimburse said general funds for money so expended when said taxes are collected.

Section 6. Further Authority. The Mayor, Clerk and other City officials are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 7. Governing Law. This Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 8. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the governing body of the City, approval by the Mayor and publication in the official City newspaper.

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PASSED by the governing body of the City on October 18, 2012 and **APPROVED AND SIGNED** by the Mayor.

{SEAL}

Kenneth W Bernard, Mayor

Attest:

Amber McCullough, City Clerk

APPROVED AS TO FORM:

Gregory Robinson, City Attorney

Published: *Leavenworth Times*
Date Published:

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