(PUBLISHED IN ***THE DERBY WEEKLY INFORMER*** ON MAY 19, 2010)

ORDINANCE NO. 2018

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF $3,020,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS, SERIES 2010-A, OF THE CITY OF DERBY, 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 is a city of the second class, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, pursuant to K.S.A. 12-6a01 *et seq.*, as amended, and other provisions of the laws of the State of Kansas applicable thereto, by proceedings duly had, the governing body of the City has authorized the following improvements (the "Improvements") to be made in the City, to-wit:

Project Description	Res No.	Authority (K.S.A.)	Amount
Hamilton Estates, Phase 1A – Sanitary Sewer Improvements	13-2008	12-6a01 *et seq.*	$ 187,119.58
Hamilton Estates, Phase 1B – Sanitary Sewer Improvements	14-2008	12-6a01 *et seq.*	221,429.77
Hamilton Estates – Water Main Improvements	15-2008	12-6a01 *et seq.*	342,005.93
Hamilton Estates – Street and Storm Sewer Improvements	16-2008	12-6a01 *et seq.*	949,079.15
Hamilton Estates – Detention Pond Improvements	17-2008	12-6a01 *et seq.*	323,145.19
Derby Medical Campus Addition – Sanitary Sewer Improvements	68-2008	12-6a01 *et seq.*	53,041.72
Derby Medical Campus Addition – Water Line Improvements	69-2008	12-6a01 *et seq.*	62,646.58
Derby Medical Campus Addition – Street Improvements	70-2008	12-6a01 *et seq.*	180,934.53
Derby Medical Campus Addition – Storm Water Sewer Improvements	71-2008	12-6a01 *et seq.*	200,203.75
The Oaks Addition, Phase XI – Storm Water Sewer Improvements	46-2008	12-6a01 *et seq.*	135,547.66
Stone Creek Commercial 4th Addition – Sanitary Sewer Improvements	48-2008	12-6a01 *et seq.*	48,417.09
Stone Creek Commercial 4th Addition – Water Line Improvements	49-2008	12-6a01 *et seq.*	56,381.62
The Oaks Addition, Phase XII – Sanitary Sewer Improvements	39-2008	12-6a01 *et seq.*	87,583.77
Derby Corporate Park and Stone Creek Commercial Addition – Water Main Improvements	60-2008	12-6a01 *et seq.*	172,463.66
Total:			***$3,020,000.00***

WHEREAS, all legal requirements pertaining to the Improvements have been complied with, and the governing body of the City now finds and determines that the total cost of the Improvements (including interest on temporary notes of the City and issuance costs of the Bonds) and related expenses are at least $3,020,000, with $2,959,794.87 of said cost to be paid by the owners of the property within the City benefited by the Improvements and with the balance of said cost to be paid by the City at large, and that the owners of the property benefited by the Improvements have not paid into the City Treasury on account of the Improvements, leaving $3,020,000 to be paid for by the issuance of general obligation bonds; and

WHEREAS, the governing body of the City is authorized by law to issue general obligation bonds of the City to pay the costs of the Improvements; and

WHEREAS, none of such general obligation bonds heretofore authorized have been issued and the City proposes to issue $3,020,000 of its general obligation bonds to pay the costs of the Improvements; and

WHEREAS, the governing body of the City has advertised the sale of the Bonds in accordance with the law and at a meeting held in the City on this date, awarded the sale of such Bonds to the best bidder.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DERBY, 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. 10-620 *et seq.* and K.S.A. 12-6a01 *et seq.*, 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 Bonds, Series 2010-A, in the aggregate principal amount of $3,020,000, and dated June 1, 2010, authorized by this Ordinance.

"City" means the City of Derby, Kansas.

"Clerk" means the duly appointed and acting Clerk of the City or, in the Clerk's absence, the duly appointed Deputy Clerk or Acting Clerk.

"Improvements" means the improvements referred to in the preamble to this Ordinance and any Substitute Improvements.

"Mayor" means the duly elected and acting Mayor 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 Notes" means jointly: (a) the Series 2008-1 Notes in the aggregate principal amount of $1,845,000; and (b) the Series 2009-1 Notes in the aggregate principal amount of $895,000.

"Series 2008-1 Notes" means the City's General Obligation Temporary Notes, Series 2008-1, dated May 15, 2008.

"Series 2009-1 Notes" means the City's General Obligation Temporary Notes, Series 2009-1, dated May 15, 2009.

"State" means the State of Kansas.

"Substitute Improvements" means the substitute or additional improvements of the City authorized in the manner set forth in the Bond Resolution.

Section 2. Authorization of the Bonds. There shall be issued and hereby are authorized and directed to be issued the General Obligation Bonds, Series 2010-A, of the City in the principal amount of $3,020,000, for the purpose of providing funds to: (a) pay the costs of the Improvements; (b) pay Costs of Issuance of the Bonds; and (c) retire the Refunded Notes.

Section 3. Security for the Bonds. The Bonds shall be general obligations of the City payable as to both principal and interest in part from special assessments levied upon the property benefited by the construction of the Improvements and, if not so paid, 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 balance of the principal and interest on the Bonds is payable 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 and/or assessments upon all of the taxable tangible property within the City in the manner provided by law.

The taxes and/or assessments 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 and/or assessments shall be deposited in the Bond and Interest Fund.

If at any time said taxes and/or assessments 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 and/or assessments 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 May 11, 2010 and **APPROVED AND SIGNED** by the Mayor.

(SEAL)

Mayor

ATTEST:

Clerk

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